

have had a 2-hour birth and a mother who has been through 12 hours or 18 hours and had an extremely painful, exhausting, debilitating birth. They make no distinction whatsoever between the two; just out of here in 24 hours.

Their rules do not distinguish between an experienced mother, a mother perhaps having her third or fourth child with a father or a grandmother at home ready to help, ready to help the mother, ready to help the child, on the one hand, and then on the other hand, a 16-year-old teenage mother with an exhausting birth process who is discharged after virtually no time. A teenage mother, who is terrified at the prospect and has no idea of how to care for a healthy baby, much less a baby showing some kinds of symptoms which that 16-year-old teenage mother cannot understand. It makes no difference to the insurance company. The circumstances make no difference: 24 hours, they must all be discharged from the hospital, period.

How do we get here? I mean, this is the great debate. The Clinton health care bill did not pass, I understand that. It tried to bite off too much, I understand that. The free market is working, I understand that, but there are some very dangerous things going on. Some of the most unhappy people in America right now, and the ones most worried about quality of care, are physicians.

Judith Bowman is a first-time mom from Fairmont, WV. She recently experienced one of these speedy discharges. She wrote to me:

"I was surprised by the almost drive-thru like approach put on bringing a precious new life into the world. The information concerning the baby and personal follow up care comes fast."

"I was," she said, "exhausted. I couldn't understand it all. It was new to me. I couldn't take it all in. I was still recovering from the birth experience."

"The total length of my stay after delivery was approximately 20 hours."

Mr. President, in concluding, I say that one would hope that the Congress would not need to legislate on this kind of matter. I mean, to be quite honest with you, I think it is rather shocking. It is the kind of thing that you think that the private sector would pick up immediately at the first sense of difficulties and simply stop. But, no—insurance companies are motivated by other things.

I would think that we could trust insurance companies to do the right thing on an individual case-by-case basis. What is so strange about that? What is so radical about that? To let doctors make patient-care decisions without concern of financial or other penalties being imposed on them.

Of course, what I am saying is, if doctors who belong to HMOs want to keep the mother more than 24 hours, they may be threatened, saying, "You either start discharging after 24 hours or

you're off our payroll." Do not think for a moment that is not happening. It is scary. It is scary.

So this bill would require insurers to pay for a 48-hour stay following an uncomplicated vaginal delivery and 96 hours for an uncomplicated Caesarean section. The bill permits, as Senator BRADLEY said, shorter stays. But, again, it puts the decision in the hands of the physician of the mother to decide if that is appropriate. That is who should make this critical decision, not an insurance company driven by other considerations, including those of their stockholders.

Mr. President, I conclude my remarks simply by thanking Senator BRADLEY and Senator KASSEBAUM for leading this effort. I again hope we will be able to take this matter up somewhere around Mother's Day. I thank the Chair, and I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

GAS TAX REPEAL

Mr. PELL. Mr. President, I believe that we should not have a roll-back of the 4.3-cent-a-gallon gasoline tax. Actually, retention of this tax is the sensible, national interest course to follow as we struggle to reduce the deficit. I fear that, like Sisyphus in Hades, we are doomed forever to roll the heavy stone of the deficit uphill, only to have it always roll down again, weighted down by yet another quick-fix tax cut.

In our effort to reduce the deficit, we grapple daily with the stark reality that funds for education, the environment, Medicare, and the earned income tax credit, are all being scaled back. And now, a clarion call to lower the gas tax is being heard. Repealing the gas tax is projected to save the average motorist the grand total of about \$27 a year in taxes. Note too, there is no certainty that the oil companies will actually pass this rebate on to the consumer. The effect of this gesture is to reduce revenues by \$4.8 billion, thereby making it all the more difficult to reduce the Federal deficit.

While I recognize that higher gas prices effectively reduce the take home pay of commuters and those whose daily livelihood depends upon the availability of low priced fuel, gasoline in the United States has become one of the "great bargains of the Western world" to quote Daniel Yergin in today's New York Times. Over the last few years, prices, adjusted for inflation, have been as low as at any time since World War II. The price of about \$1.30 a gallon is exquisitely cheap when compared with the almost \$5 a gallon paid in France.

Rather than providing a potentially illusory benefit of \$27 per motorist, I suggest we concentrate on those issues having a far more profound impact on the lives of working Americans. We have yet to satisfactorily grapple with proposals to increase the minimum

wage, the projected shortfall in Medicare funds in 2001, and the fact that our education programs are such that the mathematics scores of some of our students, particularly in the Southeast region, continue to be lamentably low. Repealing the gasoline tax is the last thing we should think of doing—and we should quickly reject the idea.

WELCOMING U.S. DECISION TO PARTICIPATE IN EXPO '98 IN LISBON

Mr. PELL. Mr. President, on another matter, last month, the White House announced that it has accepted an invitation from the Portuguese Government to participate in the international exposition to be held in Lisbon in 1998. This is good news indeed. I commend President Clinton for this decision.

I have long encouraged the administration to take this step. Last year, I sponsored a resolution calling for U.S. participation in Expo '98. In March of this year, I visited the site of the expo while in Lisbon for President Sampaio's inauguration. During my visit, I took the opportunity to learn in detail the goals and themes of the expo from Antonio Cardoso Cunha, commissioner-general and chairman of Expo '98.

Earlier this week, we welcomed Portuguese Foreign Minister Jaime Gama to Washington. Accordingly, I believe it is a particular appropriate time to bring Expo '98 to the attention of my colleagues and to express my enthusiasm for working with our Portuguese allies on this important project.

The theme of Expo '98 appropriately, will be "The Oceans, a Heritage for the Future" and will focus on environmental topics. As the resident of a coastal State which shares with Portugal a rich maritime tradition, I cannot imagine a more appropriate or more unifying theme. The U.N. General Assembly has declared 1998 as the International Year of the Ocean in an effort to alert the world to the need to improve the physical and cultural assets of the world's oceans. A fundamental goal of Expo '98 will be to focus on the growing importance of the world's oceans and to foster a debate on the sustainable use of marine resources and environmental protection. The United States, of course, has a vested interest in being part of this debate.

Our participation in this exposition, which marks the 500th anniversary of the historic voyage from Europe to India of the Portuguese explorer Vasco da Gama, should be a source of pride for those of Portuguese heritage, as well as a source of great interest for all those with a concern for the oceans and a sense of history. Portugal, of course, has a great history of sea exploration, and in fact, helped to create important trade links between the peoples of Europe, the Americas, Africa, and Asia. Lisbon, the capital of Portugal since the 12th century, is a vibrant cultural

and economic center, and its location on the Atlantic makes it a fine choice for an expo focused on the sea.

Expo '98 offers opportunities for U.S. business as well. The organizers of Expo '98 will provide all facilities relating to each national pavilion free of charge. Accordingly, participating countries will have to provide only the contents of its representation. The U.S. exhibit will be financed completely by the private sector. Such an arrangement is a win-win situation—for the U.S. Government and for U.S. businesses which may be able to receive increased international exposure through their participation. I am hopeful that a commissioner general who will be responsible for coordinating the U.S. effort and for securing corporate sponsorships will soon be appointed so that we can move ahead quickly.

I add also, having it this year brings attention to the Law of the Sea Treaty, which needs to be acted upon.

I remember myself in 1940 seeing the last time we had a world exhibition in Lisbon and seeing the amount of the world's surface that was under Portuguese rule. On a personal note, I remember attending an exhibition in 1940 while visiting my father who was posted as the U.S. Minister to Lisbon. At that time, I attended the Exhibition of the Portuguese World, which focused on the contributions of Portugal's far flung colonies. Lisbon was a wonderful site, and the Portuguese people were perfect hosts for such an exhibition. With such a firm tradition of hospitality already well established, I know that Portugal will prove the ideal choice for hosting the 1998 expo.

I am pleased that the United States will be joining dozens of other countries—including Germany, Greece, the United Kingdom, Morocco, India, Pakistan, and Cape Verde—to name a few—in participating in the last expo of this century. As a long-time friend of Portugal and the Portuguese people, I look forward to working together to make Expo '98 a success. I yield the floor.

RIGHT TO DIE DECISIONS

Mr. DOLE. Mr. President, one of the most profound and sensitive issues facing our society today is whether doctors should be allowed to assist in the suicide of their patients.

On this issue, I happen to share the view of the American Medical Association that doctors who are sworn to be life-givers, should not act as life-takers, and that the licensing of doctors to administer death is "fundamentally inconsistent with the pledge physicians make to devote themselves to healing and to life."

I recognize that there are those who do not share this point of view. But the process we use to work out such disagreements and come to a social consensus is called democracy. I will vigorously defend the right of every fellow citizen to disagree with me, but I will also defend the constitutional process

by which our laws are made. The people, through their elected Representatives, should be the ones to decide whether to permit or to prohibit physician-assisted suicide. It is a give and take of meaningful public debate that enables our democratic society to examine complicated social issues and, hopefully, reach a consensus that enjoys broad popular support.

In recent weeks, however, two influential Federal courts—the ninth circuit of appeals on the west coast and the second circuit court of appeals on the east coast—have determined that the U.S. Constitution flatly prohibits the States from outlawing physician-assisted suicide.

The ninth circuit ruled that individuals have a liberty interest in controlling the time and manner of our deaths and that a Washington State law prohibiting assisted suicide was, therefore, a violation of the due process clause of the 14th amendment. In a more narrowly drawn opinion, the second circuit declared that a similar New York State law outlawing physician-assisted suicide violates the 14th amendment's equal protection clause. In fact, I think in the Washington case it was due process; also the liberty clause.

These decisions, like others in recent years, have the unfortunate effect of substituting the judgment of unelected Federal judges for the democratic process. If the ninth circuit's decision purporting to find a fundamental right to physician-assisted suicide is upheld by the Supreme Court, then all meaningful public debate on this issue would effectively be cut off. All of the moral and ethical concerns on both sides would, with a single stroke, be replaced with a judicial fiat. The only citizens whose voices matter in such a decision would be the judges themselves. As columnist Charles Krauthamer writes: "Not a single country in the world (save Holland) permits doctors to help patients kill themselves. Now judges have declared that America will be such a country, indeed that the Constitution demands that America be such a country."

I yield to no one in my respect for the role of the judiciary in preserving our fundamental liberties. On occasion, judges may even be required to strike down a legislative act because it clearly conflicts with fundamental freedoms and guarantees of equal protection set forth in our Constitution. This is part of the genius of our system, the fundamental check on the legislative and executive branches created by the Framers of the Constitution.

But what would the Framers say of these decisions or others like these? Does anyone doubt that they would be astonished to learn that the Constitution prohibits the people from prohibiting physicians from administering death? At some point, the legal arguments advanced by our judges to strike down an otherwise valid legislative act must be examined in the light of common sense.

In creating a new constitutional right to kill oneself with a physician's help, the unelected members of the ninth circuit, judges appointed by both Democratic and Republican Presidents, have taken it upon themselves to deny millions of their fellow citizens the opportunity to address this sensitive and morally charged issue through the democratic process. That is the denial of a fundamental right that would have made the Framers shake with anger. They did not fight so hard to win and preserve the freedom of self-government simply to abandon that freedom to unelected judges.

As one judge who dissented from the ninth circuit's decision observed: "That a question is important does not imply that it is constitutional. The Founding Fathers did not establish the United States as a democratic republic so that elected officials could decide trivia, while all the great questions would be decided by the judiciary."

In recent days, I have highlighted the enormously influential role that judges play in the daily lives of the American people. Today, Federal judges micro-manage hospitals, schools, police and fire departments, even prisons. Federal judges have unilaterally raised property taxes, and now they have struck down popularly enacted laws on the theory that physician-assisted suicide is no less than a right guaranteed by the Constitution.

The Constitution is a precious legacy. It was precious when it emerged as that "miracle in Philadelphia." Americans of all generations have made it more precious by fighting an dying to defend it. These sacrifices were not made so that Federal judges with life tenure could warp the meaning of the Constitution to fit their own political agenda or personal beliefs. When that happens, judicial review becomes an expression of tyranny, no longer the guarantee of liberty intended by the Framers.

On the admittedly difficult issue of physician-assisted suicide, I am prepared to trust the American people. The American people, not a small group of unelected judges seeking to dispense their own superior moral wisdom, should be the ones deciding whether assisted suicide is consistent with the values our great country does, and should represent.

Mr. President, I ask unanimous consent that opinion pieces by Charles Krauthamer and E.J. Dionne be printed in the RECORD.

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

[From the Washington Post, Apr. 12, 1996]

DECIDING ON LIFE OR DEATH

(By Charles Krauthammer)

In the most morally laden judicial decision since *Roe v. Wade*, two U.S. appeals courts (for the 2nd and 9th circuits) have within the last five weeks struck down as unconstitutional laws banning physician-assisted suicide. Two issues are at stake here: (1) Should physician-assisted suicide be permitted? And