¶26.9 MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 14. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The message also announced that pursuant to Public Law 104–264, the Chair, on behalf of the Democratic leader, appoints the following individuals to the National Civil Aviation Review Commission:

Linda Barker, of South Dakota; and
William Bacon, of South Dakota.

¶26.10 PARTIAL-BIRTH ABORTION

Mr. CANADY, pursuant to House Resolution 100, called up the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

When said bill was considered.

After debate,

Pursuant to House Resolution 100 the previous question was considered as ordered.

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

Mr. HOYER moved to recommit the bill to the Committee on the Judiciary with instructions to report the bill back to the House forthwith with the following amendment:

Strike out all after the enacting clause and insert:

Section 1. Short title.

This Act may be cited as the ''Late Term Abortion Restriction Act''.

sec. 2. prohibition on certain abortions.

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion after the fetus has become viable.

(b) EXCEPTION.—This section does not prohibit any abortion if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

(c) CIVIL PENALTY.—A physician who violates this section shall be subject to a civil penalty not to exceed $10,000. The civil penalty provided by this subsection is the exclusive remedy for a violation of this section.

¶26.11 POINT OF ORDER

Mr. CANADY made a point of order against the motion to recommit, and said:

''Mr. Speaker, the fundamental purpose of the underlying bill, H.R. 1122, deals with a very limited class of abortions, specifically partial-birth abortions. This is one specific type of procedure as defined in the bill.

''The fundamental purpose of the motion to recommit amendment deals with any abortion procedure done post-viability. It purports to cover a much broader class of procedures than the one procedure specifically prohibited in this bill.

''Therefore, since the fundamental purpose of the motion to recommit purports to deal with a class of procedures that is broader than the one procedure in the underlying bill, a proposition on a subject different from that under consideration, it is not germane to the bill and I insist on the point of order.''.

Mr. HOYER was recognized to speak to the point of order, and said:

''Mr. Speaker, I thank the Chair for recognizing me on the point of order.

''Mr. Speaker, this amendment is offered for the purpose, as it says, of limiting all late-term abortions, of prohibiting all late-term abortions, including abortions to which the gentleman spoke. We believe it does in fact expand upon but is inclusive of the procedures to which the gentleman's bill speaks. We believe it is an effort and an opportunity for the Congress to say that not only the late-term partial birth to which the bill speaks but that all procedures to effect late-term abortions ought to be prohibited. They ought to be prohibited as the policy of the United States of America.

''It does provide, as does the underlying bill, with certain exceptions: The life of the mother, as is consistent with the bill on the floor. It also expands upon that to say serious adverse health consequences as well.

''We believe in that context and, frankly, got an initial judgment as it was offered in the Committee on the Judiciary that this amendment was believed initially to be in order.

''We believed that initial judgment was in fact correct. We believed this gives an opportunity for Members not only to speak to the instant issue raised by the particular 1122 bill, but also importantly gives to Members the opportunity to express their view that all late-term abortions, not just one procedure, but that procedure and all procedures to effect post-viability abortions be outlawed, be illegal, be against the policy of the United States of America, except in very limited circumstances.

''Because of that, Mr. Speaker, Members will have the opportunity to express themselves as being against late-term abortions, which is the context, I suggest to the Speaker, in which this debate has occurred and proceeded.

''Because of that, this gives Members the opportunity to particularly but more broadly, as Mr. CANADY did in fact correctly observe, express themselves on limiting all procedures for late-term abortions.

''For that reason, we think it expands upon, he is correct, expands upon and makes more broad the prohibition on late-term abortions. It is for that reason that we think it critically important that the Chair rule that this is in fact in order so that Members can appropriately—because we believe it to be in order—express themselves in opposition to late-term abortions.''.

Mr. EDWARDS was recognized to speak to the point of order, and said:

''Mr. Speaker, the gentleman from Florida stated his point of order very rapidly and I want to be clear on this.

''Is the parliamentary point of order on the point that the bill before the House only prohibits one type of abortion procedure, but the motion of the gentleman from Maryland [Mr. HOYER] would actually prohibit more types, in fact all types of late-term abortion procedures?

''Is that the point of order that the gentleman from Florida is trying to make and objecting to letting the measure of the gentleman from Maryland up on the floor?''.

Mr. CANADY was recognized to speak further to the point of order, and said:

''Mr. Speaker, the point of order is the fundamental purpose of the underlying bill, H.R. 1122, deals with a very limited class of abortion, specifically partial-birth abortions.

''One specific type of procedure in the bill is what is dealt with in H.R. 1122. The fundamental purpose of the motion to recommit, in contrast to that, deals with any abortion procedure done post viability. It, therefore, purports to cover a much broader class of procedures.

''I believe that the impact of the motion to recommit would essentially be nil, because although it purports to affect a broader class of procedures, due to the exceptions contained in the motion to recommit, it is essentially meaningless.''.

Mr. EDWARDS was recognized to speak further to the point of order, and said:

''Mr. Speaker, I guess going back to my original question to the Speaker, the point of order is being made on the basis that the bill before the House simply outlaws one type of abortion procedure, the motion made by the gentleman from Maryland would actually ban many other types of late-term-abortion procedures, and the gentleman from Florida objects to that being voted upon in the House; is that correct, Mr. Speaker?''.

The SPEAKER pro tempore, Mr. MCINNIS, sustained the point of order, and said:

''The gentleman from Florida makes a point of order that the amendment proposed in the instructions with the motion to recommit offered by the gentleman from Maryland is not germane.

''The pending bill prohibits a certain class of abortion procedures.

''The amendment proposed in the motion to recommit prohibits any or all abortion procedures in certain stages of pregnancy. It differentiates between the stages of pregnancy on the basis of fetal viability. In so doing, the amendment arguably addresses a subset of the category of pregnancies addressed by the bill. Still, by addressing any or all abortion procedures, the prohibition in the amendment exceeds the scope of the prohibition in the bill.

''The bill confines its sweep to a single, defined class of abortion procedures. Thus, even though the amendment differentiates between pregnancies on narrower bases than does