

the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 351.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER
AS COSPONSOR OF H.R. 4654

Mr. McNULTY. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4654.

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

There was no objection.

INNOCENT CHILD PROTECTION ACT
OF 2000

Mr. HUTCHINSON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4888) to protect innocent children.

The Clerk read as follows:

H.R. 4888

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 "Innocent Child Protection Act of 2000".

SEC. 2. PROTECTION OF INNOCENT CHILDREN.

It shall be unlawful for any authority, military or civil, of the United States, a State, or any district, possession, commonwealth or other territory under the authority of the United States to carry out a sentence of death on a woman while she carries a child in utero. In this section, the term "child in utero" means a member of the species homo sapiens, at any stage of development, who is carried in the womb.

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

The Chair recognizes the gentleman from Arkansas (Mr. HUTCHINSON).

GENERAL LEAVE

Mr. HUTCHINSON. Madam 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 therein on H.R. 4888, the bill under consideration.

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

There was no objection.

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

Madam Speaker, H.R. 4888 is the Innocent Child Protection Act of 2000, which would make it unlawful for the Federal Government or any State government to execute a woman while she is pregnant. This legislation was introduced by the gentlewoman from Florida (Ms. Ros-Lehtinen) on July 19 and

would fulfill the obligations of the United States under the International Covenant on Civil and Political Rights.

That covenant, which was ratified by the United States in 1992 and has been signed by 143 other countries, guarantees certain civil and political rights to all individuals within the jurisdiction of the various nations, including the right to be free from torture or cruel and inhumane and degrading treatment or punishment, the right to be free from slavery, and the right to liberty and security of person.

The covenant also guarantees the right to freedom of expression, thought, conscience and religion; but of significance to today's legislation, article 6 of that covenant provides that a sentence of death shall not be carried out on a pregnant woman.

The United States agreed to this prohibition and promised to respect and ensure the rights recognized in the covenant to all individuals subject to the jurisdiction of the United States.

In addition, where not already provided for by existing legislation or by other measures, the United States agreed to take necessary steps to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in that covenant; and so Congress, pursuant to that treaty, enacted legislation in 1994 that prohibited Federal executions of pregnant women.

That statute codified the common-law rule which had been recognized by the United States Supreme Court in *Union Pacific Railway v. Botsford*. In that case, the Supreme Court explained the common law barred execution of a pregnant woman in order to guard against the taking of the life of an unborn child for the crime of the mother.

The majority of executions are carried out by the States; and, therefore, it appears that some States have no statutory prohibition on executing pregnant women; and for that reason it is necessary to implement the treaty for us to move forward with this legislation. It is important that the position of the United States be clear and unambiguous.

Now let me address the constitutional authority for this legislation. It is well settled that Congress has the authority to enact legislation implementing treaties under the necessary and proper clause of article I of the Constitution, even if that legislation interferes with matters that would otherwise be left to the States. The Supreme Court addressed this issue in *Missouri v. Holland*. In that case, the United States entered into a treaty with Great Britain in which both countries agreed to take certain steps to protect migratory birds. After ratification of the treaty, Congress enacted a Federal statute prohibiting the killing, capturing or selling of certain migratory birds, except as permitted by regulation of the Department of Agriculture. And so even though Missouri challenged this new statute and as-

serted the statute interfered with the powers reserved to the States by the 10th amendment, the Court upheld implementation of that treaty by statute.

In a similar way, the courts have followed similar reasoning in upholding of the Hostage-Taking Act, which was again implemented pursuant to a treaty; and so this is very appropriate that we enter into this legislation today.

The situation, we might say, contemplated by this legislation may occur very rarely, but enactment of the law is clearly worthwhile even if it has the potential to save only one innocent life. In recent years there have been 40 to 50 women at a time under state-imposed death sentences. As of January 1, there were 51 women on death row in the various States and 82 percent of those women were age 45 or younger.

While it may seem unlikely that any of these women would become pregnant, the fact is that incarcerated women do become pregnant even in maximum security facilities. As our colleague, the gentlewoman from California (Ms. WOOLSEY), pointed out during a June 22 debate on a proposal to remove the ban on the funding of abortions by the Bureau of Prisons, we know that women become pregnant in prison from rape or from having a relationship with one of the guards. And in his book, *Into This Universe: The Story of Human Birth*, Dr. Alan Guttmacher, the father of Planned Parenthood, recounted a story told to him by a judge about a woman who obtained two stays of execution after she became pregnant twice through the willing cooperation of her jailer.

It is not difficult to imagine this scenario recurring, especially given the fact that over 80 percent of the women on death row are of child-bearing age. This bill does not reflect any point of view on the desirability or the appropriateness of the death penalty. Nor does it have any relevance to other pending legislation pertaining to DNA evidence or other issues related to the guilt or innocence of a person who has been convicted of a crime. This bill simply recognizes and fulfills this Congress' obligation under the International Covenant on Civil and Political Rights, the treaty I referred to, to protect innocent unborn children from being executed with their mothers.

I urge my colleagues to support this important legislation.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, it has been said that legislative redundancy is a common sin on the House floor but this bill makes that sin unusually self-indulgent. The execution of pregnant women is already illegal under Federal law, and it is doubtful that this Supreme Court would acknowledge our jurisdiction to impose that dictum on State courts.

Let me read from Title 18, section 3596, implementation of death sentence: