

Crowley  
Cummings  
Davis (CA)  
Davis (FL)  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Deutsch  
Dicks  
Dingell  
Doggett  
Dooley  
Edwards  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Ford  
Frank  
Frost  
Gephardt  
Gilman  
Gonzalez  
Gordon  
Green (TX)  
Greenwood  
Gutierrez  
Harman  
Hastings (FL)  
Hill  
Hilliard  
Hinchey  
Hinojosa  
Hoeffel  
Holt  
Honda  
Hooley  
Horn  
Hoyer  
Inlee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)

Jefferson  
Johnson (CT)  
Johnson, E. B.  
Jones (OH)  
Kaptur  
Kennedy (RI)  
Kilpatrick  
Kind (WI)  
Kleczka  
Kucinich  
Lampson  
Lantos  
Larsen (WA)  
Larson (CT)  
Lee  
Levin  
Lewis (GA)  
Lofgren  
Lowey  
Luther  
Maloney (CT)  
Maloney (NY)  
Markey  
Matheson  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McColum  
McDermott  
McGovern  
McKinney  
Meehan  
Meek (FL)  
Meeks (NY)  
Menendez  
Millender-  
McDonald  
Miller, George  
Mink  
Moore  
Moran (VA)  
Morella  
Nadler  
Napolitano  
Neal  
Obey  
Oliver  
Ose  
Owens

Pallone  
Pascrell  
Pastor  
Payne  
Pelosi  
Price (NC)  
Rangel  
Rivers  
Rodriguez  
Rothman  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sawyer  
Schakowsky  
Schiff  
Scott  
Serrano  
Sherman  
Simmons  
Slaughter  
Smith (WA)  
Snyder  
Solis  
Spratt  
Stark  
Strickland  
Tauscher  
Thompson (CA)  
Thompson (MS)  
Thurman  
Tierney  
Towns  
Udall (CO)  
Udall (NM)  
Velazquez  
Visclosky  
Waters  
Watson (CA)  
Watt (NC)  
Waxman  
Weiner  
Wexler  
Woolsey  
Wu  
Wynn

NOT VOTING—9

Arney  
Bonior  
Condit

Knollenberg  
Northup  
Pryce (OH)

Stearns  
Traficant  
Whitfield

□ 1542

Messrs. LARSON of Connecticut, DEFAZIO, KLECZKA, GILMAN, and SIMMONS, and Ms. PELOSI changed their vote from “yea” to “nay.”

Mr. PAUL and Mr. CRAMER changed their vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOMENT OF SILENCE IN MEMORY OF OFFICER JACOB B. CHESTNUT AND DETECTIVE JOHN M. GIBSON

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the Chair’s announcement of earlier today, the House will now observe a moment of silence in memory of Officer Jacob J. Chestnut and Detective John M. Gibson.

Will all present, both in the gallery and on the floor, please rise for a moment of silence.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that the vote on House Concurrent Resolution 188 will be postponed until later today.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. The pending business is the question on the passage of the bill (H.R. 5120) on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 308, nays 121, not voting 5, as follows:

[Roll No. 341]

YEAS—308

Abercrombie  
Ackerman  
Aderholt  
Allen  
Andrews  
Armedy  
Baca  
Baird  
Baldacci  
Ballenger  
Bartlett  
Bass  
Becerra  
Bentsen  
Bereuter  
Berkley  
Berman  
Biggert  
Bilirakis  
Bishop  
Blagojevich  
Blumenauer  
Blunt  
Boehler  
Boehner  
Bonilla  
Bono  
Boozman  
Borski  
Boucher  
Boyd  
Brady (PA)  
Brown (FL)  
Brown (OH)  
Brown (SC)  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Cannon  
Cantor  
Capps  
Cardin  
Castle  
Chambliss  
Clay  
Clayton  
Clyburn  
Combest  
Cooksey  
Cox  
Coyle  
Cramer  
Crenshaw  
Crowley  
Cummings  
Cunningham  
Davis (FL)  
Davis (IL)  
Davis, Tom  
DeFazio  
DeGette  
Delahunt  
DeLauro  
DeLay  
Dicks  
Dingell  
Dooley  
Doolittle  
Doyle  
Dreier  
Dunn

Edwards  
Ehlers  
Ehrlich  
Kirk  
Emerson  
Engel  
English  
Eshoo  
Evans  
Farr  
Fattah  
Ferguson  
Filner  
Fletcher  
Frank  
Frelinghuysen  
Frost  
Gallegly  
Ganske  
Gekas  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (OK)  
Lynch  
Manzullo  
Markey  
Mascara  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McColum  
McCrery  
McDermott  
McGovern  
McHugh  
McIntyre  
McKeon  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Millender-  
McDonald  
Holt  
Miller, Gary  
Miller, George  
Mink  
Mollohan  
Moran (VA)  
Morella  
Murtha  
Myrick  
Nadler  
Neal  
Nethercutt  
Ney  
Northup  
Nussle  
Oberstar  
Obey  
Oliver  
Ortiz  
Osborne  
Ose  
Owens  
Pallone  
Pascrell  
Pastor  
Payne  
Pelosi  
Kennedy (RI)  
Kildee  
Kilpatrick

King (NY)  
Kingston  
Kirk  
Kolbe  
LaFalce  
LaHood  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Leach  
Lee  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Lucas (OK)  
Lynch  
Manzullo  
Markey  
Mascara  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McColum  
McCrery  
McDermott  
McGovern  
McHugh  
McIntyre  
McKeon  
McNulty  
Meehan  
Meek (FL)  
Meeks (NY)  
Millender-  
McDonald  
Holt  
Miller, Gary  
Miller, George  
Mink  
Mollohan  
Moran (VA)  
Morella  
Murtha  
Myrick  
Nadler  
Neal  
Nethercutt  
Ney  
Northup  
Nussle  
Oberstar  
Obey  
Oliver  
Ortiz  
Osborne  
Ose  
Owens  
Pallone  
Pascrell  
Pastor  
Payne  
Pelosi  
Kennedy (RI)  
Kildee  
Kilpatrick

Pombo  
Portman  
Price (NC)  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Rahall  
Rangel  
Regula  
Rehberg  
Reyes  
Reynolds  
Rivers  
Rodriguez  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rothman  
Roukema  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sawyer  
Saxton  
Schakowsky  
Scott  
Serrano

Shaw  
Shays  
Sherman  
Sherwood  
Shuster  
Simmons  
Simpson  
Skeen  
Skelton  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Snyder  
Solis  
Souder  
Spratt  
Stark  
Stenholm  
Rothman  
Sweeney  
Tauscher  
Tauzin  
Taylor (NC)  
Thomas  
Thompson (CA)  
Thompson (MS)  
Thornberry  
Tiahrt  
Tierney  
Towns

Udall (CO)  
Udall (NM)  
Upton  
Velazquez  
Visclosky  
Vitter  
Walden  
Walsh  
Wamp  
Waters  
Watkins (OK)  
Watson (CA)  
Watt (NC)  
Watts (OK)  
Waxman  
Weiner  
Weldon (PA)  
Weller  
Wexler  
Whitfield  
Wicker  
Wilson (NM)  
Wolf  
Woolsey  
Wu  
Wynn  
Young (AK)  
Young (FL)

NAYS—121

Akin  
Bachus  
Baker  
Baldwin  
Barcia  
Barr  
Barrett  
Barton  
Berry  
Boswell  
Brady (TX)  
Bryant  
Capito  
Capuano  
Carson (IN)  
Carson (OK)  
Chabot  
Clement  
Coble  
Collins  
Conyers  
Costello  
Crane  
Cubin  
Culberson  
Davis (CA)  
Davis, Jo Ann  
Deal  
DeMint  
Deutsch  
Diaz-Balart  
Doggett  
Duncan  
Etheridge  
Everett  
Flake  
Foley  
Forbes  
Ford  
Fossella  
Goode

Goodlatte  
Graham  
Graves  
Green (TX)  
Gutknecht  
Hall (TX)  
Hayworth  
Hefley  
Herger  
Hill  
Hilleary  
Hoekstra  
Hostettler  
Inlee  
Israel  
Jenkins  
Johnson (IL)  
Jones (NC)  
Kerns  
Kind (WI)  
Kleczka  
Kucinich  
Lucas (KY)  
Luther  
Maloney (CT)  
Maloney (NY)  
Matheson  
McInnis  
McKinney  
Menendez  
Miller, Jeff  
Moore  
Moran (KS)  
Napolitano  
Norwood  
Otter  
Oxley  
Paul  
Pence  
Peterson (MN)

Petri  
Pelphs  
Pitts  
Platts  
Pomeroy  
Ramstad  
Riley  
Roemer  
Ros-Lehtinen  
Ross  
Royce  
Ryan (WI)  
Ryun (KS)  
Sandlin  
Schaffer  
Schiff  
Schrock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shows  
Slaughter  
Smith (WA)  
Strickland  
Stump  
Stupak  
Sullivan  
Tancredo  
Tanner  
Taylor (MS)  
Terry  
Thune  
Thurman  
Tiberi  
Toomey  
Turner  
Weldon (FL)  
Wilson (SC)

NOT VOTING—5

Bonior  
Condit

Knollenberg  
Stearns

Traficant

□ 1601

Mr. GRAVES changed his vote from “yea” to “nay.”

Mr. LAMPSON and Mr. RUSH changed their vote from “nay” to “yea.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARTIAL-BIRTH ABORTION BAN ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 498

adopted earlier today, I call up the bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the H.R. 4965 is as follows:

H.R. 4965

*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 "Partial-Birth Abortion Ban Act of 2002".

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In *Stenberg v. Carhart*, 530 U.S. 914, 932 (2000), the United States Supreme Court opined "that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure" for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an "undue burden" on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the "health" of the mother.

(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the *Stenberg* trial and other trials challenging partial-birth abortion bans, as well as at extensive Congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the *Stenberg* trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not "clearly erroneous". A finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed". *Anderson v. City of Bessemer City*, North Carolina, 470

U.S. 564, 573 (1985). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently". *Id.* at 574.

(7) Thus, in *Stenberg*, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in *Stenberg* under the "clearly erroneous" standard. Rather, the United States Congress is entitled to reach its own factual findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In *Katzenbach v. Morgan*, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of Congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public services," the Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case." *Id.* at 653.

(10) *Katzenbach's* highly deferential review of Congress' factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the "bail-out" provisions of the Voting Rights Act of 1965, (42 U.S.C. 1973c), stating that "congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose". *City of Rome, Georgia v. U.S.*, 472 F. Supp. 221 (D. D. Col. 1979) *aff'd* *City of Rome, Georgia v. U.S.*, 446 U.S. 156 (1980).

(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See *Turner Broadcasting System, Inc. v. Federal Communications Commission*, 512 U.S. 622 (1994) (*Turner I*) and *Turner Broadcasting System, Inc. v. Federal Communications Commission*, 520 U.S. 180 (1997) (*Turner II*). At issue in the *Turner* cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized". The *Turner I* Court recognized that as an institution, "Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here". 512 U.S. at 665-66. Although the Court recognized that "the deference afforded to legislative findings does not foreclose our independent judgment of the facts bearing on an issue of

constitutional law," its "obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence." *Id.* at 666.

(12) Three years later in *Turner II*, the Court upheld the "must-carry" provisions based upon Congress' findings, stating the Court's "sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'" 520 U.S. at 195. Citing its ruling in *Turner I*, the Court reiterated that "[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon' legislative questions," *id.* at 195, and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power." *Id.* at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a "health" exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th and 105th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th and 105th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: an increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abortion, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, "there are very few, if any, indications for . . . other than for delivery of a second twin"; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that

include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is "not an accepted medical practice," that it has "never been subject to even a minimal amount of the normal medical practice development," that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown," and that "there is no consensus among obstetricians about its use". The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is "ethically wrong," and "is never the only appropriate procedure".

(D) Neither the plaintiff in *Stenberg v. Carhart*, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in *Roe* when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child "in a state of being born and before actual birth," was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a "person" under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a "person". Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are "ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb". According to this medical association, the "'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body".

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and

the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned.

### SEC. 3. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

#### "CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

#### "§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

"(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions ..... 1531".

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 498, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER: Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4965, the bill currently under consideration.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, this bill, the Partial-Birth Abortion Ban Act of 2002, would prohibit the gruesome procedure of partial-birth abortion that unfortunately we are now all too familiar

with. An abortionist who violates this ban will be subject to fines, a maximum of 2 years imprisonment, or both. This bill includes an exception for those situations in which a partial-birth abortion is deemed necessary to save the life of the mother.

A moral, medical, and ethical consensus exists that partial-birth abortion is an unsafe and inhumane procedure that is never medically necessary and which should be prohibited. Contrary to the claims of partial-birth abortion advocates, this type of abortion remains an untested, unproven, and potentially dangerous procedure that has never been embraced by the medical profession.

As a result, Congress has voted to ban partial-birth abortion during the 104th, 105th, and 106th Congresses, and at least 27 states enacted bans on the procedure. Unfortunately the two Federal bans that reached President Clinton's desk were promptly vetoed.

In June 2000, the Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar but not identical to bans previously passed by the Congress. The Court concluded that Nebraska's ban did not clearly distinguish the prohibited procedure from other more commonly performed second trimester abortion procedures. The Court also held, on the basis of the highly disputed factual findings of the district court, that the law was required to include an exception for partial-birth abortions deemed necessary to preserve the health of a woman.

This bill has a new definition of partial-birth abortion. It addresses the Court's first concern by clearly and unambiguously defining the prohibited procedure. It also addresses the Court's second objection to the Nebraska law by including extensive congressional findings based upon medical evidence received in a series of legislative hearings that, contrary to the factual findings of the district court in Stenberg, partial-birth abortion is never necessary, never medically necessary to preserve a woman's health, poses serious risks to a woman's health, and is in fact below the requisite standard of medical care.

The bill's lack of a health exception is based upon Congress's factual determination that partial-birth abortion is a dangerous procedure that does not serve the health of any woman. The Supreme Court has a long history, particularly in the area of civil rights, of deferring to Congress's factual conclusions. In doing so, the Court has recognized that Congress's institutional structure makes it far better suited than the judiciary to assess facts upon which it will make policy determinations. As Chief Justice Rehnquist has stated, the Court must be "particularly careful not to substitute its judgment of what is desirable for that of Congress or its own evaluation of evidence for a reasonable evaluation by the Legislative Branch." Thus in *Katzenback v. Morgan*, while addressing section

4(e) of the Voting Rights Act of 1965, the Court deferred to Congress's factual determination that section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public."

Similarly, in *Fullilove v. Klutznick*, when reviewing the minority business enterprise provision of the Public Works Employment Act of 1977, the Court repeatedly cited and deferred to the legislative record and factual conclusions of Congress to uphold the provisions as an appropriate exercise of congressional authority. Based upon the Supreme Court precedent and separation of powers principles, I am confident that H.R. 4965 will withstand judicial scrutiny.

Mr. Speaker, it also is important for this body to understand that in addition to the health risk to women who undergo the partial-birth abortion procedure, it is particularly brutal and inhumane to the nearly-born. Virtually all of the infants upon whom this procedure is performed are alive and feel excruciating pain.

A child upon whom a partial-birth abortion is being performed is not significantly affected by the medication administered to the mother during the performance of the procedure. As credible testimony received by the Subcommittee on the Constitution confirms, current methods for providing maternal anesthesia during partial-birth abortions are unlikely to prevent the experience of pain and stress that the child will feel during the procedure. Thus, claims that a child is almost certain to be either dead or unconscious and near death prior to the commencement of the partial-birth procedure are unsubstantiated.

H.R. 4965 enjoys overwhelming support from Members of both parties, precisely because of the barbaric nature of the procedure and the dangers it poses to women who undergo it. Additionally, the American Medical Association has recognized that partial-birth abortions are either ethically different from other destructive abortion techniques because the fetus, normally 20 weeks or longer in gestation, is killed out of the woman. Thus, partial birth gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body.

Implicitly approving such a brutal and unjustifiable procedure by choosing not to prohibit it will further coarsen society to humanity of all vulnerable and innocent human life. Thus, Congress has a compelling interest in acting to prohibit this procedure.

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

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from New York (Mr. NADLER), the ranking member of the subcommittee, for managing the bill, and I would like to welcome everyone back to yet another debate

since 1995 on partial-birth abortion. We have lost track of how many times this has come to the floor, been to the committee, been to the subcommittee, and is here again.

I will spare my colleagues the list of issues, but in the last 2 days, before we go on our summer recess, of legislation that is waiting by the American people to be dealt with, why and how this measure got to the floor is one of the great mysteries of the national legislative process, but we are here again, and so we have to go through this again.

It does not matter to some that the great weight of medical opinion is against this legislation that would ban partial-birth abortion, which is, by the way, very rarely used, and that is why the American Medical Association is not in support of this legislation.

It is also why the American College of Obstetricians and Gynecologists are opposed to the bill. It is also why the American Public Health Association, the American Nurses Association, the American Medical Women's Association, the California Medical Association, the Physicians for Reproductive Choice and Health, the American College of Nurse Practitioners, the American Medical Students Association, the Association of Reproductive Health Professionals, the Association of Schools of Public Health, the Association of Women's Psychiatrists, the National Asian Women's Health Organization, the National Association of Nurse Practitioners and Reproductive Health, the National Black Women's Health Project, the National Latina Institute for Reproductive Health, and the Rhode Island Medical Society are all against this bill.

They do not understand medicine or the procedures that are debated here? Maybe. They are inhumane or insensitive to their responsibilities as medical doctors? Maybe. But I doubt that seriously.

This measure is now being brought during the 7th year for an infinite number of times and the result always comes out the same.

It is important, because there is going to be maybe some debate on it. We went through this before, but the American Medical Association has stated that they are not in support of this bill. I have a letter here to that effect and would be happy to show it to anyone who is not convinced or needs more encouragement about this matter.

It is important that we realize that there is one major reason that this bill is not supported by these medical associations, and that is that the measure contains no protection for the woman, the mother. There is no exception for the fact that this procedure may save the life of the mother.

□ 1615

There is no consideration about that in this legislation. And so, therefore, these medical institutions and associations cannot support this legislation,

and the legislators, for reasons known only to themselves that promote the bill, will not put this provision in the bill.

Now, only last week when this bill came up in the Committee on the Judiciary, the gentlewoman from Wisconsin introduced an amendment to cure this defect that has been repeated by the Supreme Court every time this measure goes to the Supreme Court. It has been repeated by circuit courts wherever the cases have occurred; it has been repeated in State courts wherever it has occurred; that unless there is an exception to this ban for the safety and the health of the mother, this bill cannot stand muster. Even if it passes the House and the Senate, the Supreme Court still will tell us the same thing; that we must have an exception for the life and health and safety of the mother, or this provision is not valid.

Now, is that so difficult to understand? It has been repeated for years. It has been stated in nonlegal, simple English, and yet the authors of this bill consistently refuse, as of last week they refused, as of today, if we could amend it, and we cannot, they would refuse. Even if we went to conference and we asked to put it in, I presume they would continue to refuse. Why, I cannot offer my colleagues any logical reasons.

But, Mr. Speaker, since there is no chance of this ever becoming law, I wonder why, if my colleagues want it into law so badly, they do not accede to the existing court decisions that have never varied on protecting the mother's life in the event a partial-birth abortion would save an endangered mother's life. And so I urge once again that the majority of the Members of this body reject the measure that is before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I wish to respond to something the gentleman from Michigan said relative to a health exception and why a specific health exception is not in there.

No matter how narrowly drafted a health exception might be, it gives the abortionist unfettered discretion in determining when a partial-birth abortion might be performed, and abortionists have demonstrated that they can justify any abortion on this ground. Dr. Warren Hearn of Colorado, for example, the author of the Standard Textbook on Abortion Procedures, who also performs many third-trimester abortions, has stated, and I quote, "I would certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." It is unlikely, then, that a law that includes such an exception would ban a single partial-birth abortion.

Partial-birth abortion, after all, is the termination of the life of a living

baby just seconds before it takes its first breath outside the womb. This procedure is violent, it is gruesome, it is, in the words of one of the Senators from New York some years ago, a Democratic Senator, I might add, it is infanticide.

Now, proponents of this procedure will tell a different story today. They want us to believe it is about politics or ideology. They will do anything to divert attention from the cold, hard facts about partial-birth abortion. I would remind everyone that we have seen these same tactics for many years, and that the misinformation touted by the abortion lobby was exposed as blatant propaganda back in 1997.

My colleagues might recall that the executive director of the National Coalition of Abortion Providers admitted that he "lied through his teeth" when he stated that partial-birth abortions were rarely performed. He went on to admit that the procedure is most often performed on healthy mothers who are about 5 months along in the pregnancy, and they are performed with healthy fetuses.

So as we debate this compassionate bill today, I ask that my colleagues remember the truth. Partial-birth abortion remains an untested, unproven, and dangerous procedure that has never been embraced by the mainstream medical community.

I would like to take a few minutes to discuss this legislation in a little more detail. Two years ago, in the Stenberg v. Carhart case, the United States Supreme Court struck down Nebraska's partial-birth abortion ban, which was similar but not identical to bans passed by previous Congresses. To address the constitutional concerns raised by the majority in Stenberg, our legislation differs from previous proposals in two areas:

First, the bill contains a new, more precise definition of the prohibited procedure that, as expert medical testimony received by the Subcommittee on the Constitution indicated, clearly distinguishes it from more commonly performed abortion procedures.

Second, our legislation addresses the Stenberg majority's opinion that the Nebraska ban placed an undue burden on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the health of the mother.

The Stenberg court based its conclusions on the trial court's factual findings regarding the relative health and safety benefits of partial-birth abortions, findings which were highly disputed. Under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the so-called clearly erroneous standard. Rather, as the Supreme Court explained in *Turner Broadcasting System, Inc. v. Federal Communications System*, the United States

Congress is entitled to reach its own factual findings, findings that the Supreme Court consistently relies upon and accords great deference, and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution and draws reasonable inferences based upon substantial evidence.

The first section of our legislation contains Congress's extensive factual findings that, based upon extensive medical evidence compiled during congressional hearings, partial-birth abortions pose serious risks to women's health. So the partial-birth abortion itself poses a serious medical risk on a woman's health. It is never medically indicated, and it is outside the standards of medical care in this country.

In fact, the district court's factual findings in the Stenberg case are inconsistent with the overwhelming weight of authority regarding the safety and medical necessity of partial-birth abortion. According to the American Medical Association, and I quote, "There is no consensus among obstetricians about its use, and it has never been subject to even a minimal amount of the normal medical practice development," and "It is not in the medical textbooks." That is according to the American Medical Association.

In addition, no controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are safe or superior in any way to established abortion procedures.

Leading proponents of partial-birth abortion also acknowledge it poses additional health risks because, among other things, the procedure requires a high degree of skill to pierce the infant's skull with a sharp instrument in a blind procedure. Dr. Warren Hearn, the author of the Standard Textbook on Abortion Procedures, who also performs many of these types of procedures, has testified that he "had very serious reservations about this procedure, and it is definitely not the safest."

I would strongly encourage my colleagues in the House to no longer make available in this country this barbaric, inhumane practice of partial-birth abortion.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I appreciate the gentleman from Ohio's presentation. Could he explain to me why over a dozen of the medical organizations and associations that I have cited have all come out against this measure? What is the gentleman's answer to their statements?

Mr. CHABOT. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Speaker, if I had time, I could list all the organizations in favor of this legislation. But just using the AMA, for example, they have sent us letters indicating they are opposed to this legislation, but what they do not like at this point is the fact a doctor could go to jail.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I would ask the gentleman, what about the other dozen organizations? Does the gentleman have any reason to think why they would be opposed to this legislation?

Mr. CHABOT. If the gentleman will continue to yield, using the AMA again, for example, they do not like the fact that abortionists would have to go to jail if caught.

Mr. CONYERS. I am talking about the other dozen organizations outside the AMA that I named. Why are they opposed to the bill?

Mr. CHABOT. I would be happy to provide a long list of organizations that are in favor of this legislation. Be happy to trade lists with the gentleman. This is an inhumane, barbaric, brutal procedure which ought to be banned.

Mr. CONYERS. That is an inadequate response.

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

Mr. Speaker, I rise once again in opposition to this bill. We have been through this debate often enough to know that we will not find the term partial-birth abortion in any medical textbooks. There are procedures that we will find in medical textbooks, but the authors of this legislation would prefer to use the language of propaganda rather than the language of medical science.

This bill, as written, fails every test the Supreme Court has laid down for what might or might not be a constitutional regulation on abortion. It reads almost as if the authors went through the Supreme Court's recent decision in *Stenberg v. Carhart* and went out of their way to thumb their noses at the Supreme Court, and especially at Justice Sandra Day O'Connor, who is generally viewed as a swing vote on such matters and who wrote a concurring opinion stating specifically what would be needed to uphold a statute.

Unless the authors think that when the court has made repeated and clear statements over the years of what the Constitution requires in this area they were just pulling our leg, this bill has to be facially and obviously unconstitutional.

Now, if people wanted to write a bill that said we are going to ban late-term abortions, which this bill is sometimes referred to, although incorrectly, if they wanted to write a bill that said we are going to ban late-term abortions after viability, and we are going to include in the bill an exception for when the abortion is necessary for the life or health of the mother, they could do

that. It would be a constitutional bill and Members could debate it in good conscience.

But they have chosen not to do that. They have chosen to write a facially unconstitutional bill that they know perfectly well is unconstitutional, despite all the nonsense we have heard today; that they know will never see the light of day because it is unconstitutional, and the Supreme Court has given us a specific precise recipe of what a constitutional bill would look like.

So this bill is political propaganda. It gives people something to go home and talk about, but falsely talk about, because it is clearly unconstitutional. The bill does not contain a life and health exception, which the Supreme Court has repeatedly said is necessary throughout pregnancy, even post viability.

I know that some of my colleagues may not like this rule. The gentleman from Ohio (Mr. CHABOT) talked about why he did not like a health exception. But there it is in the Constitution as interpreted by the Supreme Court, whether we like it or not. We have to put it in a bill if we want the bill to be constitutional.

□ 1630

Even the Ashcroft Justice Department, in its brief defending a similar Ohio statute, has recently acknowledged that a health exception is required by the Constitution. I may disagree with Mr. Ashcroft's Justice Department on whether the Ohio statute adequately protects women's health, at least Attorney General Ashcroft and his Department acknowledge that the law requires a health exception, requires that protection if it is not going to be factually unconstitutional.

This bill purports to solve this problem with findings; 15 of the 18 pages of the bill are findings, congressional findings of fact. Congressional findings of medical fact, as if we are expert doctors here, all of us. If there is one thing that this activist Supreme Court that we have now has made clear, it is that it is not very deferential to Congress' findings of fact.

Congress can declare anything it wants. It can declare the moon is made of green cheese, but it does not make it factual and it does not make the courts bound to accept anything that we say at face value simply because we say so.

While I realize that many of the proponents of this bill view all abortions as tantamount to infanticide, that is their view. It is not a mainstream view, and it is not the view of the Supreme Court of the United States. If the proponents of this bill wanted to deal with post-viability abortions where a woman's life and health are not in jeopardy, they could write a bill dealing with that issue. Forty-one States have such laws, including my own State of New York.

Members should know better than to believe that this activist conservative

Supreme Court that we now have, we should know that they do not feel any particular need to defer to Congress. Members should know what comes of Congress ignoring the will of the Supreme Court. Whatever power Congress had under section 5 of the 14th amendment to effectuate the purposes of 14th amendment as a result of *Katzenbach v. Morgan*, which was cited by the proponents of the bill, and is cited copiously in the bill's findings, I think the more recent *Boerne* decision of the Supreme Court vastly undercuts those powers. And even if *Katzenbach* was still fully good law, as I personally wish it were for other reasons, that case empowered Congress only to expand rights under the 14th amendment, not to curtail rights under the 14th amendment.

The Supreme Court has held that the right to choose to have an abortion is a woman's right under the 14th amendment, with some limits that the Supreme Court has recognized; and the *Katzenbach* decision says those rights can be expanded, but not curtail them. This bill aims to curtail those rights.

Mr. Speaker, we are told that the Supreme Court must defer to congressional fact-finding even if Congress' so-called facts conflict with the preponderance of evidence in litigation before the Court. But the drafters of this bill are wrong. First, it is one of the fundamental tenets of our constitutional structure which establishes three separate branches of the Federal Government that Congress can enact laws, but it cannot decide whether those laws are constitutional. That is exclusively the Supreme Court's role.

I realize that one of the members of the Committee on the Judiciary said that the Supreme Court wrongly decided *Marbury v. Madison*, but for 200 years that has been the law of the land.

Second, the Supreme Court is not required to defer to our fact-finding. The Court has the power and duty to independently assess the evidence that is presented to it as it did in the *Carhart* decision. In the *Carhart* decision, the Supreme Court also specifically rejected the argument made by the bill's sponsors that the legislation need not contain the health exception because intact dilation and extraction, so-called intact D&E or D&Ex, is never necessary for a woman's health. That statement is right in the bill. The Supreme Court stated a law like H.R. 4965 that altogether forbids D&Ex creates a significant health risk and is, therefore, unconstitutional.

Mr. Speaker, this bill is not a serious attempt to deal with a problem, any problem. This bill is an attempt to fool the people of the United States into thinking that they are trying to deal with a problem.

If the sponsors of this bill wanted to deal with the problem, they know how to do it. Justice O'Connor told them specifically. They do not want a bill that would ban late-term abortions with an exception for when the health

or life of the mother is threatened. They do not want that. If they wanted that, they would write it, we would pass it, and it would be constitutional. What they want is a charade, a bill that is flatly unconstitutional, will accomplish nothing, will not see the light of day in the Senate; and, frankly, it is a charade, and the time of the House should not be wasted on charades like this when we cannot find time to do a lot of things that the welfare of this country demand that we do.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, if the gentleman from New York (Mr. NADLER) wishes to speed the process up, I am prepared to yield back the balance of my time and go to an immediate vote if the gentleman from New York will do the same.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I understand that the sponsors of this bill do not want an open debate.

Mr. SENSENBRENNER. Mr. Speaker, I reclaim my time.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise in strong support of the Partial-Birth Abortion Ban Act. Partial-birth abortion is an antiseptic word for a barbaric procedure. Democratic Senator Daniel Patrick Moynihan, a supporter of abortion rights, described it accurately as near infanticide.

Mr. Speaker, the arguments for this bill are legion, and endeavors by the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. NADLER), they are also arguable, and we will hear those arguments today: the argument that our bill as we believe is superior to the Nebraska bill which has been rejected and struck down and will pass constitutional muster; the argument that will ensue today that this procedure is never medically necessary. The AMA said it is ethically wrong. They said it is never the only appropriate procedure, but we can argue the medicine and the endorsements. What is not arguable is that this practice is inherently and morally wrong.

What is not arguable is that the practice of delivering a newborn child alive, feet first, and holding it in the birth canal squirming while the back of its head is stabbed with a suction device is evil. That is not arguable.

Today we will render unlawful or at least begin to render unlawful what virtually every American knows in their heart is evil and morally wrong. That is why the overwhelming majority of the American people reject this practice and want it banned in the

United States of America. Justice has always been defined by how societies protect the innocent and punish those who do them harm. The Partial-Birth Abortion Ban Act is such a bill. Of the innocent and defenseless the Bible admonishes that "whatsoever you do for the least of these you do for me." Banning partial-birth abortion is the least we can do for the least of these.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, on page 16 of the bill it reads "partial-birth abortion," a term that does not exist in medicine, "is never medically indicated to preserve the health of the mother."

Mr. Speaker, all of us here came to Congress having done other things in our lives; and sometimes I think that God sends us here to tell a particular story, and I feel that way today because I can tell the story of someone who had to have this procedure, and that person is the daughter-in-law of my friend, Susie Wilson. Before I was elected to Congress, Susie was so excited that her daughter-in-law, Vicki, was going to have a little girl. Susie had three boys and there were grandsons, but no girls. We were excited for Susie, and we found out at the end of Vicki's pregnancy that the granddaughter, they had already picked out a name, Abigail, that the baby's brains had formed almost completely outside of the cranium.

I saw the ultrasound picture, and it looked like there were two heads on this child. The question was not whether they would have the Abigail they wanted and prayed for, but how they would terminate this pregnancy, and whether in addition to having no Abigail, whether Vicki would also live; and if she lived, whether she would be healthy enough to continue to care for her two boys. So this procedure was what was safest for Vicki, and Susie went down there to be with her at this trying time, and it was devastating not just for Vicki but for her husband and for her whole family. It is not just a woman's issue.

So when I read these words, I know there is something else afoot here today, and it is not about medicine and caring for women's health and respecting the trauma that families go through in these very devastating circumstances. It is about 30-second ads.

That is why we are here today. We are here to tee up another round of 30-second ads in the November election. I think it is shameful. I hope we can vote against this bill and speak out against this outrageous politicization.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. My constituents in western Pennsylvania and a majority of the public in general have urged us as a Congress to end partial-

birth abortion. Congress has tried to end this unnecessary and horrific procedure, and instead we have entered into a debate of semantics about what this procedure should be called, or if it is ever necessary.

No matter what one calls it, the fact is that this is a horrific procedure that is tantamount to murder. It is a tremendously violent procedure. During a partial-birth abortion, the abortionist pulls a living baby, feet first, out of the womb and into the birth canal, except for the head. He then punctures the base of the baby's skull with surgical scissors, inserts a tube into that wound, removes the brain, causing the skull to collapse at which time the now-dead baby is then delivered. This procedure actually co-opts the birth process to take the child's life.

This procedure that we are voting to ban today, no matter what we want to label it, is unconscionable and must be ended. Critics of the bill have attempted to cloud the issue of the gruesome murder of children by saying the bill fails women because it does not permit an exception for the health of the woman.

The findings of the bill clearly note, after extensive hearings on the issue, substantial evidence exists that the preservation of the health of the mother is never cited as a factor for partial-birth abortions. No studies of this procedure have been done. It is not a medically accepted procedure.

Neither the plaintiff in *Stenberg v. Carhart*, Dr. Leroy Carhart, nor the experts who testified on his behalf have identified a single circumstance during which a partial-birth abortion is necessary to preserve the health of a woman. In fact, the opposite is true; and this creates a health risk for the woman, this procedure of partial-birth abortion.

It is imperative for us to act and ban partial-birth abortion once and for all. As the civilized and compassionate country that we are or hope to be, it is imperative that we act now.

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

Mr. Speaker, the previous speaker would be more impressive if the gentlewoman would acknowledge that the AMA now opposes this bill.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

Mr. Speaker, we are just days away from the August recess, but instead of using this time to pass the very important spending bills that we have not even looked at yet, the GOP leadership has once again scheduled a vote on an issue that the Supreme Court has already struck down.

Let us be clear. This debate on the so-called partial-birth abortion procedure is nothing more than a ploy to advance the political agenda of the anti-

choice community, and they have made it quite clear that their political schemes are worth sacrificing the health of American women. But we cannot fall for this. We cannot fall for this outrageous propaganda of the anti-choice community. We cannot let them twist another health care issue into a political issue.

□ 1645

We should be promoting a woman's health, not endangering it. We should be debating concrete measures to reduce the number of unintended pregnancies and to ensure that all pregnant women have affordable access to the care they need so they can deliver healthy babies, not telling doctors how to practice medicine.

American women are counting on us to ensure that their doctors can provide the care that best meets their individual medical needs. The highest court in the land ruled that our government has no authority to force a woman to risk her health or her life in order to carry a pregnancy to term. Let us put politics aside and think of American women first. The Federal Government has no business poking its nose in decisions that are best left to a woman and to her doctor.

I urge my colleagues to reject this blatant attack on women's health and vote against H.R. 4965.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, it never ceases to amaze me when I listen to debates on the floor at the tremendous disconnect between the rhetoric we hear and the substance of the bill. This afternoon we will hear a lot of people talking about choice when they know this bill is not about choice. We will hear them talk about abortion, and this bill is really not about abortion. This bill, substantively when you look at it, is about one procedure, one procedure that is so painful to an unborn baby, so barbaric, so egregious that even the most extreme proponent of abortion has to look at it and say it shocks even their conscience.

Mr. Speaker, when we leave here tonight and all the pounding on the podium is done and all the rhetoric is finished and the lights are turned off, one thing will loom ever present, and that is this fact, that all of the testimony that we have heard on this bill suggests that an unborn baby feels pain even more than the actual baby when it is born, because of the development of the nervous system.

Mr. Speaker, when it all comes down to whether this bill should be passed or not, the question is very simple. Is there no amount of pain that is so great that we would inflict upon an unborn baby? Is there no procedure that is so egregious that we will not be prepared to step up and say that goes too far and we cannot allow that to happen? Mr. Speaker, if that is what this bill says, that this procedure goes too

far, we cannot allow it to happen, we cannot allow this kind of pain to be inflicted on an unborn baby, that is why, Mr. Speaker, it is important that we pass this piece of legislation, and I hope we will do just that this afternoon.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for being the leader on this issue for our committee as the ranking member on the Subcommittee on the Constitution. I also come to the floor acknowledging that this poses an emotional dilemma for so many of us, whether or not you happen to want to describe a very personal and private medical procedure that is known to be a small percentage of the judgment of physicians and individuals who have to subject themselves to such procedure out of the necessity of saving lives, I believe that it is key that we look at this as straightforward as we possibly can.

For, Mr. Speaker, I could relate to you as a woman the pain that I have experienced or I have seen from women who have tried in all manner to be able to bring a loving child into this world, women who have gone beyond any expression or any belief to be able to secure the opportunity to procreate. That is really the main definition, if you will, of a mother. It is someone who wants to nurture, wants to love and wants to be able to raise a child. But what my friends and colleagues are doing year after year after year, and appropriately for them it comes right at the time of an election, is to demonize a woman for simply wanting to have an opportunity, one, to live and, two, to be able to procreate.

I think we should pay attention to the Stenberg decision which has now come since the last time we debated this matter, and I do not believe we should take lightly the decision of six Supreme Court justices. That is right, Mr. Speaker, six, some of them concurring on this opinion. It means that the principle of a right to choose and privacy in this Nation is well documented in Supreme Court law. That is the basis of this Nation, three distinct branches of government; the Marbury decision suggesting that the Supreme Court is the supreme law of the land.

My colleagues have said that when the pornography law came forward, we came to the floor of the House. They are absolutely right. That has not yet been tested by this court. But we have before us a Stenberg decision which, let me cite for this body, makes it very clear of where the Supreme Court is going. Justice Breyer writes very eloquently that he knows what a personal decision this is for so many who debate the question of abortion. He recognizes that when we debate this question, the court has to move in and reconcile the diverse opinions, the emotion that grabs hold to individuals of their different opinions.

Justice Breyer says that this court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman's right to choose, and we shall not revisit those legal principles. We shall not revisit these legal principles. Rather, we apply them to the circumstances of this case.

They go on to say that three basic principles that we determine before us is that, in fact, we shall put them forth in the language of this opinion, the woman has a right to choose to terminate her pregnancy. Secondly, a law designed to further the State's interest in fetal life which imposes an undue burden on the woman's decision before fetal viability, it is unconstitutional, the undue burden concept. And, third, subsequent to viability the State, in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

Mr. Speaker, that is why this bill is unfortunately a political exercise, despite the emotion that comes to this floor, because we have asked those who propose this legislation to include an exception on the health of the mother, those who want to be able to procreate. They have not looked at the personal concerns of those who begged to have a child but yet they suggest that the medical judgment that has been made by a physician is wrong and they should be put in jail.

We have obstetricians from the American College of OB-GYN who clearly say that this bill is wrong because it denies them the right to treat their patients and save lives and protect the health of the mother.

I hope that we will see the light and be able to yield forth legislation that truly helps the American people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I stand here today in strong support of banning partial-birth abortion. As a citizen of this great country, I am ashamed that this barbaric act occurs in the greatest country in the world, the United States of America, the greatest civilized country in the world. And I stand here as a parent, as a lawmaker, and I feel a moral obligation to stand up to fight for the rights of the unborn.

I want to describe this horrific procedure. First, the doctor sticks forceps into the mother and grabs ahold of the baby's feet so they can turn it around and pull it out. They pull the baby into the birth canal by its legs and the baby does feel pain at this point. They get the baby out and at this point the doctor has to make sure that he blocks the head before it can come out because if he does not, he cannot murder the baby, it is considered a live birth. He blocks the head into the mother and sticks scissors into the back of the

skull, opening the scissors and the baby is withering around at this point because it is feeling the pain and sticks a tube, a suction tube, into the skull and sucks the brains out, collapsing the skull, killing the baby, the baby goes limp and then they pull the baby out dead. This is a horrible act and I think we should support this bill.

People on the left talk about the life and health of the mother. What about the life and health of the baby? We ought to be protecting them and thinking about them. It is a human life. It is a human life. I have heard my friends on the left as well stand up and fight harder to protect laboratory rats. These are human beings. We have a moral obligation to stand up and fight for them. I urge my colleagues to support banning this horrific act, partial-birth abortion.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentleman from New York for yielding time and compliment him for his strong leadership on this issue and so many others.

Mr. Speaker, I rise in strong opposition to this bill and I would like to put this debate in perspective. Today marks the 167th vote against women and their right to choose since the Republicans came to this House in the majority beginning with the 104th Congress. It is nothing more than a cruel ploy to prevent women from obtaining the safest and best medical care from their doctors. This is a deceptive and unconstitutional, extreme abortion ban. Once again, some of my colleagues are trying to strip away difficult private decisions that belong in the hands of women and their doctors.

Many things are the same since the last time we voted on this type of ban that puts the rights and health of women in jeopardy. Under this bill, women are still prevented from receiving necessary and safe medical care. Under this bill, doctors who are sworn to save lives are still criminals for doing what they are supposed to do, save lives.

Under this bill, women are still at risk of losing their future fertility, their health and even their lives. But one very important thing is very different and that is a Supreme Court decision. In 2000, in *Stenberg v. Carhart*, a law that is very similar to the one we are discussing today, banning late-term abortions in Nebraska, was ruled unconstitutional because it did not have an exception for the health of the woman and because it places an undue burden on a woman's ability to obtain an abortion. This means that in addition to being restrictive and cruel policy, this bill is unconstitutional.

The writers of this bill are trying to be both the Supreme Court and every woman's doctor. They are making a mockery of the separation of powers and are stealing decisions from women

and their doctors. This bill is a direct assault on *Roe v. Wade* and a direct attack on a woman's right to choose. It politicizes families' tragedies and disregards the life and health of the woman.

The bill is unconstitutional, unsafe and puts an undue burden on women. Furthermore, ACOG, the American College of Obstetricians and Gynecologists, which represents 90 percent of the doctors in this field, rejected the ban, and I quote, as inappropriate, ill-advised and dangerous.

With this bill, Congress is doing something that we have never done before and something that we should never do, and, that is, dictating to doctors and the entire medical establishment which procedure they may choose. Congress is overriding the medical profession's best judgments, even in emergency situations, and it is in direct conflict with a Supreme Court decision ruling it as unconstitutional.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to give my wholehearted support to H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. The partial-birth abortion procedure is a brutal and a violent act performed on an innocent victim. We cannot continue to discuss this issue in the sterile language of the right to choose. We must call partial-birth abortion what it is, the murder of a baby during delivery as he or she fights for their first breath of air and struggles to survive. We have to come face to face with the cruel injustice of lives quickly and callously ended.

I will also note that there is an appropriate choice for these growing children, the choice of allowing them to be raised by a loving, adoptive family. Former Surgeon General C. Everett Koop has stated that a partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both. In fact, were the same child at the same stage of development outside the mother's womb, he or she would be provided life-preserving care and continual medical attention. But if that same child is deemed unwanted by the mother, its life is violently ended. I say to my colleagues that this makes no sense and it is time for Congress and the President to act to end this madness.

Mr. Speaker, the argument has been made that this bill is somehow unconstitutional and that the Supreme Court will strike it down like it did the Nebraska partial-birth abortion ban. I will note that I trust the expertise of the Committee on the Judiciary in crafting a bill that will pass muster with the court. But even if it were certain that this legislation as soon as it was passed would be struck down by an imperial judiciary, we must, as Mem-

bers of Congress, discharge our duties to at least attempt to protect the civil rights of the most vulnerable, those least able to protect themselves.

I am proud to be a cosponsor and to support this legislation. I urge my colleagues to do the same.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Ms. SOLIS).

□ 1700

Ms. SOLIS. Mr. Speaker, I would like to thank the manager on this side for yielding me time to speak this evening.

Mr. Speaker, I am disappointed also that we are spending these last few hours here while we are in session before we go on a 5-week break to talk about this issue, because I do not think it is one that the public and constituents in my district really think is of an urgent nature. I say that in a very respectful way, because I truly believe that to understand this issue of late-term abortion is to understand the circumstances that some women have had to take in their past because of something that was not in their control.

I also want to share a personal experience, not one of my own, but of a family member. My older sister many years ago had to have a late-term abortion. This was going to be her third child. The last one she had was already at age 12, so she wanted to have another child. She was very excited about her pregnancy. In her fifth month she was told by her doctor that this fetus was not forming or developing appropriately, in fact, it did not have a brain, so if she were to continue with this pregnancy, she in fact would not be giving birth to anything that would be able to sustain itself. She was therefore then required to make a decision.

She is a Catholic. She grew up in the same household I did. She has the same values, if not stronger. I do not happen to have any children. She has. I will never forget the day she got out of hospital and I visited with her at home. She was traumatized. She did not want to part with that fetus she was carrying for five months. It was a part of her and her family.

Let me tell you there are many women that feel that way that have to make those kinds of decisions, not because they wanted to abort for the sake of aborting, but because there are other physical limitations that are out of our control.

You can shake your head and say no, you are not talking the truth. Let me tell you, there are millions and millions of people out there who do understand this issue and do know that there is sympathy across the country regarding a woman's right to choose. This is a wrong approach, and I would ask my colleagues to vote against this proposition.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BRYANT), a former member of the committee.

Mr. BRYANT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, as I was sitting here thinking as we have had this debate a couple of times in the past, it comes to my mind that the baby eagle in an egg actually has more Federal legal protection from injury and harm than a partially born baby has.

I do rise in strong support of this legislation. We passed it twice before with the help of all our pro-life Members and actually many pro-choice Members, because this procedure is so gruesome. The bills were vetoed in 1996 and 1997 by then-President Clinton, but we now, I believe, have a President who will sign a ban on this horrible procedure.

The legislation that we are considering today has a new, more precise definition of the prohibited procedure and should withstand the Supreme Court scrutiny, if challenged.

Furthermore, our bill includes a Congressional finding that the partial-birth abortion is never, and I underline that, is never necessary to protect the woman's health. Former Surgeon General C. Everett Koop has said, "Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, though, this procedure can pose a significant threat to both the mother and her future fertility."

I agree with Dr. Koop. There is actually no evidence that partial-birth abortion is a necessary procedure to protect a woman's health. However, there is an abundance of evidence that a baby in the final trimester of pregnancy is extremely sensitive to pain.

Folks who oppose this have insisted that anesthesia kills the babies before they are removed from the womb. This is a myth that has been refuted by professional societies of anesthesiologists. In reality, the babies are alive and experience great pain when subjected to a partial-birth abortion.

I believe the Federal Government has a duty to protect all Americans, including the born, unborn and partially unborn. I ask my colleagues today, both pro-life and pro-choice, to join in banning this gruesome procedure.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, well, here we are with 2 days left before the August recess, and here is what we still have to do: Consider expulsion of only the second Member of Congress in our Nation's history, have nine appropriation bills left to pass, establishing a Department of Homeland Security so we can protect our country against terrorism, and dealing with the financial crisis our country is facing. Instead, what are we doing? The Republican leadership has scheduled 2 hours of debate on so-called partial-birth abortion. What is going on?

Well, like the swallows returning to Capistrano, it is an election year, and now it is time to bring up this hot but-

ton issue. But with a difference this year, with a twist, because this year the Supreme Court has held a bill almost identical to the bill up for consideration today unconstitutional.

From the wild rhetoric we are hearing on the other side today, one would think that women wake up suddenly in their ninth month of pregnancy and say, "You know, I am tired of being pregnant. I think I am going to go have a partial-birth abortion." This is insulting to the women of this country and to the women whose tragic stories we have heard on the House floor today.

It is simply not true. This is a very rare and tragic procedure which happens only under the most difficult of circumstances and which the U.S. Congress should not be legislating, but which a woman and her family and her doctor should be deciding.

For the woman whose health is in serious danger, being able to make the most medically sound decision is vital. These are tragic moments in people's lives, as we have been hearing today, and we should not be interfering in that.

The gentleman from Virginia and others said this bill is just simply about outlawing one medical procedure. Well, that may be true, but Congress would not think about getting involved in medical procedures of any other kind.

It is really appalling to me, because this is an issue where politicians for electoral gain try to dictate a woman's actions, impugn her motives, question her morality and ultimately remove her authority to make a decision about her own body, and that is what we are debating on the floor today.

But there are two things different, as I said. The first one is the Supreme Court overturned the Nebraska case on the grounds that you have to have a health exception for the woman. Guess what? This bill has no health exception. There is no health exception whatsoever. If this bill were passed into law, the Supreme Court would find it unconstitutional. This is a fact. Let me say it again: If this bill were passed into law, the Supreme Court would find it unconstitutional. Why on Earth would we pass a bill we know for a fact is unconstitutional?

Secondly, while the bill purports to ban only a certain procedure, in fact the actual language is much broader and could be used to ban many other kinds of abortion. To be honest, that is the true ultimate goal of the proponents of the bill.

So I say vote yes on the motion to recommit, which will add a health exception, and vote no on final passage.

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

Mr. Speaker, I think that saving the lives of some partially-born babies is worth 2 hours of our time.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE),

the distinguished former chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, there is so much fantasy about this issue. The pro-abortion people shudder from using that term, and they use a euphemism, "reproductive rights." They do not refer to the unborn baby in the womb, they refer to the "products of conception." And when that unborn baby dies as a result of an abortion, by the way, they want to "terminate" a pregnancy. It is exterminate. That is what they want to do. And the "choice," for pro-choice, they get the choice of a dead baby or a live baby.

You can listen carefully, as I did, to the statements made by the opponents of this legislation, and you listen and strain your auditory nerves. You will not hear the word "baby" or "child." That is the X factor. That is the missing element here. You will hear about the woman. You will hear about her difficulties, and well we should.

But the baby is absolutely missing, although if you look through an ultrasonograph, a pregnant woman knows she has a little tiny member of the human family. And at what point does that tiny member of the human family get protected by the Equal Protection Clause and due process of our Constitution? No person shall be deprived of life, liberty and the pursuit of happiness, nor shall any person be deprived of equal protection of the law.

When does that attach? When the baby is four-fifths born, as in this grotesque, gruesome process called partial-birth abortion? Four-fifths born, and the doctor takes a scissors, called a Metzenbaum scissors, and shoves it in the back of the neck of the little baby, and then, with the opening, sucks out the brains to collapse the skull.

Talk about grotesque. You would not treat a laboratory rat like that. But the baby, the X factor, the fetus, the product of conception. Well, maybe when it is in the womb and you have to use an ultrasonograph to see it, you can abstract it that way. But when it is four-fifths born, it is there and you cannot avoid it.

This situation is lamentable. But I would say to the women who defend abortion, look around the globe and see who takes the brunt. The little girl babies. They are the ones that are thrown away in certain countries because there are too many of them.

It is to protect every little child that the pro-life movement advances its cause. Human life is precious. I see Members with little children on the floor. Those little children were once fetuses, embryos. They were tiny, tiny little cells, and an abortion kills that life. That is wrong.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, Coreen Costello was a pro-life Republican and

mother of three when her pregnancy turned tragically fatal for her child. Her doctors preserved Mrs. Costello's fertility with a procedure being outlawed in this bill. She then became pregnant again and gave birth to her fourth child.

Listen to this loving mother's words. "Because of this procedure, I now have something my heart ached for, a new baby, a boy named Tucker. He is our family's joy, and I thank God for him."

Mr. Speaker, no Member of this House has the right to substitute his or her judgment for that of a physician and a mother faced with a rare but tragic situation where a pregnancy is failing, a child has no chance of living outside of the mother's womb, and the goal is to save a mother's fertility or health. No Member has that right, not one.

If there is one late-term abortion in America for frivolous reasons, that is one too many, regardless of the procedure used. I am strongly opposed to late-term abortions. But I believe when the health of the mother is at risk, that is a choice, a decision that should be made by a woman and her doctors, and not by politicians in Washington, D.C.

That is not just my opinion, that is the opinion of the United States Supreme Court in its opinion dated June 28, 2000. In that indication, the Supreme Court and its majority of justices made it very clear that the Nebraska partial-birth abortion law was unconstitutional, in these words.

□ 1715

"... Because it lacks an exception for those instances when the banned procedure is necessary to preserve the health of the mother."

That is as clear as the English language can be. Justice O'Connor, the swing vote on this issue, has made it clear. No health exception for a woman, no law; no law, not one baby saved.

Mr. Speaker, this bill has two flaws in it that make it little more than politics at its worst, as Ralph Reed said, a political silver bullet. First, it is unconstitutional, therefore meaningless. It is a false promise. Second, if the authors of this bill truly believe that American women are monsters who would take a perfectly healthy baby seconds before a perfectly healthy child birth and puncture its brain and kill that innocent child, then why is it that they just want to outlaw one procedure? If you assume the woman is that kind of a monster, then under your bill even if it were law and were constitutional, which it is not, then the woman can choose to use other late-term abortion procedures. Once again, a meaningless law, a meaningless bill that will not save one baby's life.

I think the people who should really be offended by this bill are those genuine pro-life Americans who want to stop late-term abortions. I want to

stop late-term abortions, and I hope others who do would ask the proponents of this bill two questions. Is politics so important, you would rather pass a clearly unconstitutional bill than a bill that could actually become law, a bill like I helped pass in Texas 15 years ago that is still the law of that State today? Second question: Why are you outlawing one procedure and leaving every other late-term abortion procedure perfectly legal?

This bill is politics at its worst. It is a false promise.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in strong support of this measure to ban a horrific procedure. For my generation, we have walked in as mothers and fathers into our doctors' offices and we have had the stethoscope with amplifier hooked to the mother's stomach. We have heard the heartbeat of the child at 11 weeks fill the room with a beating and a pounding and a pulsing of life. In the second trimester in the fourth month, we walk in and with modern technology in the window through the womb we see our babies. We know whether it is a boy or a girl. We see their heartbeat, we see their arms and legs kick and move. We see them suck their thumbs. We as a generation have had the experience of being in the delivery room to actually hold a baby as it arrives, to cut the umbilical cord, to know that what was once hidden is no more, what was once a mystery is now a revelation of life. I would ask us all, then, to stand for the life that we know, to stop this horrific practice.

Mr. Speaker, my generation has had the opportunity to walk into our doctor's office, and through the use of technology we have heard the beating of our unborn child's heart, we have seen the movement of the child's arms and legs. We know whether the child is a boy or girl. We have been able to be present in the delivery to room to hold the newborn child and cut the umbilical cord. What was once hidden is now known. What was once a mystery is now a wonderful revelation of newborn life.

I would ask my colleagues that before they cast a vote on this measure, listen to that heartbeat. Look into the womb. Feel the kick of the baby's legs and arms.

Before the abortionist sticks the scissors into the baby's skull, turn the baby. Look at that face and the fullness of life that resides in it. Feel the baby's body and the very essence of life. If you still have the courage, then insert the scissors. Collapse the brain, and take the life. But, if you do that, our nation, our people, or anyone who allows this or commits this act violates the nation's ideal that all are created equal and are endowed with the unalienable rights of life, liberty, and the pursuit of happiness.

If we allow this to continue as a nation, we have lost our moral compass. We have lost our conscience.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, the more I listen to this debate, the more opposed I come to this legislation. This ban on late-term abortion unconstitutionally endangers women's health. In the *Stenberg v. Carhart* trial, which ruled a Nebraska law that banned the so-called partial-birth abortion bill unconstitutional, the Supreme Court concluded that women's health must always be protected. According to the Court, the abortion restriction would force women to use riskier forms of abortion. Additionally, they ruled that if a current medical procedure set in place may be safer for some women in certain circumstances, then it cannot be banned. For this reason and reaffirmed in 1999, this ban is still unconstitutional. As of today the American Medical Association, which is one of the largest physician organizations in America, who usually supports abortion ban legislation, has changed their stance and concluded this late-term abortion act unhealthy.

Mr. Speaker, I support a woman's right of choice. I am in favor of medical decisions being made in private by women and their families in consultation with their doctors, and not politicians. I am a full supporter of choice without reservation. It should be the definitive right of the individual to make personal decisions regarding their health. I believe the late-term abortion ban invites the government into our doctors' offices and limits the choices of women.

I trust women to make decisions that affect their life, body and destiny. There is no more fundamental challenge than protecting a woman's reproductive health. That means guaranteeing a woman's right to choose. This so-called partial-birth abortion ban is part of a political scheme to sensationalize the abortion debate.

The truth is that the phrase "partial-birth abortion" is a political term, not a medical term. Partial-birth abortion bans have never been about banning one procedure nor about late-term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures. Therefore, I urge that we protect the woman's right to choose, we protect the woman's right to protect her health, and vote to protect the woman's right to protect her life. Vote "no" to the partial-birth abortion ban.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time.

I heard the gentleman from Illinois (Mr. DAVIS), my good friend, quarrel with the term "partial-birth abortion."

If we think of the operation, the procedure, as they laughingly call it, it is partial birth, and it is an abortion. I know my colleagues hate the word "abortion." We never see a doctor saying, I am an abortionist. But that is

what they are; they are abortions. "No Member has the right." What? We have a duty to defend the defenseless, and there is nothing weaker, more pitiful, more vulnerable than a little baby in the mother's womb, and the mother, who should be its protector, has suddenly become its adversary. Somebody has to speak for that little baby.

Former Senator Moynihan never voted with us once over the years; but when this came along, he said that it is too close to infanticide, infanticide, and that is exactly what it is.

As far as the Supreme Court, we can keep trying to have them get it right, can we not? You would not be satisfied with Dred Scott, would you?

Mr. Speaker, this is a good bill and ought to be supported.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, there are no third-term abortions of healthy babies in America. It is illegal. But it is an absolutely horrendous insult to the women of America to think that we would carry an infant through pregnancy and arbitrarily and lightly choose to take that infant's life. It is not done. Women do not do it.

As one who has carried children, four children full term and experienced both the joy and the pain of childbirth, I know of no woman who is not transformed by pregnancy and does not value that life she carries within her; and the implication that we do not is so offensive to me that I am astounded that my colleagues can get up here and present the image of women, for convenience sake, choosing a late-term abortion.

There are no late-term abortions of healthy babies that are legal, and this bill does not ban late-term abortions. This bill attempts to ban a specific procedure, and it does it so clumsily that it does not differentiate between the constitutionally prescribed pre-viability and post-viability procedures and, therefore, tramples on the rights of women to make choices about the responsibilities they are going to take throughout their lives.

We have in America the right to make that choice early in a pregnancy. We need that choice. We deserve that choice. We have that right, and we have the right to do it in a medically responsible way; and this bill abrogates that right because it does not differentiate between the normal surgical procedure that is used early in pregnancy and the specific procedure it is trying to eliminate.

This legislation, as introduced, applies throughout a pregnancy and disregards the crucial constitutional distinction between pre- and post-viability abortions.

Furthermore, it completely disregards the issue of the woman's health. It does not matter in this bill

whether she has two, three, or four children depending upon her; the government is going to make the decision about how her health should be managed.

In 2000, the Supreme Court ruled in *Stenberg v. Carhart* that a Nebraska statute banning so-called partial-birth abortion was unconstitutional for two independent reasons. The statute lacked the necessary exception for preserving the health of the woman, and the definition of the targeted procedure was so vague it could prescribe other abortion procedures. Well, these arguments apply to this bill, both of those arguments. Mr. Speaker, H.R. 4965 contains no exception to preserve the health of the woman; and it is so vague it can be applied to the D&E procedure. Its prohibition can be applied to that and, therefore, does, without question, abrogate the right of women to handle their reproductive capabilities responsibly.

This is, in my estimation, the worst bill that has come before this Congress. I have wanted for a long time to just say how deeply offended I am that my male colleagues and some pro-life colleagues whose views I deeply respect could assume that American women would choose to abort a late-term child that they have carried within them. I know of no woman who ever has; I know of no case that shows a healthy child being aborted for the purposes of destroying that child. I hope that this will be the last time we will debate this, and I hope we will defeat this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BARCIA).

Mr. BARCIA. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of H.R. 4965, the Partial-Birth Abortion Act of 2002, and I urge my colleagues to vote in favor of this important legislation. I also am proud to serve as the cochair of the pro-life caucus along with the gentleman from New Jersey (Mr. SMITH). The courageous leadership of the gentleman from New Jersey (Mr. SMITH) in legislative efforts to boldly and consistently protect the unborn is unparalleled. It has been a pleasure to share this important chairmanship with him these past several years. It is also a pleasure, as the lead Democratic sponsor of H.R. 4965, to say how much I appreciate the leadership of the gentleman from Ohio (Mr. CHABOT) for his steadfast leadership and commitment on this issue and so many other important pro-life issues that we deal with here in the Congress. I thank the gentleman.

Partial-birth abortions are most often performed in the second or third trimester, and I am particularly troubled by the horrifying aspects of late-term abortions, because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed. H.R. 4965 not

only bans this type of atrocious procedure, but imposes fines and a maximum of 2 years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of abortions are elective, we must reconsider and re-evaluate the values society places on human life. In many cases, this is a cold, calculated, and selfish decision.

□ 1730

This is not a choice issue, this is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a pro-life Democrat, I am that grateful we now have a pro-life president who is signing this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate which has proven impossible to attain. The prospects for making the Partial Birth Abortion Ban Act the law of this land have improved greatly. Please vote to end this horrific procedure once and for all.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I come to the floor today and have had to come in and out, because it is very difficult for me to consume the kind of emotionally charged graphic illustration and display of the subject matter that is contained in this legislation.

I came to Congress, Mr. Speaker, in 1997, and since the time that I was sworn in to the 105th Congress, I have had to vote on abortion 109 times; 109 times this House, this United States Congress has brought before it this issue of abortion. It is mind boggling that we have children, on a daily basis, since we are all concerned about the well-being of our children, and I doubt that none of us are truly concerned that we have children around this country who have malnutrition, who lack proper medical care, who commit suicide, and it has been in the news on a regular, daily basis about children who are being abused, who are being sexually molested, who are being kidnapped from their homes, and there is not one squeak of any comment from the other side about the vulnerability of those children.

Yet, I have to come down to this floor 109 times since I have been in Congress to vote on a matter of abortion.

It does make you mighty suspicious that an issue as delicate as this, the choice that a woman makes with the help of her medical doctor, would have to come before the United States Congress. And it is especially suspicious that medical privacy is an issue here; and there is no reference to medical privacy at all. How would anyone know in the House of Representatives that a woman, in consultation with her doctor, a very private decision engaging in

a very private medical procedure, how would one here know about it unless there is something in this bill that I have not read that provides hidden cameras maybe in a hospital room or doctor's office that allows some peeping tom to stand there and watch what procedure is administered against a woman in consultation with her doctor.

What privilege is there in this bill that violates medical privacy? How would any Members know that a woman has had an abortion unless there is some peeping tom exemption in this bill that allows you to see what happens?

It just makes me ill, and I know my opponent is recording this because the other side has called him and told him to do that. And I hope he plays the full thing.

Every time this is here I vote against it. We have voted \$594 million worth of pay raises for this Congress since I have been in here, but we have not done diddly squat about all of these innocent and vulnerable children who have been kidnapped from their homes who are being killed on their driveways by predators.

The gentlewoman from Texas (Ms. JACKSON-LEE) has a concept about a DNA bank at the Attorney General's Office. Those are the kind of issues that we need to be exploring for the children of America, and not providing some peeping tom, ill-conceived, 110th time in the Congress on an abortion issue.

There is a poet that all of us are all familiar with that starts off, "Hear my humble cry; and while on others you are calling, do not pass me by." And I do not want all of these kids who are victimized by these criminals in this country to be passed by while we are spending two crazy hours engaging in an unconstitutional debate that only further the feathers of somebody's political aggrandizement.

Mr. SENSENBRENNER. Mr. Speaker, shortly the Democrats will offer a motion to recommit, and I hope the vote on that is not charged against us.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, I have listened to the entire debate today and I cannot help but think of a television program I was watching about crime the other day about pickpockets and purse snatchers. There are groups of people that create a diversion so that someone else can go up and commit the evil deed, but the diversion takes place, and this debate today reminds me of that.

Being accused of trying to eliminate a brutal, violent, inhumane act for political purposes for, or questions of constitutionality simply reminds me of pickpockets because the diversion just does not cut it.

According to Ron Fitzsimmons, executive director of the National Coalition

of Abortion Providers, and some other medical sources, it appears that partial birth abortions are performed 3,000 to 5,000 times annually. Even those numbers could be low. Based on published interviews with numerous abortionists and interviews with Mr. Fitzsimmons in 1997, the "vast majority" of partial birth abortions are performed in the fifth and sixth months of pregnancy on healthy babies of healthy mothers.

We have already heard that the statement from former Surgeon General C. Everett Koop that "partial birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Dr. James McMahon, who is considered to be the developer of this method, explicitly acknowledged that he performed such abortions on babies with no flaw whatsoever, even in the third trimester for reasons such as the mere youth of the mother or psychiatric difficulties.

These abortions do occur. It is arrogant of anyone to regard human life as flawed, and we need to support this bill and stop this violent process.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, well, as President Reagan has often said, "Here we go again."

It is amazing to me that we have been on this floor, especially during an election year, with this very issue that comes before us as if to say, as my dear friend from Indiana (Ms. CARSON) said, it raises a certain amount of suspicions.

Mr. Speaker, I stand here today protesting strongly against H.R. 4965 which seeks to limit a woman's right to choose medical options appropriate for herself and her family in consultation with her physician.

As Members of Congress, we are elected by our constituents to present their interests fairly here in Washington. We are not sent here to enact poorly-constructed legislation that would hinder the health and well-being of those entrusting us to make laws. Therefore, I must vehemently register my opposition to H.R. 4965 as an infringement on the personal choice and free will of women and families I am here to represent.

H.R. 4965 is bad legislation because it eliminates a health exception for women, and given that the Supreme Court has indicated that every restriction must allow an abortion when necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Women and their families must be able to make decisions regarding their medical care along with their doctors and without the interference of Congress.

It seems to me then, Mr. Speaker, we are being subjected once again to the narrow political agenda of a group of people in deference of what is good for

women's health and what is defined as legal by the Supreme Court. We must continue to be vigilant in preserving a woman's right and to make necessary choices for her own health in accordance with the law.

I would say simply that women across this country now are looking in on this and they too are concerned about why we have to constantly be given the time spent on this type of misguided piece of legislation when we can well be talking about the 11 million children who are uninsured. I have yet to see that type of law come to the floor.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BARR), a member of the Committee on the Judiciary.

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished chairman of the Committee on the Judiciary for the privilege of standing in the well of this House to address the barbaric procedure commonly euphemistically known as partial birth abortion. It is murder, pure and simple.

The previous speaker quoted that great president, the greatest president of the 21 century, Ronald Reagan, "Here we go again." You are darn right. It needs to be reminded over and over again to the American people what a barbaric procedure this is. And at least in this instance, all Americans can join together and say we, at least, draw this line. We, at least, say enough is enough.

President Reagan, to quote him, also spoke in January of 1985 when he was sworn in as our President for a second term of something he very quietly but very eloquently called the "American sound." He said the American sound is that sound which is echoed out across the ages, across the continent, across our continent. It is the sound, he said, of a Nation conceived by God, created in God's image for God's purposes. He said, it is a Nation that has always held in its heart compassion and love for fellow human beings.

I think if President Reagan were here today, he would say the American sound is alive and well in the House of Representatives. It is indeed the sounds of love and compassion, belief in God, and belief in the unborn, and belief in the right of that child, that precious baby to be born and to serve in God's image on this great land and in this great country.

I believe if President Reagan were here today he would say, thank you, Congress, thank you America, for standing up for the least defensive among us, for the most defenseless among us.

If, indeed, our colleagues join us as we expect today in passing this ban on this barbaric procedure, which no American can truly justify or defend, then President Reagan would indeed say, It is morning again in America for America's babies. Thank God.

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time.

Here we are on cue, Mr. Speaker. The annual late term abortion bill. This is the bill where Congress tries not to make law but to make mischief. Why would Congress want to put a woman in jeopardy of her health and a physician in jeopardy of prison for 2 years and a fine by prohibiting one and only one procedure?

Actually, Congress does not want to put the physician in jeopardy. What Congress wants to do is to keep the physician from performing any abortion including legal abortions. And if this bill passes, that is exactly what will happen across this country.

The point of this bill is to make it legally risky to perform any abortion because the physician cannot be sure he will not be prosecuted. That is why the courts have struck down these late-term abortion bans time and time again.

The bill tries to simply hop over Roe versus Wade with 15 pages of congressional findings. But congressional findings cannot overrule a Supreme Court decision. Congressional findings cannot nullify a woman's constitutional right. Congressional findings cannot defeat a woman's right to have an abortion if her health is in danger. This bill is not even a nice try. It is plainly unconstitutional. Worse, it is an insult to the women of America.

□ 1745

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, partial-birth abortion is one of the most violent and gruesome acts known to mankind. It is hard to believe that it is legal at all in a Nation that was founded on the principle of human rights.

Some years ago it was believed that partial-birth abortion was a very rare procedure only performed in the direst of emergencies. That was not true. The fact is there are some people in this country who are so radical and extreme in their defense of abortion that they are willing even to lie to defend this violent kind of act.

Five years ago, the executive director of the National Coalition of Abortion Providers told the New York Times that he had lied about how often partial-birth abortions are performed, lied about how healthy the mothers were, and lied about the viability of the children who were needlessly killed and, in fact, he said he "lied through his teeth." His words, not mine.

More often than not, this is a baby that would have every chance of surviving if it were delivered normally, and usually the baby has developed well beyond the stage where it can feel every bit of pain we would feel if we were subjected to the same procedure.

We have heard the horrific procedure described here on the floor.

Understand that the baby is given no anesthetic or painkiller of any kind. Imagine being stabbed in the back of the neck with a pair of scissors. Imagine how it must hurt. That is how much it hurts the baby.

All of this is done, Mr. Speaker, and it is perfectly legal today in the United States. Legal, yes; necessary, never. No partial-birth abortion is ever medically necessary, according to the best medical experts in America.

The vast majority of the American people want this barbaric, violent procedure to be illegal. Vote for banning the partial-birth abortion procedure.

Mr. NADLER. Mr. Speaker, may I inquire how much time I have left, please.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from New York (Mr. NADLER) has 5½ minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 23 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding me the time.

This bill is an affront to all women, and it is an insult to the medical profession, and it violates the Constitution.

Abortion is a constitutionally protected medical procedure in this country, and this bill flatly aims to take away that right. It does not aim to ban a single procedure that proponents of this bill like to call partial-birth abortion. If it did, the sponsors of this bill would have accepted medical language that actually describes a medical procedure, but they rejected this language.

Instead, the proponents chose to play doctor and describe a so-called medical procedure in their own words. This bill does not even ban what some may call late-term abortion because it never specifies a point in the pregnancy after which an abortion is banned.

What this bill really does is chip away at Roe v. Wade which established the constitutional right of women to control their own bodies. The proponents of this bill do not trust women to make their own decisions about their reproductive health. They do not trust women to talk to their doctors about their health, about their choices, and then make their own informed decisions. They do not want to give women the power and freedom to make their own decisions about their reproductive lives, despite the fact that the Supreme Court has repeatedly upheld this right in the face of countless challenges.

I urge a no vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the distinguished chairman for yielding me the time.

Mr. Speaker, a society can be measured by how well—or poorly—it treats the most vulnerable in its midst, and partial-birth abortion, like all abortions, is a horrific violence against women and violence against vulnerable little boys and girls.

Mr. Speaker, 30 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check. Mr. Speaker, abortion on demand has claimed the lives of more than 42 million children and although grossly underreported, has resulted in death, injury and emotional trauma to women. Forty-two million babies have disappeared off the face of the earth—slaughtered by abortion. Look at it this way. Yankee Stadium holds about 57,500 people. If we filled Yankee Stadium to capacity with children slated for execution, we would fill that stadium every day for 730 days. Perhaps this to give us some idea of the magnitude of the loss of life—42 million dead. It is of genocidal proportions.

Abortion methods, Mr. Speaker, are violence against children. Abortion methods dismember and chemically poison children. There is absolutely nothing compassionate or benign about dousing a baby with superconcentrated salt solutions or lethal injections or hacking them to pieces with surgical knives, and there is absolutely nothing compassionate or caring about sucking a baby's brains out with partial-birth abortion. It is child abuse.

Today, Mr. Speaker, because of the gentleman from Wisconsin's (Mr. SENSENBRENNER) and because of the gentleman from Ohio's (Mr. CHABOT) human rights legislation and their courage in proposing it, we can stop some of this violence.

Today, Mr. Speaker, we inform America that a partial-birth abortion is gruesome and includes pulling a living baby feet first out of the womb and into the birth canal, except for the head, and it is there the abortionist jams the baby's head with the scissors for the purposes of creating a hole in the back of the head. Then that baby has his or her brains sucked out with a high powered vacuum.

Why is that deed—that act, compassionate? I say to my colleagues, and you can snicker and laugh all you want. It is violence against children. It is violence and you my colleagues are sanctioning it, and only because of this legislation do we have an opportunity to save at least some of these children from this terrible, horrific "procedure."

Mr. Speaker, in 1998 a 6-pound baby girl known as Baby Phoenix was born with a skull fracture and lacerations on her face after the abortionist, Dr. John Biskind, unsuccessfully attempted to perform a partial birth abortion on her 17-year-old mother. Baby Phoenix survived that murder attempt. There was a lot of controversy about that abortion and do my colleagues know what the controversy was about? That the abortionist miscalculated the baby's age rather than

the horrific, horrible violence that was visited upon that baby. That baby survives but carries those scars. Let us be reminded of Baby Phoenix—the lucky one who survived—and all those others who did not.

This is human rights legislation. I have been in Congress 22 years. I do a lot to combat torture. I chair the Commission for Security and Cooperation in Europe. I have written two torture victims relief bills and many other human rights pieces of legislation including a historic antitrafficking law. Partial birth abortion is torture—torture of little baby boys and little baby girls, and I am ashamed of my colleagues who stand up here and call efforts to stop it, an insult to women.

This procedure is an insult and infinitely more to boys and girls who are killed in the womb or partially born. It is an insult and more to the mothers who are the co-victims. I urge my colleagues to vote yes and against the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. JEFF MILLER).

Mr. JEFF MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today also in support of the partial-birth abortion ban of 2002. We have been accused of being political with this piece of legislation. We have been told that this is an infringement on women's rights, and I will tell my colleagues that what this is an infringement on a person's right who is too young to speak, certainly too young to vote.

I believe the life of the unborn child begins at conception, and I do believe that every time an abortion occurs, a life is lost. Each year over a million babies are slain at the hands of doctors performing abortions. Some doctors willingly and routinely kill babies during the second and sometimes third trimester.

We have already heard that this is an excruciatingly painful procedure where the doctor violently manipulates the baby's position, creating a breech delivery, and then mercilessly stabs through the child's skull to remove the baby's brain with a vacuum. This procedure is appalling and disturbing, and I feel it is nothing short of murder.

In response to the Supreme Court's split decision in the Stenberg-Carhart ruling, this will help give clear guidelines to what is considered constitutional and prohibited.

Mr. NADLER. Mr. Speaker, I yield myself the remaining time.

Let me summarize this bill first on the substance. This bill is really simply an attack on the very idea of the woman's right to choose to have an abortion, a right guaranteed by the Constitution of the United States. It is an appeal to people's emotions, using falsehoods and false claims.

Let me remind my colleagues of several facts. One, there are no abortions in this country in the last trimester of

pregnancy except to save the life, the health of the mother, because that would be illegal.

Two, the gentleman says that the procedures outlined in this bill are never necessary to save the health of the mother, but I would point out that the American College of Obstetricians and Gynecologists, the American Nurses Association, the American Medical Women's Association in an amicus curiae brief to the Court, cited approval by the Supreme Court, concluded "especially for women with particular health conditions, there is medical evidence that D&X procedures may be safer than available alternatives." The political posturing of Congress is no substitute for the medical expertise of doctors.

The distinguished chairman said there was a moral consensus against this procedure, but the fact is when put before the voters in referenda in Colorado, Maine and Washington State, voters rejected bans very similar to this bill. What moral consensus?

The Supreme Court has very clearly told us that this bill is unconstitutional because despite the rhetoric that this is a late-term abortion bill to save fully formed fetuses, the fact is that it bans abortions well before viability, and the Supreme Court in Carhart said, "Even if the statute's basic aim is to ban the D&X procedure, its language makes clear that it also covers a much broader category of procedures and therefore imposes an unconstitutional burden on women."

The health of the mother. The Supreme Court has told us that for such a bill to be constitutional, it must have an exception for the health of the mother, and what human being would not want to have an exception for the health of the mother? So we destroy her health for an ideological reason?

The findings of the bill that such procedures are never relevant, are never necessary for health are political findings, not medical findings, as we have noted above, and would be disregarded by the Supreme Court, as the Court has told us in the most recent cases.

By its own terms, because lacking a health exception, this bill would sanction grievous bodily harm to a woman rather than let her and her doctor do what is necessary in their judgment to safeguard her health and her welfare.

Finally, Mr. Speaker, this bill is a sham. Because it is unconstitutional, because it is clearly and facially unconstitutional, it can do nothing to avert any of the horrors cited by the gentleman from New Jersey (Mr. SMITH) and by other supporters of the bill. If the supporters wanted, we could enact a bill that would ban late-term abortions with an exception for where the life and health of the mother is at risk. Such a bill would be constitutional and might accomplish something.

It would not be clearly disingenuous and hypocritical, but the sponsors of this bill do not want to do that. They prefer a sham bill.

□ 1800

They prefer posturing. Instead of doing something, they would rather have a lot of emotion against a woman's right to choose. But make no mistake, this bill is a sham. It would do nothing. It is unconstitutional.

We should vote against this bill. It is an insult to American women, and it is an insult to our collective intelligence.

Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, this is an important debate. It is an important debate because it puts before Congress and, thus, the American people whether or not there should be a line drawn and whether there should be any meaningful and effective restrictions on abortion.

The partial-birth abortion procedure is barbaric and grotesque, and most medical societies, including those that generally oppose restrictions on physicians being able to practice any type of medicine, have said that there are other types of abortion procedures that would be more proper than a partial-birth abortion.

Let me quote from the committee report. It says, "The absence of any basis upon which to conclude that partial-birth abortions are safe has not gone unnoticed by the American Medical Association, which has stated that partial-birth abortion is 'not an accepted medical practice,' not an accepted medical practice, and that 'it has never been subjected to even a minimal amount of the normal medical practice development; that the relative advantages and disadvantages of the procedure and specific circumstances remain unknown.'" The AMA says it is an experimental procedure and that there is no consensus among obstetricians about its use.

The AMA has further noted that "Partial-birth abortion is broadly disfavored by both medical experts and the public, is ethically wrong," and I repeat, is ethically wrong, "and is never the only appropriate procedure." Thus, a select panel convened by the AMA could not find any identified circumstance where the partial-birth abortion was the only appropriate alternative.

So, if my colleagues want to do away with partial-birth abortions but are talking about a woman's right to choose, there are other alternatives, according to the AMA.

Now, I grant that the AMA does not support the criminal sanctions that are contained in this bill against physicians who perform partial-birth abortions in violation of the law, but they still condemn the partial-birth abortion procedure in their statements that they issued several years ago when Congress first took this issue up.

The American College of Obstetricians and Gynecologists, which is an organization that has consistently opposed legal restrictions on abortions,

including the partial-birth abortion ban, has reported a select panel convened by ACOG could identify no circumstances under which this, meaning the D&X procedure, would be the only option to save the life or preserve the health of the woman.

Now, former Senator Daniel Patrick Moynihan, whom I am sure was very strongly supported politically by my colleague from New York, and who never voted for restrictions on abortion during his long and distinguished career in the other body, said that partial-birth abortion is very close to infanticide. I would strike very close. It is infanticide, because the difference between a legal partial-birth abortion and first degree murder is three inches. Three inches. The size of the head, which has not been delivered, where the scissors are inserted into the back of the baby's head and the brains are sucked out. This is what we want to ban. And this, I think, is supported by the vast majority of the American people.

Now, we have also heard a lot from people who are opposed to this legislation; that this always should be something that is in the professional opinion of a physician. Well, many of the physicians whose professional opinion is requested have an inherent conflict of interest because they will charge a fee and make money by saying that this is a proper procedure, even though the vast majority of their colleagues say it is never a proper procedure and other alternatives are available.

Finally, we have heard a lot about the Stenberg decision. This is a different bill than the law from the Nebraska case that was struck down by the Supreme Court. It contains extensive findings by the Congress of the United States, which is our right as a legislative body to make. It is up to the court to determine whether or not the findings that are made by the Congress are valid when it considers the constitutionality of this bill, should it be enacted into law, just like it was in the province of the court to consider the findings of the district court when it struck down the Nebraska law in the Stenberg decision.

The doctrine of separation of powers gives us the right to make those findings. Those findings are all medically supported by the testimony that the Committee on the Judiciary has received since 1995.

I believe this bill is constitutional. I believe this bill is good public policy. But, most importantly, I believe it is our right and our duty to stop this grotesque procedure, which is three inches away from infanticide.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in opposition to H.R. 4965, the Late Term Abortion Ban Act. In 2002, the U.S. Supreme Court held, by a 5-4 decision, in *Stenberg v. Carhart* that a Nebraska law prohibiting later term abortions was unconstitutional. The Court's decision makes clear that federal legislation addressing this issue must include exceptions to protect the life and health of the

mother. H.R. 4965 ignores this health exception clearly outlined by the Supreme Court.

I am a cosponsor of House Resolution 2702, the Late Term Abortion Restriction Act. This legislation would prohibit all abortions after fetal viability unless it is in the judgment of the attending physician it is necessary to preserve the life or health of the mother. The Supreme Court concluded in *Stenberg v. Carhart* that a woman's health must remain the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health. H.R. 2702 will pass constitutional scrutiny. In addition, this measure addresses the termination of viable fetuses in the late stages of pregnancy.

Mr. Speaker, it is unfortunate that we are debating a bill ruled unconstitutional by the United States Supreme Court. Instead, we should be debating and voting on H.R. 2702, a bipartisan measure to ban all late term abortions except "to preserve the life of the woman or to avert serious adverse health consequences to the woman."

Mr. Tiahrt. Mr. Speaker, I rise today in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. Regardless of whether one is pro-life or for abortion rights, the partial-birth abortion procedure is clearly morally indefensible. While every abortion sadly takes a life, a partial-birth abortion takes a baby's life as he/she emerges from the mother's womb and while the baby is still in the birth canal. My fellow colleagues have described the horrific process with pictures that make one sick to his stomach. It is unfathomable that someone could do this to another human being, especially a helpless baby.

Specialists who perform the partial-birth abortion have testified there is no medically-accepted use for the partial-birth procedure, and that, in fact the procedure itself presents health risks for the mother.

There is talk of including a provision to allow for exceptions when the "mental health" of the mother is at risk. This is a phony ban. My home state of Kansas passed such a bill, which has essentially meant that partial-birth abortions are banned unless a woman wants one. I am ashamed to report that in Wichita, the infamous late-term abortionist George Tiller performed 182 partial-birth abortions in 1999 alone under this weak law. That is 182 viable babies who were brutally murdered. We cannot allow that to happen.

Congress has passed a partial-birth abortion ban twice, which President Clinton vetoed both times—over the wishes of the American people. President Bush strongly supports H.R. 4965 and is looking forward to signing a partial-birth abortion ban. 70% of Americans believe that partial-birth abortions should be banned. This body that is expressly the "people's House" needs to listen to the will of the people.

As a father of three beautiful children and a strong defender of human life, I am embarrassed that our wonderful country permits partial-birth abortions. I urge you to vote in favor of this important legislation so that all the beautiful children who come into this world are treated as the human beings they are.

Mr. PAUL. Mr. Speaker, like many Americans, I am greatly concerned about abortion. Abortion on demand is no doubt the most serious social-political problem of our age. The lack of respect for life that permits abortion

significantly contributes to our violent culture and our careless attitude toward liberty.

Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the continuation of a civilized society. There is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-advised *Roe v. Wade* ruling, a ruling that constitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of *Roe v. Wade*.

Unfortunately, H.R. 4965 takes a different approach, one that is not only constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language and reasoning used in this bill do not further the pro-life cause, but rather cement fallacious principles into both our culture and legal system.

For example, 14G in the "Findings" section of this bill states, ". . . such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide . . ." The question I wish to pose in response is this: Is not the fact that life begins at conception the main tenet of the pro-life community? By stating that we are drawing a "bright line" between abortion and infanticide, I fear that we are simply reinforcing the dangerous idea underlying *Roe v. Wade*, which is the belief that we as human beings can determine which members of the human family are "expendable," and which are not.

The belief that we as a society can decide which persons are "expendable," leads us directly down a slippery slope of violence and apathy toward humanity. Though many decry such ethicists as Peter Singer of Princeton, who advocates the "right" of parents to choose infanticide, as well as euthanasia, his reasoning is simply a logical extension of the ethic underlying *Roe v. Wade*, which is that if certain people are not "useful" or "convenient," they should be done away with.

H.R. 4965 also depends heavily upon a "distinction" made by the Court in both *Roe v. Wade* and *Planned Parenthood v. Casey*, which established that a child within the womb is not protected under law, but one outside of the womb is. By depending upon this false and illogical "distinction," I fear that H.R. 4965, as I stated before, ingrains the principles of *Roe v. Wade* into our justice system, rather than refutes them as it should.

Despite its severe flaws, the bill nonetheless has the possibility of saving innocent human life, and should therefore be supported. I fear, though, that when the pro-life community uses the arguments of the opposing side to advance its agenda, it does more harm than good.

I wish to conclude with a quote from Mother Theresa, who gave a beautiful and powerful speech about abortion on February 3, 1994, at

the National Prayer Breakfast in Washington DC: “. . . From here, a sign of care for the weakest of the weak—the unborn child—must go out to the world. If you (in the United States) become a burning light of justice and peace in the world, then really you will be true to what the founders of this country stood for . . .”

May we see bills in the future that stay true to the solid principles the founders of this country stood for, rather than waver and compromise these principles.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002 and I urge my colleagues to vote in favor of this important legislation.

I am proud to serve as Co-Chair of the Pro-Life Caucus along with Representative CHRIS SMITH. Representative CHRIS SMITH's courageous leadership in legislative efforts to boldly and consistently protect the un-born is unparalleled. It has been a pleasure to share this important Chairmanship with him.

And as the lead Democratic sponsor of H.R. 4965 I also want to thank Representative CHABOT for his steadfast leadership on this and so many other important pro-life issues.

Partial-birth abortions are most often performed in the second or third trimester and I am particularly troubled by the horrifying aspects of late term abortions because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed.

H.R. 4965 not only bans this type of atrocious procedure but imposes fines and a maximum of two years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life and if 80 percent of abortions are elective, we must reconsider and re-evaluate the value society places on human life. In many cases, this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a Pro-Life Democrat, I am grateful that we now have a Pro-Life President who will sign this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate—which has proven impossible to attain.

The prospects for making the Partial-Birth Abortion Ban Act the law of the land have improved greatly. Please vote to end this horrific procedure once and for all.

Ms. HARMAN. Mr. Speaker, as we consider H.R. 4965, the Late Term Abortion Ban Act, I would like to clarify what this debate is really about.

We are not debating so-called “partial-birth” abortion.

We are not debating late-term abortion.

We are debating a broad and unconstitutional attack on a woman's fundamental right to protect her life and health, our right to make our own decisions—our right to choose whether or not to have an abortion.

The Supreme Court has repeatedly ruled not simply that women have the right to an abortion, but that we have the right to the safest abortion procedure available.

States and Congress cannot place an undue burden on a women's right to choose, and cannot endanger the life or health of a woman seeking an abortion.

This bill fails on both counts. Its overbroad definition of “late term” abortion could include some of the most commonly used medical procedures for abortion in the second trimester—making it difficult for a woman to get an abortion. Its denial of an exception to preserve the health of a woman is dangerous. Ample evidence exists that the procedures described by my colleagues may be the safest for women with certain health conditions.

If the sponsors of this bill wanted to ban one medical procedure, why didn't they use medical terms to describe it?

If they wanted to ban post-viability abortions, why didn't they include a time limit in their bill?

I can only conclude that this bill is intended—just as the Nebraska law struck down by the Supreme Court was—to ban some of the most common abortion procedures used, even before a fetus is viable.

This bill is unconstitutional and it is harmful to women's health. Let's keep medical decisions where they belong—in the doctor's office, not the House floor.

Vote no on H.R. 4965.

Mr. VITTER. Mr. Speaker, I rise today with strong unequivocal support for H.R. 4965, the Partial-Birth Abortion Ban. Passage of this act into law is long overdue, and I hope the American people—who overwhelmingly want this ban enacted—will get their victory in this House today and in this Congress. Time and a gain we hear the myths and propaganda that this barbaric procedure is necessary to somehow protect women. But what do doctors and experts have to say about the procedure?

The head of National Coalition of Abortion Providers in 1997 said that the “vast majority” of partial-birth abortions are performed on healthy babies and healthy mothers.

The American Medical Association, regarding legislation to ban partial-birth abortions, wrote “Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.”

The Physicians' Ad Hoc Coalition for the Truth (PHACT) stated, “Never is the partial-birth procedure medically indicated. Rather such infants are regularly and safely delivered live . . . with no threat to the mother's health or fertility.”

Lastly, former Surgeon General C. Everett Koop issued a statement that not only is the procedure never medically necessary for mother or child but “on the contrary, this procedure can pose a significant threat to both.”

We also know now that the infant feels tremendous pain, contrary to prior statements by pro-abortion groups. Yet these same organizations would have us believe that this grisly procedure is actually necessary—this same procedure where an infant, in the late second or third trimester, is removed from the mother's uterus save only his or her head, and then an abortionist pierces the skull and vacuums the brain, collapsing the skull.

Allowing any procedure as gruesome as this is simply unacceptable to me, and should be so for this Congress. The American people have spoken loudly and clearly on this issue. This ban has passed the House of Representatives in the past, and we should do so here again today. This legislation before us is carefully crafted to address concerns of the Supreme Court. President Bush has indicated that he will sign this much-needed legislation.

I urge my colleagues to support passage of the Partial-Birth Abortion Ban, and let's hope

that it's the last time we have to fight for this common sense legislation.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act.

Two years ago, the Supreme Court ruled 5 to 4 that my home state of Nebraska's ban of this grisly procedure was unconstitutional. Justice Scalia wrote in his dissent that “the notion that the Constitution prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd.” He further noted that even “the most clinical description of [a partial-birth abortion] evokes a shudder of revulsion.”

H.R. 4965 contains several provisions to address the Court's concerns. A partial-birth abortion is more clearly defined to distinguish it from the “dilation and evacuation” procedure used to end early-term pregnancies. The bill also contains extensive Findings of Fact based on years of Congressional hearings and testimony. They prove beyond a shadow of a doubt that partial-birth abortion is unrecognized by the mainstream medical community, never necessary to preserve the health of the mother, and may in fact harm her health.

I sincerely hope these changes will withstand the scrutiny of the Court. I urge my colleagues to join me in voting to end the barbarism of partial-birth abortion once and for all and protect children who are just inches away from taking their first breath.

Mr. CRANE. Mr. Speaker, as a cosponsor of H.R. 4965, I rise in strong support of the Partial-Birth Abortion Ban Act of 2002. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in the most gruesome of procedures.

Used in second and third trimester abortions, the “partial-birth” procedure involves pulling some portion of the fetus into the birth canal, crushing the skull and killing the fetus, before removing the fetus from the mother's body.

Congress passed legislation in each of the last three Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans. Both times the House voted to override the veto, but the Senate sustained it.

This bill makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under this legislation, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother and those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. By passing H.R. 4965 today, we will take a giant step towards protecting innocent babies who, through no fault of their own, never have a chance.

Mr. GEPHARDT. Mr. Speaker, it is regrettable that today the Republican leadership ignored an opportunity to resolve the issue of late-term abortion in an effective and constitutional way, moving forward yet again with a ban that does not include an exception to protect the health of the woman. The Supreme Court has spoken on this matter. Banning this

procedure without such an exception is unconstitutional. Repeatedly on the Floor of this House an alternative that contains this crucial exception has been offered, and repeatedly I have voted for it. That a ban would be before us today without that exception can only mean that the Republican leadership wants a political issue more than an effective law. I would hope that any future consideration of this legislation would not suffer from such a flaw.

Mr. SIMMONS. Mr. Speaker, I rise today in opposition of H.R. 4965, the "Partial-Birth Abortion Ban of 2002."

Since Congress last voted on this issue two year ago, the U.S. Supreme Court, by a 5–4 vote, found that the Nebraska law making it a crime to perform so-called "partial birth abortions" was unconstitutional because it imposed an undue burden on women's decision to end a pregnancy and it lacked the constitutionally required exception to protect women's health.

In spite of the U.S. Supreme Court's rulings, the "Partial-Birth Abortion Ban of 2002" fails to include health exceptions for women and imposes an undue burden on a woman's ability to choose an abortion procedure.

The difficult and personal medical decisions made by a woman, her families and her medical doctors should not be influenced by the agendas of politicians. A free people must assume responsibility to make vital decisions involving them; and not allow their decisions to be made by the federal government.

While I remain concerned about the number of abortions in America today, I continue to fully support the U.S. Supreme Court decision. I will also continue to strongly support programs that can reduce the number of abortions worldwide. These include domestic and international family planning programs, age-appropriate education programs and increased availability of adoptive services.

Mr. SOUDER. Mr. Speaker, as a cosponsor of H.R. 4965, the Partial-Birth Abortion Ban Act, I believe the Congress must act now to pass this important bill. We should not allow the heinous killing of a partially delivered baby to be lawful any longer.

In a partial-birth abortion, the abortionist pulls a living baby feet-first out of the womb and into the birth canal, except for the head, which the abortionist purposely keeps lodged just inside the cervix. The abortionist then punctures the base of the skull with a surgical instrument, such as a long surgical scissors or a pointed hollow metal tube called a trochar. He or she then inserts a catheter into the wound and removes the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now-dead baby.

H.R. 4965 would ban performance of this abhorrent procedure except if it were necessary to save a mother's life. It defines partial-birth abortion as an abortion in which "the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside of the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother," and then kills the baby. The bill would permit use of the procedure if "necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself."

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, partial-birth abortions are performed 3,000 to 5,000 times annually, usually in the fifth and sixth months of pregnancy, on healthy babies of healthy mothers. It has also been used to perform abortions as late as in the third trimester, which is the seventh month and later. Many of these babies are old enough to live, and many of them are developed enough to feel the pain of this horrendous procedure.

The Congress has voted to ban partial-birth abortions twice, only for the ban to be vetoed both times. We must pass H.R. 4695 now to ensure that partially delivered babies are protected and that the awful procedure used to perform partial-birth abortions is banned under law.

Mr. WELDON of Florida. Mr. Speaker, as a physician, I find the practice of partial-birth abortion extremely disturbing. This is a gruesome practice where the abortionist delivers the entire child except the head. The head is left in the mother's womb until the abortionist kills the child by puncturing the back of the child's neck. If the baby's head were three inches further out of the birth canal, this practice would be recognized as murder under our court system.

"Critics of a partial-birth abortion ban have asserted that the ban could endanger the life and/or health of the mother, but such is not the case. Even the American Medical Association has said that the partial-birth abortion procedure is 'not good medicine' and is 'not medically indicated' in any situation.

"Congress has approved legislation to ban partial-birth abortions in the 104th, 105th, and the 106th Congresses with support by scores of Members who have never voted pro-life. Even many abortion supporters find this practice reprehensible.

"President Bush has said that he would sign a bill banning this practice. My hope is that the 107th Congress will give the President the Partial-Birth Abortion Ban Act of 2002 for him to do just that. I'm hopeful that we will soon see progress in ending this gruesome practice. I urge my colleagues to do the right thing today and vote for this ban."

Mr. BLUMENAUER. Mr. Speaker, I oppose the bill before us today, H.R. 4965, which would ban late-term abortions. Congress has no business substituting its judgment for families in cases that may jeopardize not just the health, but the life of the mother, and a family's ability to have a healthy child in the future. I have consistently opposed efforts by politicians in Congress to play politics with the most difficult and personal decisions a family can face.

Access to this procedure helps ensure a woman's health and her constitutional rights. It is the safest and most commonly used type of abortion in the second trimester of pregnancy. In fact, the American College of Obstetricians and Gynecologists has recognized that it "may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

Today's bill also fails to address a ruling in June 2000 by the U.S. Supreme Court, which struck down a Nebraska ban on late-term abortions in the case *Stenberg v. Carhart*. The Court invalidated the Nebraska law because it did not contain an exception to protect a woman's health, and it placed an "undue burden"

on a woman's right to choose. Now, two years later, the House of Representatives is once again moving forward with a similar unconstitutional ban. The only substantive change in today's bill is the addition of a lengthy "findings" section that does not correct the blatant constitutional defects.

The timing of this debate and procedures used to bring it to the floor suggest that the anti-choice House Republican leadership is playing anti-abortion politics rather than having a serious legislative discussion. I disagree with the unfair closed rule that the Republican Leadership has set for debate on this bill because it denies pro-choice lawmakers the opportunity to offer amendments or substitute legislation to address the constitutional defects of the legislation.

Not everyone would make the same decision when faced with the wrenching decision of choosing between this procedure and the life of a loved one, but it is wrong for Congress to make that choice for American families.

I urge my colleagues to vote against the unfair rule and the underlying bill.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation would ban a gruesome procedure that kills a child who is just inches from birth. I will not go into the details of this cruel procedure. What I will mention, however, is that numerous medical experts have testified that fetuses are able to fully feel pain after 20 weeks of development, the time at which most partial birth abortion procedures occur.

Some have questioned the constitutionality of partial-birth abortion bans. This legislation, however, clearly addresses questions that have surrounded previous bans in two key ways. First, H.R. 4965 narrowly defines what constitutes a partial-birth abortion. Second, this legislation deals with the question of health exemptions. H.R. 4965 presents extensive Congressional findings, based on the testimony of experts, that partial-birth abortions are never needed to save the life of the mother and that they often pose serious health risks to women.

Mr. Speaker, the American Medical Association has concluded that partial-birth abortions are "not an accepted medical practice." Yet, this cruel practice continues to take place. Congress has twice passed legislation to ban partial-birth abortions. Unfortunately, both times the legislation was vetoed by President Clinton.

The time for Congress to act on this issue is here. President Bush has said that he would sign a ban on partial-birth abortions. Mr. Speaker, we finally have an opportunity to put in place a ban that protects the most innocent of our society—I urge passage of the Partial-Birth Abortion Ban Act of 2002.

Mr. MCDERMOTT. Mr. Speaker, as a physician I must stand against H.R. 4965.

This bill bans a legitimate medical procedure and jeopardizes the lives of thousands of childbearing women. Supporters of H.R. 4965 claim to ban only a certain kind of abortion procedure that they happen to find offensive. However, the language of the bill is purposefully vague and would ban multiple types of abortion procedures. Further, this bill fails to provide a viability line for the fetus, so certain abortions that occur during the first two trimesters would be prohibited.

In 2000, the Supreme Court ruled on *Carhart v. Stenberg*. It decided that any ban on so-called "partial birth abortions" must contain an exception for the mother's health. But this bill does not provide any exception to protect the health of the mother.

This is the fifth time in seven years that the Congress has considered this legislation. H.R. 4965 is merely used as a political instrument to inflame the abortion debate through heated and graphic rhetoric. Republican leadership has brought this bill before the House in an effort to grossly mischaracterize abortions in this country.

Mr. Speaker, I can tell that it must be the silly season again, because this bill is about nothing other than election-year politics.

Several reputable medical organizations including the American College of Obstetricians and Gynecologists, and the American Medical Women's Association oppose this ban. Even the American Medical Association has withdrawn their support. We should not be interfering with the very personal, ethical, and medical decisions made between a patient and a doctor.

The Supreme Court specifically recognizes a woman's right to choose a safe abortion under the principles of *Roe v. Wade* and I will not support any bill designed to erode that fundamental right.

Mr. CHAMBLISS. Mr. Speaker, we have an opportunity today in the House of Representatives to pass H.R. 4965, the Partial-Birth Abortion Ban Act of 2002. This legislation will outlaw the deplorable procedure known as partial-birth abortion.

This issue is important to my state of Georgia, where in 1997, then Governor Zell Miller signed the ban on partial birth abortion into state law. This body has garnered nearly 300 supporters for each of the four separate times we have had the opportunity to cast votes on this important matter.

The American Medical Association concludes that partial-birth abortion is "not an accepted medical practice," while a wealth of other medical research shows this procedure is never medically necessary.

This is not a partisan issue, Senator Daniel Patrick Moynihan the retired Democratic Senator from the State of New York, known for giving voice to the public conscience, compared the procedure to murder by stating, "It is as close to infanticide as anything I have come upon in our judiciary." I agree with Senator Moynihan, partial-birth abortion is brutal and ruthless and must be banned. It is a disgrace that this reckless disregard for innocent young life is permitted here in United States of America.

I urge my colleagues to vote in favor of H.R. 4965 and I remain hopeful that we will be able to outlaw this despicable procedure once and for all.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4965, "The Partial Birth Abortion Ban."

Today's debate on this issue is offensive. It's an insult to millions of women in this country and political grandstanding at its worst. For each of the past three sessions of Congress, the House has debated and passed this bill. It has never become law. The Supreme Court has already ruled this type of ban to be unconstitutional having struck down an almost identical Nebraska law.

The truth is "partial birth abortion" is a political term, not a medical one. Republicans

have included a fuzzy definition in this bill that could take away protected representative freedoms. At best, they would ban what is almost always an emergency procedure performed to protect the health of a mother.

This is highly personal decision—and an emotionally difficult one—that is best left to a woman and her doctor. Congress shouldn't tie the hands of physicians by making it illegal for them to make sound medical decisions that could save their patient's life. This should not be a political issue!

We ought to be respectful of the deeply personal tragedies involved. Instead, Republicans exploit them for political purposes. They jubilantly jump on this issue like it's a new Tonka truck at Christmas, when they ought to consider what this experience is like for the women involved. They ought to think about the real facts, not just the extreme rhetoric and gory pictures on the latest Christian Coalition voting card.

Most of the women involved are expectant mothers that encounter medical difficulties near the end of their pregnancy and must undergo this painful, but safe procedure to save their life. Others are the victims of sexual assault who often don't come to terms with their pregnancy until well into the second trimester. Imagine the painful process of determining whether you will bear the child of someone who has raped and assaulted you. These women have a right to make this choice. This bill provides no exemption for this basic freedom.

Indeed, this bill is yet another deceptive hoax in a protracted assault against the rights of women and all Americans. We must never let the right to choose be taken away just as we must never allow another back alley abortion to ever take place in this country again. I urge my colleagues to stand up for the freedom to choose and vote no on this cynical and senseless bill.

Mr. UPTON. Mr. Speaker, I rise today as a cosponsor of the Partial Birth Abortion Ban Act. I urge colleagues to join me in voting decisively in support of this legislation, as we have in the past two Congresses. As a civilized society founded on respect for life, we cannot allow this cruel and dehumanizing procedure to continue.

In these abortions, healthy infants who could survive are brutally killed just a breath away from birth. Although the consensus in the medical community is that this procedure is never necessary to save the life of the mother, this bill does include that exception to the ban.

On many issues that we debate in this body, there are shades of gray and room for honest disagreements on principle and substance. But on this issue, there is no question. There are no shades of gray. Partial birth abortions are acts of evil, pure and simple. They turn the wonder, the miracle, of the birth of a human being into a terrible travesty of horrible death and suffering.

Yesterday, the President and Mrs. Bush announced an adoption initiative to extend the welcome of family to a vulnerable child. Isn't it sadly ironic that we are here today, actually arguing about banning a procedure that dashes the hopes of childless couples for an infant to love and nurture.

The greatness of nation is judged not only by the size of its armies or the strength of its economy, but also by the way it treats its most

vulnerable and frail. In the name of simple human decency and of our belief in all this nation must stand for, I call on this body to ban this procedure.

Mr. SHOWS. Mr. Speaker, I rise today in support of H.R. 4965, the Partial-Birth Abortion Ban act.

Mr. Speaker, protecting innocent human life is a preeminent concern of mine. I am opposed to abortion and the gruesome partial birth abortion procedure in particular.

I am as strong an advocate as there can be against the killing of unborn children. As Democratic Whip of the Congressional Bipartisan Pro-Life Caucus, I work closely with my colleagues to stress the importance of passing pro-life legislation such as H.R. 4965, which we are considering today.

Abortion is wrong. Partial birth abortion is the cruelest form of torture and we must put an end to it now, today!

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in opposition to H.R. 4965, the Partial Birth Abortion Ban Act. This bill is unconstitutional and will jeopardize the health of women.

This so-called "partial birth" abortion ban is part of a political scheme to sensationalize the abortion debate. The truth is that the phrase "partial birth abortion" is a political term, not a medical term. "Partial birth" abortion bans have never been about banning one procedure, nor about late term abortions. They are deceptively designed to be intentionally vague in the attempt to ban abortion entirely. This bill opens the door for legislators to ban even more safe abortion procedures.

H.R. 4965 is neither designed, nor written to ban only one procedure, and it deliberately lacks any mention of a viability time line, therefore is applicable through out the pregnancy. These bans are deliberately designed to erode the protections of *Roe v. Wade*. We cannot sit back and watch the reproductive rights of women in America disappear.

This bill bans a variety of safe and common abortion procedures, both before and after viability, therefore imposing an undue burden on women seeking access to abortion services. This abortion restriction would, without exception, force women to use riskier methods of abortion.

But perhaps the strongest argument against this bill is that it ignores a constitutionally required exception to protect women's health. In 2000 the Supreme Court ruled in the *Carhart v. Stenberg* case that women are entitled to medical procedures that are found safest for their individual health. The Supreme Court stated unequivocally that every abortion restriction must contain a health exception that allows an abortion when "necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Anti-choice lawmakers have ignored this constitutional right, and refused to include into their legislation an exception to protect women's health.

H.R. 4965 unduly interferes with the doctor-patient relationships by giving Congress the ability to punish physician and put patients at risk. The American Medical Association, one the largest and most politically active groups of physicians in the U.S., who in the past has often supported abortion bans, withdrew their support on this bill. The following is a statement that was released by the AMA, "The physician must retain the discretion to make that judgment, acting within the standards of good medical practice and in the best interest of the patient."

Along with the American Medical Association many other medical organizations oppose this legislation, including the American Medical Women's Association, American Nurses Association, American Public Health Association, American College of Nurse Practitioners, American Medical Student Association, and the Association of Schools of Public Health, to name only a few. These organizations have recognized that it would endanger women's health and inappropriately interfere with medical decision-making. These groups have implored Congress not to intrude into decisions that are more appropriately made by women and their families, in consultation with their physicians. Their medical judgment should not be ignored.

For the safety and the constitutionally required right of women, I urge you to vote in opposition to H.R. 4965.

Mr. WATTS. Mr. Speaker, I rise in support of the Partial-Birth Abortion Ban Act of 2002.

This is an issue that has opened the eyes of many Americans. The rhetoric of "choice" is turned on its head when a procedure as barbaric as partial-birth abortion is the subject.

When the Democrat leadership discussed the schedule of the House here on the Floor last week, it was amazing to hear the term "partial-birth abortion" partially uttered, then quickly changed to words softening the reality of the procedure we are debating today. To describe partial-birth abortion as a "certain late-term abortion," as many members of the media also do, is factually incorrect. Partial-birth abortions are performed as early as twenty weeks into the life of an unborn child. The devil is always in the details, which is why you will hardly ever hear the fact that thirty-six percent of all abortions in American are on children of African descent.

Those who oppose a ban on partial-birth abortion often admit the procedure is gruesome, yet defend it because they believe it is necessary when a baby deemed imperfect is about to be born. But we must step back and ask ourselves what authority we have to decide who gets to live and who becomes a casualty of choice. The quality of life of an unborn child or an elderly Americans is just as valuable as the life enjoyed by members of Congress.

Let me propose the following scenario to you.

You are a doctor who has been contacted by a patient—a woman in her early thirties. After you examine her medical history, you discover she suffers from tuberculosis. She is not well. Her husband has syphilis—and it is possible she has also contracted the deadly disease.

This lady previously gave birth to four children, three of whom are still living. One is blind and two are deaf. She asks you about terminating this pregnancy with an abortion. You consider her health, her previous births and the state of her children.

What would do you do?

Well, if you said, "have an abortion," you just killed Beethoven.

Mister Speaker, all life is precious. All life is sacred. And under the Declaration of Independence of the United States, all Americans are endowed by our Creator and have been given an unalienable right to life.

Partial-birth abortion represents the antithesis of civility. It is an insult to humanity. And an overwhelming majority of Americans think it has no place in our country.

This legislation is practical, warranted and, I believe, constitutional. I urge my colleagues to support the bill so the legalized version of infanticide known as partial-birth abortion will never again take the life of an innocent, precious baby in our great nation.

Mrs. LOWEY. Mr. Speaker, my colleagues, we are here today, considering a ban on so-called "partial-birth abortions" for the eighth time in seven years, because the proponents of this bill want to overturn *Roe v. Wade*.

This ban is not about outlawing one method of abortion—it's about access to safe abortion methods used throughout pregnancy. It's not about post-viability abortion—it's about the right of all women to choose.

It's about *Roe v. Wade*. And those who support this ban—much as I respect their convictions—do not want Americans to hear that because they know Americans support to right to choose.

*Roe v. Wade* guaranteed that right to choose by expressing three very important values that make sense and have been widely accepted by the American people.

First, the decision to terminate a pregnancy is private and personal, and should be made by a woman and her family without undue interference from the government. At the earliest point in pregnancy, the government has no place in this process. Therefore, a state cannot ban access to abortion before fetal viability, the point at which a fetus can live outside of the woman.

Second, a woman must never be forced to sacrifice her life or damage her health in order to bring a pregnancy to term. The woman's life and health must come first and be protected throughout pregnancy.

Third, determinations about viability and health risks must be made for each woman by her physician. A blanket government decree on medical determinations is irresponsible, offensive, and dangerous.

Despite the Supreme Court's decision in *Stenberg v. Carhart*—which confirmed these principles—H.R. 4965 clearly rejects each of these values.

The Court made clear that a "partial birth abortion" ban was extreme and dangerous because it limited safe options for women and failed to protect the health of women. Yet the bill before us contains no mention of fetal viability, no protection for the health of the woman, and leaves no role for the physician treating a woman. The government makes all the decisions.

The proponents of the bill may deny it, but their tireless efforts to ban so-called "partial birth abortions" is in fact a calculated, nationwide effort to undermine support for *Roe v. Wade*. Please do not be fooled by today's charade, this is just another attempt to make abortion illegal.

My colleagues, we believe that women matter. We believe their lives are irreplaceable and worth protecting. That is why we oppose this ban.

I urge my colleagues to respect the law of the land by supporting the values in *Roe v. Wade* and *Stenberg v. Carhart*—let's leave decisions in the hands of families and protect the health of women. Vote against this terrible harmful bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Pursuant to House

Resolution 498, the bill is considered as having been read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. BALDWIN. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. BALDWIN moves to recommit the bill H.R. 4965 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 3, of the bill, in proposed new section 1531 of title 18, in subsection (a), strike "that is necessary" and all that follows through "itself." and insert "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."

Ms. BALDWIN (during the reading). Mr. Speaker, I ask that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes in support of her motion.

Ms. BALDWIN. Mr. Speaker, I rise today to offer a motion to recommit with my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), that would provide an exception in order to protect the health of the mother.

The families that are affected by this bill are dealing with the tragic circumstances of crisis pregnancies. In most cases, they have just learned that their babies will not survive. They are then confronted by choices that none of us would wish upon any human being. This is the context and these are the circumstances under which this legislation comes into play. And any suggestion to the contrary deceives the American public about the realities of this issue.

The experiences that families face with crisis pregnancies are real. Their stories demonstrate the need for this exception to protect the health of the mother. Kathy and Chris, from Wisconsin, were married and were excited when they found out that Kathy was pregnant 6 years ago. They received the best prenatal care for their baby, and the pregnancy seemed to be going fine. She was over 6 months along when they went to their doctor to have an ultrasound and discovered that their baby was developing with no brain. There was a tumor in the baby's brain cavity and other factors that would compromise and jeopardize Kathy's health. Her doctor recommended that she have an abortion.

Imagine the pain of these parents who so much wanted to have this child. Tragically, their doctor could not locate a provider in Wisconsin, so they also had to travel over a thousand miles to Colorado. After extensive tests, the doctor in Colorado determined that this procedure was medically necessary to protect Kathy's health. Because of the stigma associated with this procedure, neither Chris nor Kathy even told their parents that they had to have this procedure. But now she is speaking out because she believes that women must know that when they are faced with an extremely dangerous pregnancy, they deserve the right to protect their own health.

Typically, women who must face this decision want nothing more than to have a child and are devastated to learn that their baby would not survive outside the womb. In consultation with their doctors and families, they make difficult decisions to terminate pregnancies, to preserve their own health, and, in many cases, to preserve their ability to have children in the future.

This was the case for Kathy and Chris, who, because they took steps to terminate her first pregnancy, now have a beautiful 4-year-old son, Frederic. How can we look a woman like Kathy in the eye and tell her that she cannot have a safe procedure that would preserve her health and give her the best chance to have children in the future? Our compassion alone should be sufficient to justify a health exemption.

But if my colleagues need more ammunition, the U.S. Supreme Court has made it clear that such an exemption is constitutionally required. In *Stenberg v. Carhart*, the court, in striking down a Nebraska statute, held that it was unconstitutional because there was no health exception for the mother. The language in this motion is taken directly from that Supreme Court's ruling.

My colleagues, denying a maternal health exemption is wrong and it is unconstitutional. If this bill passes today without the adoption of this motion, women who are already dealing with the tragic consequences of a crisis pregnancy will have their health put in serious danger.

I urge Members to support this motion to recommit on behalf of Kathy, on behalf of all which women who have faced this most difficult decision, and on behalf of Frederic and all the children who have been brought into this world because their mothers had access to safe abortions, including this procedure, and were able to have children again.

Vote for this motion to recommit to preserve the life and health of women.

Mr. Speaker, I yield 40 seconds to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I would like to, as the cochair of the Congressional Pro-Choice Caucus, I would like to extend my thanks and the thanks of

the caucus to the gentlewoman from Wisconsin for bringing this motion to recommit, and also to the gentleman from New York for managing the time on the bill, and the entire Committee on the Judiciary for their tireless work.

Our view is this: Given *Stenberg v. Carhart*, we need to decide are we going to pass a constitutional bill or not. This motion makes it constitutional. We urge a "yes" vote on the motion to recommit.

Ms. BALDWIN. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I join her in offering this motion to recommit.

Let me simply state that in the State of Texas, where then-Governor Bush, now President Bush, presided, included in the provision of their ban on this procedure was an exemption for the health of the woman. This is all that we are asking for today. This is a medical procedure, and the only time this is done is when it is needed to save the life or the health of the mother.

Let us vote for this motion to recommit in order to be consistent with the Supreme Court decision in *Stenberg*.

Mr. CHABOT. Mr. Speaker, I rise in opposition to the motion to recommit.

This motion to recommit should be opposed for several reasons. The overwhelming weight of the evidence compiled in a series of congressional hearings indicates that partial-birth abortions are never necessary to preserve the health of a woman and, in fact, pose substantial health risks to women undergoing the procedure.

No controlled studies of partial-birth abortions have been conducted, nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. There have been no articles published in any peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures, nor did the plaintiff in *Stenberg v. Carhart*, Dr. Leroy Carhart, or the experts who testified on his behalf, identify even a single circumstance during which a partial-birth abortion is necessary to preserve the health of the woman.

In fact, according to Dr. Carhart's own testimony, when he has chosen to perform a partial-birth abortion, he has done so based upon the happenstance of the presentation of the unborn child and not because it was the only procedure that would have preserved the health of the mother.

Dr. Martin Haskell, the physician credited with developing partial-birth abortions, has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired result. Furthermore, leading proponents of the partial-birth abortion acknowledge that it poses additional health risks because, among other things, the procedure

requires a high degree of surgical skill to pierce the infant's skull with a sharp instrument in a blind procedure. In other words, they cannot really see what is going on.

Dr. Warren Hearn has testified that he had "very serious reservations about this procedure," and that he "could not imagine a circumstance in which this procedure would be the safest."

□ 1815

Although he was opposed to legislation banning partial-birth abortions, he also stated, "You really cannot defend it. I am not going to tell somebody else that they should not do this procedure. But I am not going to do it." He has also stated, "I would dispute any statement that this is the safest procedure to use."

The procedure also poses the following additional health risks to the woman: an increase in a woman's risk of suffering from cervical incompetence as a result of a cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child and the footling breech position, a procedure which, according to "Williams Obstetrics," a leading obstetrics textbook, "There are very few, if any, indications for . . . Other than delivery of a second twin"; and a risk of iatrogenic and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock and could ultimately result in maternal death. Let me repeat that. Maternal death, mother's death. This also creates a high risk of infection should she suffer a laceration.

Finally, a health exception, no matter how narrowly drafted, gives the abortionist unfettered discretion in determining when a partial-birth abortion may be performed; and abortionists have demonstrated that they can justify any abortion on this ground. Dr. Warren Hearn of Colorado, for example, the author of the standard textbook on abortion procedures, who also performs many third-trimester abortions, has stated: "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." Let me repeat that: "I will certify that any pregnancy is a threat to a woman's health and could cause grievous injury to her physical health."

So it is clear, then, that a law that includes such an exception would not ban a single partial-birth abortion. A partial-birth abortion ban with this so-called health exception is nothing but a sham. It would not prevent any partial-birth abortions at all, and our goal in this is to protect both unborn children and women in this country by

once and for all stopping this horrible procedure.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. BALDWIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, the Chair announces that this 15-minute vote will be followed by a 5-minute vote on passage, if ordered, followed by a 5-minute vote on the motion to suspend the rules and agree to House Current Resolution 188 on which further proceedings were postponed on Monday.

The vote was taken by electronic device, and there were—ayes 187, noes 241, not voting 6, as follows:

[Roll No. 342]

AYES—187

Abercrombie	Frelinghuysen	McDermott
Ackerman	Frost	McGovern
Allen	Gephardt	McKinney
Andrews	Gilchrest	Meehan
Baca	Gilman	Meek (FL)
Baird	Gonzalez	Meeks (NY)
Baldacci	Gordon	Menendez
Baldwin	Green (TX)	Millender-
Barrett	Greenwood	McDonald
Bass	Gutierrez	Miller, George
Becerra	Harman	Mink
Bentsen	Hastings (FL)	Moore
Berkley	Hill	Moran (VA)
Berman	Hilliard	Morella
Biggert	Hinchey	Nadler
Bishop	Hinojosa	Napolitano
Blagojevich	Hoeffel	Neal
Blumenauer	Holten	Obey
Boehlert	Honda	Oliver
Boucher	Hooley	Ose
Boyd	Horn	Owens
Brady (PA)	Houghton	Pallone
Brown (FL)	Hoyer	Pastor
Brown (OH)	Inslee	Payne
Capps	Israel	Pelosi
Capuano	Jackson (IL)	Pomeroy
Cardin	Jackson-Lee	Price (NC)
Carson (IN)	(TX)	Rangel
Carson (OK)	Jefferson	Rivers
Castle	Johnson (CT)	Rodriguez
Clay	Johnson, E. B.	Rothman
Clayton	Jones (OH)	Roybal-Allard
Clyburn	Kelly	Rush
Conyers	Kennedy (RI)	Sabo
Coyne	Kilpatrick	Sanchez
Crowley	Kind (WI)	Sanders
Cummings	Kirk	Sandlin
Davis (CA)	Kleczka	Sawyer
Davis (FL)	Kolbe	Schakowsky
Davis (IL)	Kucinich	Schiff
DeFazio	Lantos	Scott
DeGette	Larsen (WA)	Serrano
Delahunt	Larsen (CT)	Shays
DeLauro	Lee	Sherman
Deutsch	Levin	Simmons
Dicks	Lewis (GA)	Slaughter
Dingell	Lofgren	Smith (WA)
Dooley	Lowey	Solis
Edwards	Luther	Spratt
Engel	Lynch	Stark
Eshoo	Maloney (CT)	Strickland
Etheridge	Maloney (NY)	Tanner
Evans	Markey	Tauscher
Farr	Matheson	Thomas
Fattah	Matsui	Thompson (CA)
Filner	McCarthy (MO)	Thompson (MS)
Ford	McCarthy (NY)	Thurman
Frank	McCollum	Tierney

Towns  
Turner  
Udall (CO)  
Udall (NM)  
Velazquez

Visclosky  
Waters  
Watson (CA)  
Watt (NC)  
Waxman

Weiner  
Wexler  
Woolsey  
Wu  
Wynn

NOES—241

Aderholt  
Akin  
Army  
Bachus  
Baker  
Ballenger  
Barcia  
Barr  
Bartlett  
Barton  
Bereuter  
Berry  
Bilirakis  
Blunt  
Boehner  
Bonilla  
Bono  
Boozman  
Borski  
Boswell  
Brady (TX)  
Brown (SC)  
Bryant  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Cannon  
Cantor  
Capito  
Chabot  
Chambliss  
Clement  
Coble  
Collins  
Combust  
Cooksey  
Costello  
Cox  
Cramer  
Crane  
Crenshaw  
Cubin  
Culberson  
Cunningham  
Davis, Jo Ann  
Davis, Tom  
Deal  
DeLay  
DeMint  
Diaz-Balart  
Doggett  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Ehlers  
Ehrlich  
Emerson  
English  
Everett  
Ferguson  
Flake  
Fletcher  
Foley  
Forbes  
Fossella  
Gallegly  
Ganske  
Gekas  
Gibbons  
Gillmor  
Gooch  
Goodale  
Goss  
Graham  
Granger  
Graves

Green (WI)  
Grucci  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hansen  
Hart  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Herger  
Hilleary  
Hobson  
Hoekstra  
Holden  
Hostettler  
Hulshof  
Hunter  
Hyde  
Isakson  
Issa  
Istook  
Jenkins  
John  
Johnson (IL)  
Johnson, Sam  
Jones (NC)  
Kanjorski  
Kaptur  
Keller  
Kennedy (MN)  
Kerns  
Kildee  
King (NY)  
Kingston  
LaFalce  
LaHood  
Lampson  
Langevin  
Latham  
LaTourette  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
Lipinski  
LoBiondo  
Lucas (KY)  
Lucas (OK)  
Manzullo  
Mascara  
McCrery  
McHugh  
McInnis  
McIntyre  
McKeon  
McNulty  
Mica  
Miller, Dan  
Miller, Gary  
Miller, Jeff  
Mollohan  
Moran (KS)  
Moran (VA)  
Murtha  
Myrick  
Murrain  
Nethercutt  
Ney  
Northup  
Norwood  
Nussle  
Oberstar  
Ortiz  
Osborne  
Ottner  
Oxley  
Pascrell  
Paul  
Pence  
Peterson (MN)  
Peterson (PA)

Petri  
Phelps  
Pickering  
Pitts  
Platts  
Pombo  
Portman  
Pryce (OH)  
Putnam  
Quinn  
Radanovich  
Rahall  
Ramstad  
Regula  
Rehberg  
Reyes  
Reynolds  
Riley  
Roemer  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Ros-Lehtinen  
Ross  
Roukema  
Royce  
Ryan (WI)  
Ryun (KS)  
Saxton  
Schaffer  
Schrock  
Sensenbrenner  
Sessions  
Shadegg  
Shaw  
Sherwood  
Shimkus  
Shows  
Shuster  
Simpson  
Skeen  
Skelton  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Snyder  
Souder  
Stenholm  
Stump  
Stupak  
Sullivan  
Sununu  
Sweeney  
Tancredo  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Terry  
Thornberry  
Thune  
Tiahrt  
Tiberi  
Toomey  
Upton  
Vitter  
Walden  
Walsh  
Wamp  
Watkins (OK)  
Watts (OK)  
Weldon (FL)  
Weller  
Whitfield  
Wicker  
Wilson (NM)  
Wilson (SC)  
Wolf  
Young (AK)  
Young (FL)

Ms. KILPATRICK, Mr. TANNER and Mr. HORN changed their vote from “no” to “aye.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 274, noes 151, answered “present” 1, not voting 8, as follows:

[Roll No. 343]

AYES—274

Aderholt	Ehlers	Kerns
Akin	Ehrlich	Kildee
Armey	Emerson	King (NY)
Bachus	English	Kingston
Baker	Etheridge	Kleczka
Ballenger	Everett	LaFalce
Barcia	Ferguson	LaHood
Barr	Flake	Lampson
Bartlett	Fletcher	Langevin
Barton	Foley	Latham
Bass	Forbes	LaTourette
Bereuter	Ford	Leach
Berry	Fossella	Lewis (CA)
Biggert	Frelinghuysen	Lewis (KY)
Bilirakis	Gallegly	Linder
Bishop	Ganske	Lipinski
Blunt	Gekas	LoBiondo
Boehner	Gephardt	Lucas (KY)
Bonilla	Gibbons	Lucas (OK)
Bono	Gilchrest	Lynch
Boozman	Gillmor	Maloney (CT)
Borski	Goode	Manzullo
Boswell	Goodlatte	Mascara
Boyd	Gordon	McCrery
Brady (TX)	Goss	McHugh
Brown (SC)	Graham	McInnis
Bryant	Granger	McIntyre
Burr	Graves	McKeon
Burton	Green (WI)	McNulty
Buyer	Grucci	Mica
Callahan	Gutknecht	Miller, Dan
Calvert	Hall (OH)	Miller, Gary
Camp	Hall (TX)	Miller, Jeff
Cannon	Hansen	Mollohan
Cantor	Hart	Moran (KS)
Capito	Hastings (WA)	Moran (VA)
Carson (OK)	Hayes	Murtha
Castle	Hayworth	Myrick
Clay	Chabot	Neal
Clayton	Hefley	Nethercutt
Clyburn	Herger	Ney
Conyers	Hill	Northup
Coyne	Hilleary	Norwood
Crowley	Hinojosa	Nussle
Cummings	Hobson	Oberstar
Davis (CA)	Cooksey	Obey
Davis (FL)	Costello	Ortiz
Davis (IL)	Cox	Hostettler
DeFazio	Cramer	Houghton
DeGette	Crane	Hulshof
Delahunt	Crenshaw	Hunter
DeLauro	Pascroll	Hyde
Deutsch	Paul	Isakson
Dicks	Pence	Issa
Dingell	Peterson (MN)	Istook
Dooley	Peterson (PA)	Jefferson
Edwards	Deal	Jenkins
Engel	DeLay	John
Eshoo	DeMint	Johnson (IL)
Etheridge	Diaz-Balart	Johnson, Sam
Evans	Dingell	Jones (NC)
Farr	Doolittle	Kanjorski
Fattah	Doyle	Kaptur
Filner	Dreier	Keller
Ford	Duncan	Kelly
Frank	Dunn	Kennedy (MN)
		Kennedy (RI)

NOT VOTING—6

Bonior  
Condit

Knollenberg  
Stearns

Trafficant  
Weldon (PA)

□ 1841

Mrs. WILSON of New Mexico, Mr. PASCRELL, Ms. KAPTUR and Mr. ROSS changed their vote from “aye” to “no.”

Radanovich Shays  
 Rahall Sherman  
 Ramstad Shimkus  
 Regula Shows  
 Rehberg Shuster  
 Reyes Simpson  
 Reynolds Skeen  
 Riley Skelton  
 Roemer Smith (MI)  
 Rogers (KY) Smith (NJ)  
 Rogers (MI) Smith (TX)  
 Rohrabacher Souder  
 Ros-Lehtinen Spratt  
 Ross Stenholm  
 Roukema Strickland  
 Royce Stump  
 Ryan (WI) Stupak  
 Ryan (KS) Sullivan  
 Sandlin Sununu  
 Saxton Sweeney  
 Schaffer Tancredo  
 Schrock Tanner  
 Sensenbrenner Tauzin  
 Sessions Taylor (MS)  
 Shadegg Taylor (NC)  
 Shaw Terry

Mr. CUNNINGHAM. Mr. Speaker, on rollcall vote 343 concerning partial-birth abortion, I was detained. Had I been present, I would have voted "aye."

**SENSE OF CONGRESS THAT CHINA SHOULD CEASE PERSECUTION OF FALUN GONG PRACTITIONERS**

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 188, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 188, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 344]

YEAS—420

**NOES—151**

Abercrombie Green (TX)  
 Ackerman Greenwood  
 Allen Gutierrez  
 Andrews Harman  
 Baca Hastings (FL)  
 Baird Hilliard  
 Baldacci Hinchey  
 Baldwin Hoeffel  
 Barrett Holt  
 Becerra Honda  
 Bentsen Hooley  
 Berkley Horn  
 Berman Hoyer  
 Blagojevich Inslee  
 Blumenauer Israel  
 Boehlert Jackson (IL)  
 Boucher Jackson-Lee  
 Brady (PA) (TX)  
 Brown (FL) Johnson (CT)  
 Brown (OH) Johnson, E. B.  
 Capps Jones (OH)  
 Capuano Kilpatrick  
 Cardin Kind (WI)  
 Carson (IN) Kirk  
 Clay Kolbe  
 Clayton Lantos  
 Clyburn Larsen (WA)  
 Conyers Larson (CT)  
 Coyne Lee  
 Cummings Levin  
 Davis (CA) Lewis (GA)  
 Davis (IL) Lofgren  
 DeFazio Lowey  
 DeGette Luther  
 Delahunt Maloney (NY)  
 DeLauro Markey  
 Deutsch Matheson  
 Dicks Matsui  
 Doggett McCarthy (MO)  
 Dooley McCarthy (NY)  
 Edwards McCollum  
 Engel McDermott  
 Eshoo McGovern  
 Evans McKinney  
 Farr Meehan  
 Fattah Meek (FL)  
 Filner Meeks (NY)  
 Frank Menendez  
 Frost Millender-  
 Gilman McDonald  
 Gonzalez Miller, George

Abercrombie Chabot  
 Ackerman Chambliss  
 Aderholt Clay  
 Akin Clayton  
 Allen Clement  
 Andrews Clyburn  
 Arney Coble  
 Baca Collins  
 Baird Combest  
 Baker Cooksey  
 Baldacci Costello  
 Baldwin Cox  
 Ballenger Coyne  
 Barr Cramer  
 Barrett Crane  
 Bartlett Crenshaw  
 Barton Crowley  
 Bass Cubin  
 Becerra Culberson  
 Bentsen Cummings  
 Bereuter Cunningham  
 Berkley Davis (CA)  
 Berry Davis (FL)  
 Biggert Davis (IL)  
 Bilirakis Davis, Jo Ann  
 Bishop Davis, Tom  
 Deal Deal  
 DeFazio DeFazio  
 Blumenauer DeGette  
 Blunt Delahunt  
 Boehlert DeLauro  
 Bonilla DeLay  
 Bono DeMint  
 Boozman Deutsch  
 Borski Diaz-Balart  
 Boswell Dingell  
 Boucher Doggett  
 Boyd Dooley  
 Brady (PA) Doolittle  
 Brady (TX) Doyle  
 Brown (FL) Dreier  
 Brown (OH) Duncan  
 Brown (SC) Dunn  
 Bryant Edwards  
 Burr Ehlers  
 Burton Ehrlich  
 Buyer Emerson  
 Callahan Engel  
 Calvert English  
 Camp Eshoo  
 Cannon Etheridge  
 Cantor Evans  
 Capito Everett  
 Capps Farr  
 Capuano Fattah  
 Cardin Ferguson  
 Carson (IN) Filner  
 Carson (OK) Flake  
 Castle Fletcher  
 Forbes

Jackson-Lee Mink  
 (TX) Mollohan  
 Jefferson Moore  
 Jenkins Moran (KS)  
 John Moran (VA)  
 Johnson (CT) Morella  
 Johnson (IL) Murtha  
 Johnson, E. B. Myrick  
 Johnson, Sam Nadler  
 Jones (NC) Napolitano  
 Jones (OH) Neal  
 Kanjorski Nethercutt  
 Kaptur Ney  
 Keller Northup  
 Kelly Norwood  
 Kennedy (MN) Nussle  
 Kennedy (RI) Oberstar  
 Kerns Obey  
 Kildee Oliver  
 Kilpatrick Ortiz  
 Kind (WI) Osborne  
 King (NY) Ose  
 Kingston Otter  
 Kirk Owens  
 Kleczka Oxley  
 Kolbe Pallone  
 Kucinich Pascrell  
 LaFalce Pastor  
 LaHood Paul  
 Lampson Payne  
 Langevin Pelosi  
 Lantos Pence  
 Larsen (WA) Peterson (MN)  
 Larson (CT) Peterson (PA)  
 Latham Petri  
 LaTourette Phelps  
 Leach Pickering  
 Lee Pitts  
 Levin Platts  
 Lewis (CA) Pombo  
 Lewis (GA) Pomeroy  
 Lewis (KY) Portman  
 Linder Price (NC)  
 Lipinski Pryce (OH)  
 LoBiondo Putnam  
 Lofgren Quinn  
 Lowey Radanovich  
 Lucas (KY) Tiberi  
 Lucas (OK) Ramstad  
 Luther Rangel  
 Lynch Regula  
 Maloney (CT) Rehberg  
 Maloney (NY) Reyes  
 Manzullo Reynold  
 Markey Upton  
 Mascara Rivers  
 Goss Rodriguez  
 Matheson Roemer  
 Matsui Rogers (KY)  
 McCarthy (MO) Rogers (MI)  
 McCarthy (NY) Rohrabacher  
 McCollum Ros-Lehtinen  
 McCrery Ross  
 McDermott Rothman  
 McGovern Roukema  
 McHugh Watt (NC)  
 McInnis Roybal-Allard  
 McIntyre Royce  
 McKeon Rush  
 McKinney Ryan (WI)  
 McNulty Ryan (KS)  
 Meehan Sabo  
 Meek (FL) Sanchez  
 Meeks (NY) Sanders  
 Menendez Sandlin  
 Mica Sawyer  
 Millender- Saxton  
 McDonald Schaffer  
 Miller, Dan Schakowsky  
 Miller, Gary Schiff  
 Miller, George Schrock  
 Miller, Jeff Scott

**NOT VOTING—14**

Bachus Dicks  
 Barcia Foley  
 Bonior Gephardt  
 Condit Issa  
 Conyers Istook

□ 1859

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

**ANSWERED "PRESENT"—1**

Kucinich

**NOT VOTING—8**

Bonior Knollenberg  
 Condit Phelps  
 Cunningham Stearns

Traficant  
 Weldon (PA)

□ 1849

Mr. LEWIS of Georgia changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for: