



United States  
of America

# Congressional Record

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## HOUSE OF REPRESENTATIVES—Thursday, March 20, 1997

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BARTON of Texas].

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
March 20, 1997.

I hereby designate the Honorable JOE BARTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,  
Speaker of the House of Representatives.

### PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we view our world, O God, we see the ironies of life and the incongruities of our human experience. There is the destruction of the floods and yet there is the beauty of a rainbow; there are the conflicts and the violence of war and the satisfaction of peace; there is the pain of sickness and the enjoyment of health. We pray, merciful God, that whatever our condition and whatever our need, we will know the assurance that Your grace is sufficient for whatever occurs and Your love for us never ends. In Your name, we pray. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Iowa [Mr. BOSWELL] come forward and lead the House in the Pledge of Allegiance.

Mr. BOSWELL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minute on each side.

### OMEGA BOYS CLUB

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I am honored today to have my friends, the gentlewoman from California [Ms. PELOSI] and the gentleman from California [Mr. DELLUMS] join me in presenting the Freedom Works Award to the Omega Boys Club of San Francisco.

I established the Freedom Works Award to celebrate freedom by recognizing individuals and groups who promote personal responsibility instead of a reliance on government.

The Omega Boys Club was founded by Joe Marshall and Jack Jackwa in 1987 with a mission to rescue inner city youth from the influence of gangs, drugs, and violence. Since its founding, the club has taken more than 600 children off gang warfare and drug dealing and has pushed them, tutored them, and even raised enough money to send them, 140 of them, to colleges around the country.

The club has enjoyed these positive results without receiving a single penny of Federal assistance. Instead they have relied on the personal initiative taken by Joe Marshall, Jack Jackwa, Margaret Norris, Coach Wilbur Jiggetts, and other Omega members.

The success of the Omega Boys Club is based on these four principles:

There is nothing more important than an individual's life;

A friend will never lead you to danger;

Change begins with you;  
Respect comes from within.

Mr. Speaker, government alone cannot solve our Nation's problems. That does not mean we simply throw our hands up in frustration. It means every single one of us, no matter what our politics, must roll up our sleeves and do the work each of us is capable of doing to rebuild our neighborhoods and communities. Every day, groups like the Omega Boys Club demonstrate the understanding that with freedom comes responsibility.

Sadly enough, youth violence has taken more than twice as many American lives each year as cancer, heart disease, and car accidents combined.

Today's inner city children need hope, they need love, they need a place to go where they know someone cares. They have found all these things, and more, in the Omega Boys Club.

If we are a great country today, and if we are to be a great country in the future, it will be because of groups like the Omega Boys Club, who have recognized their freedom to dream, and who have voluntarily taken upon themselves the responsibility for making America's best dreams come true.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I want to thank the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, for awarding his Freedom Works Award to the Omega Boys Club of San Francisco. It is a national organization now. As he says, it is about self-initiative, it is about respect for the individual.

The Omega Boys Club, and Joe Marshall, who is here today, as the gentleman mentioned, and others, Jack Jackwa, who have been involved in its founding, seek to reduce violence and to provide higher education to children, giving them something to say yes to.

I am pleased to join with the majority leader in giving this high acknowledgment and recognition of their fine

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

work. Nothing that any of us do is more important than the work of the Omega Boys Club.

Mr. ARMEY. With the Speaker's continued indulgence and the kind consideration given by my colleagues, I yield to the gentleman from California [Mr. DELLUMS] for a brief closing statement.

Mr. DELLUMS. Mr. Speaker, it is with a great deal of pride and pleasure that I join my distinguished colleagues, the gentleman from Texas [Mr. ARMEY] and the gentlewoman from California [Ms. PELOSI], as we come together to present the majority leader's Freedom Works Award to an extraordinary, inspired, and inspiring young man, Joe Marshall, who is the executive director of the Omega Boys Club, that has intervened positively in the lives of over 600 young people, moving them from gang activity and violence and drug abuse to a higher quality of life.

It would seem to me that the extraordinary byproduct of all of this, as the distinguished majority leader picked up the book, "Street Soldiers" and began to read about the inspired work of this extraordinary young man, it says to all of us that when we begin to understand the reality of each of our respective constituencies, it lifts the level of our awareness and it helps us understand that when we are prepared to positively intervene, providing options and opportunities, that young people can move to a higher quality of life.

So it is with a great deal of pride and pleasure that I stand here on a bipartisan basis as we embrace the work of this extraordinary young man and this extraordinary agency.

#### DEAN SMITH'S ACHIEVEMENT

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, 877 victories and still counting. Dean Smith, the basketball coach at the University of North Carolina at Chapel Hill, has now claimed the title of the all-time winningest coach in basketball history, with 877 victories. And the winning continues. Division I college basketball has changed a great deal since the early 1960's, when Dean Smith became head coach at Carolina. Three decades later Dean Smith is still winning, with class and consistency.

It is an amazing feat to coach in 877 games, let alone to win that many. Dean Smith has proven that you can be socially conscious, academically serious, you can play by the rules, and still rise to the top. He choose not to bask in the glory of this achievement, but rather, gives full credit to the hard work of others.

Let us all congratulate and honor Dean Smith. His victories on and off

the court set an outstanding example for all Americans, and we are as proud as we can be that he hails from the Fourth Congressional District.

#### TODAY BRINGS THE OPPORTUNITY TO END PARTIAL-BIRTH ABORTION

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I guess everybody now knows how far the so-called pro-choice movement will go. They will lie, as one top pro-abortionist recently admitted, to sustain the myth that abortion is somehow sane, compassionate, and even pro-child.

Americans will now see that the real extremists are not the people who insist on calling attention to the grisly details of abortion, such as dismemberment of an unborn child, injections of poison, or puncturing the child's skull and sucking out his or her brains. Americans now know that the real extremists are those who actually do these abusive acts, and then lie through their teeth to sanitize and conceal the truth. The dangerous person is not the one who shows the pictures of partial-birth abortion, the dangerous person is the child abuser who holds the scissors at the base of the skull of that baby's brain.

Let us end partial-birth abortion. We have the opportunity today. I hope we have a good bipartisan vote to do so later on this afternoon.

#### THE JUSTICE DEPARTMENT CANNOT POLICE ITSELF

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Justice Department cannot police itself. At Ruby Ridge, a 14-year-old boy was shot and killed, and his mother, holding her infant child, was shot and killed, shot right between the eyes; no criminal charges.

At Waco, 83 Americans were killed, including 20 children; no criminal charges were filed.

In Chicago, a court ruled that Justice Department personnel gave sex and drugs and alcohol to a number of informants to get them to offer perjured testimony; no criminal charges were filed.

Mr. Speaker, who is kidding whom? When an unarmed 14-year-old can be shot and killed, his mother shot between the eyes, and there are no criminal charges filed, and the Justice Department says it was simply a mistake, Mr. Speaker, there is no justice in America. It is time for Congress to pass laws that will provide for independent counsel to investigate wrongdoing at the Justice Department.

#### ARE WE A CIVILIZED SOCIETY?

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, prohibiting barbaric partial-birth abortions is a matter of whether we are a civilized society, not whether we are pro-life or pro-choice. It is a sad commentary on the slippery slope of loss of respect for the dignity of human life in our society that we in Congress once more have to debate whether it is OK to kill babies this way.

Let us understand exactly what is involved in this procedure. Labor in the mother is induced, the baby is turned and then partially delivered, feet first, with its head kept inside the womb. While still living, scissors or a trocar are inserted in the back of the baby's head, its brain is then suctioned out and skull collapsed before the baby is removed from the womb.

If Congress were voting about a method of execution, stabbing someone in the back of their head and sucking out their brains I am sure would not get a single vote in the Congress. If this would be wrong for the most heinous criminals, how can it be right for innocent babies?

#### TRIBUTE TO MARCIA STEIN

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, this morning I rise to pay tribute to Marcia Stein, who retired from this body on January 20, 1997, after serving 15 years with the Official Reporters of the House. Marcia and her husband are here in the gallery this morning, and I am pleased to have this opportunity to commend her for her outstanding service to this institution.

Marcia joined the staff of the Official Reporters in November 1981. She enjoyed specializing in hearings on national security and intelligence. Some of her career highlights included reporting the Iran-Contra hearings and traveling to Bonn, Germany and other parts of the globe for field hearings.

She has enjoyed observing history in the making and feels privileged to have reported on some of the most interesting events taking place in this august body. Those of us who have had the pleasure of working with her also feel privileged to have had the opportunity to work with an individual of such outstanding ability and professionalism.

Thank you, Marcia, for your service to your country and to the House of Representatives. I wish you and Bob a long and prosperous retirement.

**ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE**

The SPEAKER PRO TEMPORE. The gentleman is requested to delete his reference to individuals in the gallery.

□ 1015

**REPUBLICAN AGENDA**

(Mr. PAPPAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAPPAS. Mr. Speaker, Republicans in the House have outlined a 13-point agenda to create a better America. Our agenda reflects a genuine desire to preserve America and to have a Nation that is safe and economically stable, but this whole process starts with protecting the American family.

Part of protecting the family is protecting life. The effort to end partial-birth abortions is crucial because this procedure denies human life and human dignity. But this whole matter of ending partial-birth abortion is not just a Republican versus Democrat or liberal versus conservative issue. Public support to end this barbaric procedure is very wide and very deep. Polls show 84 percent public approval of the ban.

A bipartisan group of Members of Congress have taken the lead on this issue, not because it is popular or politically expedient. We take the lead because it is right to protect life and, in doing that, the future of America.

**CALLING FOR A NEW HEAD OF FBI  
FORENSICS**

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I would like to invite Members of the House to join me in sending a letter to the Director of the FBI asking that he consider appointing our colleague, the gentleman from Indiana [Mr. BURTON], as the new head of the FBI forensics lab. Given the problems the FBI is having, he obviously has the ability to do the job.

He discovered, when nobody else did, that Vince Foster's body was moved. Second, he obviously has the experience because he used his backyard to fire a bullet into "a headlike object" to test his forensic theories. And certainly, in light of the revelations in the Washington Post yesterday about conversations with Pakistanis, he certainly can be counted on to run that lab with at least as much evenhandedness as he apparently will run the congressional investigation.

Of course, given his decision to exempt Congress from the review of his committee, that is indeed damning with faint praise.

**THE AMERICAN FARMER**

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, today is National Agriculture Day across this country. It is fitting on such a day to thank the farming families who work hard every day to make the finest food and fiber in the world. Our country's entire farming community deserves a pat on the back for a job well done.

Just think, how often in your occupation does your paycheck depend on whether or not we get enough rain. Probably never. But for our country's farming families, it is a genuine concern every single year. Georgia's farmers not only help America produce the safest, highest quality and most affordable food supply in the world, but their contribution to our local economies is overwhelming. The revenue our farmers receive from their labors is pumped back into local economies where everyone from barbers to bakers benefit.

As you sit down over supper tonight, take a moment to thank the folks that made it possible, the American farmer. They deserve it.

**QUESTIONABLE FUNDRAISING  
ACTIVITIES**

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this week's news report makes it clear why my colleagues on the other side of the aisle have adamantly refused today to allow an investigation into 1996 Republican fundraising activities. As it turns out, the Republican chairman of the committee charged with investigating campaign fundraising improprieties has himself engaged in very, very questionable fundraising practices. Today's Washington Post editorial said it best: Mr. BURTON should step aside. To have this chairman preside over this investigation would make a mockery of the proceedings.

Let me quote the chairman. Calling the charges distortions and outright lies, he said, I have never tried to put the arm on anybody in my life. But he acknowledged asking Mark Siegel for cash and complaining to Pakistan's ambassador when he did not deliver. My, my, I think he protests too much on his lack of involvement here.

The chairman should step aside. The Washington Post said it best. To do any less would cast doubt on the integrity of this House and its ability to conduct a fair investigation.

**MOTION TO ADJOURN**

Mr. OBEY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore (Mr. BARTON of Texas). The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Wisconsin [Mr. OBEY].

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

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 183, nays 221, not voting 28, as follows:

(Roll No. 60)

YEAS—183

Abercrombie	Gephardt	Millender-
Ackerman	Gonzalez	McDonald
Allen	Goode	Miller (CA)
Andrews	Gordon	Minge
Baessler	Green	Mink
Baldacci	Outierrez	Moakley
Barcia	Hall (OH)	Moran (VA)
Barrett (WI)	Hamilton	Murtha
Becerra	Harman	Nadler
Bentsen	Hastings (FL)	Neal
Berman	Hefner	Obey
Berry	Hilliard	Olver
Bishop	Hinojosa	Ortiz
Blumenuer	Holden	Owens
Bonior	Hooley	Pallone
Borski	Hoyer	Pascrell
Boswell	Jackson (IL)	Pastor
Boucher	Jackson-Lee	Payne
Boyd	(TX)	Pelosi
Brown (CA)	Jefferson	Peterson (MN)
Brown (FL)	John	Pickett
Brown (OH)	Johnson (WI)	Pomeroy
Capps	Johnson, E.B.	Poshard
Cardin	Kanjorski	Price (NC)
Carson	Kennedy (MA)	Reyes
Clayton	Kennedy (RI)	Rivers
Clyburn	Kennelly	Roemer
Condit	Kildee	Rothman
Conyers	Kilpatrick	Roybal-Allard
Costello	Kind (WI)	Rush
Coyne	Klink	Sabo
Cummings	Kucinich	Sanchez
Danner	LaFalce	Sanders
Davis (FL)	Lampson	Sandlin
DeFazio	Lantos	Sawyer
DeGette	Levin	Schumer
Delahunt	Lewis (GA)	Scott
DeLauro	Lipinski	Serrano
Dellums	Lofgren	Sherman
Deutsch	Lowey	Sisisky
Dicks	Luther	Skaggs
Dingell	Maloney (CT)	Skelton
Dixon	Maloney (NY)	Slaughter
Doggett	Manton	Smith, Adam
Dooley	Markey	Spratt
Doyle	Martinez	Stabenow
Edwards	Mascara	Strickland
Engel	Matsui	Stupak
Eshoo	McCarthy (MO)	Tanner
Etheridge	McCarthy (NY)	Tauscher
Evans	McDermott	Thompson
Farr	McGovern	Thurman
Fazio	McHale	Tierney
Filner	McIntyre	Torres
Foglietta	McKinney	Towns
Ford	McNulty	Velazquez
Frank (MA)	Meehan	Vento
Frost	Meek	Vislosky
Furse	Menendez	Waters
Gedjenson		Watt (NC)

Waxman  
Wexler

Wise  
Woolsey

Wynn  
Yates

NAYS—221

Aderholt	Gillmor	Pappas
Archer	Gilman	Parker
Armey	Goodlatte	Paul
Bachus	Goodling	Paxon
Baker	Goss	Pease
Ballenger	Graham	Peterson (PA)
Barr	Granger	Petri
Barrett (NE)	Greenwood	Pickering
Bartlett	Gutknecht	Pitts
Barton	Hall (TX)	Pombo
Bass	Hansen	Porter
Bateman	Hastert	Portman
Bereuter	Hastings (WA)	Pryce (OH)
Bilbray	Hayworth	Quinn
Bilirakis	Hefley	Rahall
Bliley	Hill	Ramstad
Blunt	Hilleary	Regula
Boehert	Hobson	Riley
Boehner	Hoekstra	Rogan
Bonilla	Horn	Rogers
Bono	Hostettler	Rohrabacher
Brady	Houghton	Ros-Lehtinen
Bryant	Hulshof	Roukema
Bunning	Hunter	Royce
Burr	Hutchinson	Ryun
Burton	Hyde	Salmon
Buyer	Inglis	Sanford
Callahan	Istook	Scarborough
Calvert	Jenkins	Schaefer, Dan
Camp	Johnson (CT)	Schaffer, Bob
Campbell	Johnson, Sam	Schiff
Canady	Jones	Sensenbrenner
Cannon	Kasich	Sessions
Castle	Kelly	Shadegg
Chabot	Kim	Shaw
Chambliss	King (NY)	Shays
Chenoweth	Kingston	Shimkus
Christensen	Kleczka	Shuster
Coble	Knollenberg	Skeen
Coburn	Kolbe	Smith (MI)
Collins	LaHood	Smith (NJ)
Combest	Largent	Smith (OR)
Cook	Latham	Smith (TX)
Cooksey	LaTourette	Smith, Linda
Cox	Lazio	Snowbarger
Crapo	Leach	Snyder
Cubin	Lewis (CA)	Solomon
Cunningham	Lewis (KY)	Souder
Davis (VA)	Linder	Spence
Deal	Livingston	Stearns
DeLay	LoBiondo	Stump
Diaz-Balart	Lucas	Sununu
Dickey	Manzullo	Tauzin
Doolittle	McCollum	Taylor (MS)
Dreier	McDade	Taylor (NC)
Duncan	McHugh	Thomas
Dunn	McInnis	Thornberry
Ehlers	McKeon	Thune
Ehrlich	Metcalfe	Tiahrt
Emerson	Mica	Traficant
English	Miller (FL)	Upton
Ensign	Molinari	Walsh
Everett	Mollohan	Wamp
Ewing	Moran (KS)	Watkins
Fawell	Morella	Watts (OK)
Foley	Myrick	Weldon (FL)
Fowler	Nethercutt	Weldon (PA)
Fox	Neumann	Weller
Frelinghuysen	Ney	White
Gallely	Northup	Whitfield
Ganske	Norwood	Wicker
Gekas	Nussle	Wolf
Gibbons	Oberstar	Young (FL)
Gilchrest	Packard	

## NOT VOTING—28

Blagojevich	Heger	Saxton
Clay	Hincheey	Stark
Clement	Kaptur	Stenholm
Cramer	Klug	Stokes
Crane	McCreery	Talent
Davis (IL)	McIntosh	Turner
Fattah	Oxley	Weygand
Flake	Radanovich	Young (AK)
Forbes	Rangel	
Franks (NJ)	Riggs	

□ 1038

Messrs. FAWELL, McDADE, POR-  
TER, GILMAN, BATEMAN, and

McCOLLUM changed their vote from  
"yea" to "nay."

Messrs. GREEN, MURTHA,  
BALDACCI, GOODE, LIPINSKI, BOS-  
WELL, SCOTT, McINTYRE and  
COSTELLO

So the motion to adjourn was re-  
jected.

The result of the vote was announced  
as above recorded.

PROVIDING FOR CONSIDERATION  
OF H.R. 1122, PARTIAL-BIRTH  
ABORTION BAN ACT OF 1997

Mrs. MYRICK. Mr. Speaker, by direc-  
tion of the Committee on Rules, I call  
up House Resolution 100 and ask for its  
immediate consideration.

The Clerk read the resolution, as fol-  
lows:

## H. RES. 100

*Resolved*, That upon the adoption of this  
resolution it shall be in order to consider in  
the House the bill (H.R. 1122) to amend title  
18, United States Code, to ban partial birth  
abortions. The bill shall be considered as  
read for amendment. The previous question  
shall be considered as ordered on the bill to  
final passage without intervening motion ex-  
cept: (1) 2 hours of debate equally divided  
and controlled by the chairman and ranking  
minority member of the Committee on the  
Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore. (Mr.  
BARTON of Texas). The gentlewoman  
from North Carolina [Mrs. MYRICK] is  
recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for pur-  
poses of debate only, I yield the cus-  
tomary 30 minutes to the gentlewoman  
from New York [Ms. SLAUGHTER], pend-  
ing which I yield myself such time as I  
may consume. During consideration of  
this resolution, all time yielded is for  
the purpose of debate only.

□ 1045

Mr. Speaker, the resolution provides  
for consideration of H.R. 1122, the Par-  
tial-Birth Abortion Ban Act of 1997,  
under a closed rule. The rule provides  
for 2 hours of debate divided equally  
between the chairman and the ranking  
minority member of the Committee on  
the Judiciary. Finally, it provides for  
one motion to recommit.

In short, H.R. 1122 outlaws the prac-  
tice of partial-birth abortions. Any  
physician who performs this inhumane  
act may receive a fine or receive up to  
2 years in prison, or both. The bill ex-  
plicitly states that if the procedure is  
necessary to save the life of a mother  
who is threatened by a physical dis-  
order, illness or injury and no other  
medical procedure would do, then the  
physician will not be held liable.

The language in H.R. 1122 is identical  
to the language in the Partial-Birth  
Abortion Ban Act of 1995, which was ve-  
toed by the President. Members may  
hear objections by the other side that  
this bill has not passed through the  
committee process, but I would like to  
point out that this is the same lan-

guage that 80 percent of the American  
people supported when it passed  
through Congress previously. The bot-  
tom line is that this is not new lan-  
guage we are trying to sneak past any-  
body. My colleagues are well aware of  
what this bill contains and any other  
assertion would be disingenuous at  
best.

During debate on the resolution and  
the bill itself, you may hear some  
voices of discontent from Members on  
both sides of the aisle. I urge my col-  
leagues to make sure they do not lose  
sight of the true focus of this debate,  
the horrible procedure known as par-  
tial-birth abortion. Try not to forget  
that the reason we are considering this  
important bill is to preserve the life of  
these vulnerable and fragile children.  
We are talking about human life. When  
this issue was before the sub-  
committee, they received testimony  
from Whitney Goin, proud mother of a  
beautiful young baby that was born  
with the organs developed outside of  
the body. The doctors told her to abort  
the child, but she elected to have her  
baby. With the help of skilled doctors  
and extensive surgery, the child was  
able to survive and is alive today. No  
one can ever replace the love and affec-  
tion that she will be able to share with  
her baby for the rest of her life.

I would encourage all of my col-  
leagues to read the piece by George  
Will that appeared in yesterday's news-  
paper. In it, he gives an eloquent argu-  
ment against this procedure. His son  
Jon is about to celebrate his 21st birth-  
day. Jon has Down's syndrome, and his  
parents were asked to decide if they  
should take him home or not. Jon is  
leading a productive, happy life despite  
his mental retardation.

I point out these two cases, and there  
are countless others, because they are  
a testament to the fact that life is pre-  
cious and should not be squandered.  
The joy that children bring to their  
parents, regardless of their physical or  
mental condition, is boundless and  
must be respected. I cannot help but  
think of my own two sons and my  
seven grandchildren and the joy that  
they bring to us.

Mr. Speaker, I again implore my col-  
leagues to support the ban and allow  
these children the opportunity to live a  
happy and productive life.

Abortion has long been an issue that  
divides our Nation. People on both  
sides argue with great conviction that  
they are protecting sacred human  
rights. However, we are not talking  
about the general issue of abortion dur-  
ing this debate. Today's debate is  
about what our society values as right  
or wrong. We will decide whether our  
Nation will continue to allow the ap-  
palling practice of partial-birth abor-  
tion to continue.

I am sure that every one of my col-  
leagues is fully aware of the details of  
this particularly repugnant form of

abortion. Therefore, I am not going to again describe the procedure. But I am going to challenge my colleagues to consider H.R. 1122 on the merits of the legislation and make their decision based on the facts as we know them to be today.

I am sure some of my colleagues made a decision to oppose similar legislation in the past based on false information provided to them by pro-abortion groups and Ron Fitzsimmons, the Executive Director of the National Coalition of Abortion Providers. He said that he lied through his teeth when he said the procedure was rarely used. He now admits that pro-life groups were accurate when they said that the procedure is common. By Mr. Fitzsimmons' estimate, every year.

To further underscore the lies and deception, Mr. Fitzsimmons said in the *Medical News*, an American Medical Association journal, that "In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along." He further went on to state that the abortion rights folks know it, the antiabortion folks know it and so probably does everybody else.

In fact, the truth is the vast majority of cases are performed on healthy mothers with healthy babies. Mr. Fitzsimmons intentionally lied about partial-birth abortions to mislead people because he feared the truth would damage the cause of his allies. While explaining his veto, the President echoed the argument of Mr. Fitzsimmons and his colleagues. H.R. 1122 will allow the President the opportunity to reevaluate this issue, this time with accurate information on which to base his decision.

He is not alone. I urge my colleagues who opposed banning partial-birth abortions in the past to reflect on the truth about the misinformation that Mr. Fitzsimmons and the pro-abortion lobby has circulated before making your final decision on this critical issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader.

Mr. ARMEY. I thank the gentleman for yielding me this time. Let me also thank the minority side for their patience with this yield.

Mr. Speaker, this rule makes in order 2 hours of debate on a subject that many of us would rather we did not have to debate in this country. This is a subject that is heartbreaking to all of us. Irrespective of which side of the debate we find ourselves, it breaks one's heart to realize the subject under consideration here.

We are talking about whether or not this Nation can, through its elected representation, tolerate or must it ban a particular procedure by which the life of a child is snuffed out. There are

going to be heartfelt differences on this issue, make no mistake about it.

Mr. Speaker, whether you think this is about the child and the Government's obligation to protect life or if you think it is about the mother and her rights to her freedom, her privacy and her control over her own destiny, should we expect any Member of this body to come at this issue casually, or should we not expect us to have in each of the two sides an intensity of conviction and commitment to our point of view?

In this 2 hours of debate, Mr. Speaker, there are going to be a lot of hard facts that are going to be put up before us. There are going to be a lot of things we do not want to hear about and do not want to see. There are going to be some arguments we are not going to particularly appreciate. But let us ask this of ourselves: Out of respect for the importance of this issue to both sides and the gravity of the issue and the lives of the people who are affected by it across this Nation, even if we are not able to respect the arguments made by one another, can we respect their right to make those arguments? And can we carry on a discourse over this subject that is serious, that is sober and that is, if I may daresay, as reverent as this subject demands. That is the plea I would make for our body today.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I rise in strong opposition to the rule and the underlying bill, H.R. 1122.

Mr. Speaker, I urge all my colleagues in the strongest possible terms to defeat the previous question on this rule. The process the majority has used to bring this rule and bill before the House of Representatives makes a mockery of our legislative process. The bill that would be made in order by this rule is not the bill reported by the Judiciary Committee. It is not the bill that the Rules Committee heard testimony on yesterday.

Last night in an unprecedented move, the majority members of the Committee on Rules discarded legislation that had been approved by the subcommittee and the full Committee on the Judiciary and replaced it with a bill from the last term.

Several improving amendments that had been accepted by the Committee on the Judiciary were tossed away. In an unusual agreement with the Senate, the majority leadership of this body determined that they wanted to send the President a bill identical to the one he vetoed last year. The President has made it clear that he will veto any bill that does not pass the test of the four women who visited him in his office explaining that the procedure we are discussing today was necessary to preserve their health, their lives, and their reproductive ability.

The minority of the Committee on Rules had no more input than did the

Committee on the Judiciary. We were simply confronted with a fait accompli in the form of the already-vetoed and expired bill from the last term. It is obvious that the Committee on Rules chose to invite another veto rather than meeting the President's criteria for signing this bill, and that calls into question their sincerity on this entire issue.

One amendment approved by the Committee on the Judiciary that is not in this bill would have prevented a father who had abandoned or abused the mother of the fetus from suing for damages. I want to make this clear, that anyone who votes for this bill made in order by this rule is voting to allow batterers and abusers to profit from the tragedy that leads to this procedure. Imagine, an abuser, an abandoner, or rapist can sue his victim who is already damaged.

Ironically, providers can be sued for damages resulting from both psychological and physical injuries, and yet the majority refuses to allow the bill to be amended to provide an exception to protect the woman's psychological health. In other words, her's does not matter. The father's does. That amendment would have enhanced the chances of this bill becoming law.

Another amendment passed by the Committee on the Judiciary but deleted in the new version of the bill passed last night clarified that the life exception in the bill includes situations in which the mother's life is endangered by the pregnancy itself. There is no protection for her. Regardless of where one stands on the issue of abortion, I believe all of us would agree that these two amendments are necessary.

All Members know that at the end of a congressional term, all bills previously filed have died and certainly a vetoed bill has died. Bringing back a bill from a previous term has not only rendered useless the work of the committee and those interested enough to produce amendments, but has disenfranchised the new members of the Committee on the Judiciary and their constituents who were not members last term. This means they had no input on the bill whatsoever, they were not privy to any of the discussions on the bill, they never voted for this bill.

I do not believe personally that it is the role of Congress to determine medical procedures. The doctor-patient relationship in this country has been accepted as totally private. My dismay and disbelief at the process in which this bill has been brought to the floor overrides my concern, however, about Congress inserting itself into the most private of decisions because we are saying not only are we competent to make medical judgments but we are saying that the Committee on Rules is the only competent body to make the decision, more competent even than the

Committee on the Judiciary, which has jurisdiction over the issues, overstepping the bounds in which we have always operated since the days of Thomas Jefferson.

Does congressional reform mean that from now on there is only going to be a Committee on Rules? Are we going to completely override the product of other committees, taking away the rights and responsibilities that have always been the prerogatives of Members of Congress? Is this the new civility? Does the majority really care about this issue or does their mistaken belief that they will embarrass President Clinton override their judgment?

□ 1100

I urge my colleagues in the strongest possible terms to reject this rule that would permit debate on a bill that is not properly before us and has bypassed every single part of the legislative process, and I urge defeat of the previous question.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise to oppose this rule and to address a concern that is deeply rooted in the conscience of every Member in the House of Representatives and, I think, in the hearts of almost every citizen of this great country.

For many, the debate over abortion is a deeply personal and emotional issue. It is one that commands thoughtful and sincere reflection and frankly ought to be protected from politically charged debate. But there is one area where I hope every person of conscience in this body can agree, and that is that the right to choose must be available when a woman's life is in danger for any reason and that a very personal decision on that issue should be up to the woman, her doctor, her family and her clergy.

This bill does not protect a woman, even when her life is in danger, if her pregnancy goes forward. The changes made in the Committee on Rules last night remove that assurance provided in the Committee on the Judiciary markup. The other side tragically will not even allow a discussion where that life protection can be debated, discussed, and perhaps offered as an alternative.

All of us oppose late term abortions. All of us. But many of us believe that an abortion should be allowed if the woman's life is in danger. The Republican bill says a woman must carry her pregnancy to term even if she could die doing so. We should have been able to consider the bipartisan Hoyer-Greenwood bill that prohibits all late-term abortions unless the life or severe health consequences of the mother is at stake.

By not allowing this bipartisan bill to be offered, the motive of the Republican leadership becomes apparent.

They simply want to win. The ability to use this issue politically is at stake. The truth is I believe they have no interest in solving a problem by bringing this country together because we could reach almost complete unanimity on this issue in this body. I think their only motive is the 30-second spots that are running now and will run again in 18 months.

Mr. Speaker, it is a shame and a sham.

Mrs. MYRICK. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I would like to just really respond to the last comment and say that this bill is coming to the floor today because forces on both sides of this issue were pulling so hard in opposite directions that they ultimately could not reach agreement on H.R. 929. It was totally impossible for the Committee on Rules to reach a consensus with all parties involved, so in the interests of fairness we decided to bring up legislation that the House has considered in the past. In fact, this is the same legislation that the President vetoed in the 104th Congress.

Mr. Speaker, it is not a sneak attack by the majority. It is merely an attempt to bring forth legislation that had broad support in the past so we can consider this extremely important bill; Members can cast their votes with a clear conscience without the pressure tactics from powerful groups on both sides of this divisive issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman for yielding me the time to rise in strong support of this rule and this bill. This is a fair rule which will allow the House to present to the President of the United States the exact same bill he vetoed last year for his needed consideration.

But let me speak to something else here because I am really disturbed with the statement by the gentleman from California that just spoke as well as the gentlewoman from New York. I hope she will be listening here. I would like to address her remarks, if I might, and I am trying to be very calm about this because she is a gentlewoman that I deeply respect, but I am concerned with her remarks because, first of all, she questioned the sincerity of Members on the other side of this issue, and we could read back her remarks in which she said, "questions of sincerity."

Mr. Speaker, I think that is beneath all of us. If she had put a name to that statement, naming me or the gentlewoman from North Carolina [Mrs. MYRICK] or anyone else on this side of the aisle or some on their side of the aisle, her words would have been taken down. We should keep this on the high-

est plane that we can because we all are emotional about this issue. I am, as the father of five children and the grandfather of five, and so are people on their side from their philosophical persuasion as well. So let us keep it elevated, my colleagues. Let us not get into this.

Let me get into one other thing that the gentlewoman brought up because she questioned the hypocrisy of us bringing before the Congress a bill that had not been reported. Well, I would just remind the gentlewoman and everybody on that side of the aisle that on March 19, 1992, when the gentlewoman was a member of the Committee on Rules before she left and subsequently came back this past year, that our Committee on Rules, under the leadership of the gentleman from Massachusetts [Mr. MOAKLEY] and the Democrat leadership, reported special order waving all points of order against an unreported bill under a closed rule. And do my colleagues have any idea what that was? It dealt with the removal of limitations on the availability of funds previously appropriated to the Resolution Trust Corporation when we were arguing over the bailout of these S&L's. That was probably one of the most important bills to come before the Congress that year, and it came before the Congress as an unreported bill. They did the same thing that I did in taking the bill that was on the President's desk last year and dropping it in the hopper last night and then bringing it to the Committee on Rules. That is exactly what we are doing here today.

And while we are at it, the gentlewoman spoke, and so did the gentleman from California, about the life of the mother and the fact that this was not contained in this bill before us today. Let me read for my colleagues the paragraph on page 2, line 3.

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, and then the next sentence goes on to say, and it is here in plain print for anybody to read: This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, by illness or by injury.

That is in the bill, and true, the bill reported by the committee did have additional language which was put in there just to clarify the obvious that is here.

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

Mr. SOLOMON. I yield to the gentleman from California.

Mr. CUNNINGHAM. I came down because I was upset at the gentlewoman's statement, not against it but what she

was saying, because I am 100 percent pro-life; but I also want to support the life endangerment of the mother, and the gentleman from New York [Mr. SOLOMON] is telling me—because I was ready to vote against the bill. He is telling me it is covered in this bill.

Mr. SOLOMON. The gentleman can read it, and the sponsor of the bill can tell the gentleman.

Mr. Speaker, if I could get back now to settle down a little bit and just to talk about the issue before us.

Do we as a body support or oppose a truly unconscionable, a truly immoral procedure called partial-birth abortion?

As my colleagues know, when my wife and I were first married, the husband did not go into the room and watch the birth of the baby. I am sorry I did not back in those days, but my children, all of them, have, and can you just picture this immoral, this inhumane procedure? If my colleagues do, and if they had ever watched the birth of a baby, I am sure that they would be voting for this bill here today. As my colleagues know, for me it is just clear.

As my hero, Ronald Reagan, stated so well:

We cannot diminish the value of one category of human life, the unborn, without diminishing the value of all human life. There is no cause more important. And, my colleagues, think about that.

In this spirit in the last Congress I joined with two-thirds of this House, and that was a majority of Republicans and Democrats together, two-thirds of this body, in making a clear and unequivocal statement that this inhumane procedure, a partial-birth abortion, should be banned in this country. The U.S. Senate concurred by also voting to ban this same kind of procedure. Nevertheless, when the bill reached the President's desk, it was vetoed. Although it was only one signature away from becoming a law, that bill was rejected because of the President's belief that partial-birth abortions occur only rarely and only when necessary to save the life of the mother. That is what he said in his veto message.

However, the Nation now knows that President Clinton's whole decision was based on erroneous and incorrect information. This information was, in fact, so wrong that one of the strongest supporters of partial-birth abortion admitted publicly that he deliberately misled the American people, Congress, and even the President into believing this was true; and indeed on February 25, 1997, just past, Ron Fitzsimmons, the executive director of the second largest abortion provider in the country, admitted on Nightline, and go back and get it: we have got the videotapes to show our colleagues—and admitted on Nightline, and later to the New York Times, that he lied through his teeth. That is his statement, not mine, that he said I lied through my teeth.

Mr. Speaker, and my colleagues, partial-birth abortions do in fact happen far more often than acknowledged and on healthy mothers bearing healthy babies.

Today Congress is poised at the same moral crossroads where it found itself during the last Congress. While Congress made the right decision last year, the President, standing at those same crossroads, made an immoral decision by vetoing that bill, and in light of these latest revelations of the truth, the broad-based support of the American people, and as Ronald Reagan called it, the most important cause there is, we need to pass this bill again and give it to the President, give him another chance to do the right thing, because the only reason he vetoed it was because of the lies by Ron Fitzsimmons. Now he knows the difference, he has an obligation now to sign this bill, and I would urge everyone to come over here and vote for this rule, vote for the bill, and let us save these decent human beings' lives.

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

Mr. Speaker, I just want to say that on March 7, the President said that he was not persuaded at all by Mr. Fitzsimmons but had made his decision on other matters.

Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning as a mother of two children age 11 and 17 and hoping that God will bless me to have grandchildren in the future. I also rise this morning as a member of the House Committee on the Judiciary and someone who participated in the Committee on Rules hearing yesterday.

This is an issue of life and death, and I ask my colleagues, Do you know that? It seems to be that even though I respect those who have a difference of opinion, and I am gratified of the previous speaker's acknowledgment that we must be civil, but this is nothing but a game, late into the night another piece of legislation that none of us on the Judiciary Committee got to see appeared, the same legislation that the President had vetoed because it protects the health of the mother. This bill does not care about the health of the mother. It does not care about the opportunity for future fertility so that that family can have another child. This is a wrongheaded bill.

And when we had the opportunity to be bipartisan with the Greenwood-Hoyer bill, what happened to it? It fell by the wayside.

I ask my friends to be bipartisan and allow us to pass out a bill that will speak to the American people and preserve the life of a mother and the health of a mother. Vote down this rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Speaker, I am going to vote for H.R. Bill 1122, and these are the reasons:

At day 22 of a pregnancy a baby's heart begins to beat with blood often a different type than the mother's. At week 5, eyes, hands, and feet begin to develop. At week 6, brain waves are detectable. Week 8, all body systems are present, and bones begin to form. Week 9, the baby is sucking his or her thumb, kicking and bending fingers. Week 11, the baby can smile. And at week 17 the baby can have dream sleep.

Mr. Speaker, we are talking about a procedure that takes place at weeks 20 to 24, a procedure where the child is turned around in the womb and grabbed by the feet and the baby is killed, as has been described before.

There has been another time when babies have been grabbed by the feet and killed, and it happened in Cambodia outside of Phnom Penh, the killing fields. At the edge of the killing fields is a tree that stands there, stained with red right now, because those people, in the midst of the genocide that was taking place there, took the babies by the feet and beat their heads against the tree, and that tree is stained with blood; it is red until its death as a symbol of the genocide and the infanticide that took place in Phnom Penh at the hands of the Khmer Rouge.

We are doing the same thing except just a matter of inches, a matter of difference of time. We are doing the same thing. We are grabbing the feet of the baby, and we are killing them, we are killing these people who are living in the womb and are supposed to be a protected environment.

Our Nation cannot withstand this assault. Our Nation's conscience cannot withstand this assault. We must do something. We will pay for this disobedience to the very reason for our creation.

□ 1115

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I want to thank my colleague for yielding me this time.

I rise as an original cosponsor of the Partial-Birth Abortion Act. Abortion, except to save the mother's life, is wrong. However, this particular procedure is doubly wrong. It requires a partial delivery, and it involves pain to the baby.

Mr. Chairman, we will hear the medical details of these abortions from others. I just want to lend my support to the bill as one who tries to follow a moral code of common sense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have inhumane methods of capital punishment,

we have humane treatment of prisoners; we even have laws to protect animals. It seems to me we should have some standards for abortions as well.

Many years ago, surgery was performed on newborns with the thought that they did not feel pain, and now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells. Pain is inflicted to the fetus with this procedure.

Mr. Chairman, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I could not stand here and honestly debate this subject with a clear conscience if I and my colleagues did not spend a good portion of our time on improving hunger conditions and trying to help children and their families achieve a just life after they are born.

On a final note, I want to express my serious concern about the rule. Last night's action by the Committee on Rules on this bill was a travesty of process. If there has ever been an issue that we ought to be knocking out of the ball park, it is this one. To me, there is no gray area on this issue. Enough is enough. If there is one thing this Congress ought to do this year, it is to stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this.

I will vote for the rule. I do so reluctantly because of my strong objections to the process. However, my determination to ban this gruesome, immoral process is stronger. Vote "yes" on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise in opposition to this rule. This is a bill that I supported last year and I will probably support it again this year, but I am deeply troubled by what the Committee on Rules did.

The Committee on Rules said that a woman whose life is threatened by the pregnancy itself should die. The original bill said we are not going to do that; if my wife is going to die because of the pregnancy, we are not going to let that happen. This bill says, let the woman die, and that is wrong.

The Committee on Rules abused this process. We should go back to the original language in this bill that was put in as it was introduced. There is no woman in this country that should die because of the pregnancy itself. This bill should be changed.

Every person in this room knows that there is not a woman in this country that should die because her life is threatened by her pregnancy. That is an outrage, and this bill originally rec-

ognized that there was a problem with that. It originally realized that this is a spot where this bill was vulnerable last year, so it corrected it. Now they are back to playing politics.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I am outraged that the leadership of this House has once again decided to play politics with women's lives. This bill values abusive fathers more than women's lives. This bill, as reported here, eliminated amendments made by the committee that would have helped save some women.

Let me explain how this bill works. A woman becomes pregnant. While she is pregnant, the father of the fetus rapes her. He then beats her to a pulp. He throws her down the stairs, he batters her. He then disappears from the scene and abandons her.

This woman, who is now severely traumatized, who is physically injured by the battering, whose doctor tells her that because of her injuries, carrying the pregnancy to term will probably result in permanent, severe physical injury, perhaps permanent paralysis, for life, decides to have an abortion. The doctor tells her the safest method of abortion is the so-called, what some people call the partial-birth abortion. It is the safest method. Other methods might kill her, might increase the chance of paralysis, but this, he says, is the safest method.

This bill says, First, she cannot have that abortion that way. If she does, the doctor is criminally liable. The bill also says that the father of the child, of the fetus, who raped her, who abused her, who abandoned her, now can sue her and her doctor for damages. The abusive father is entitled to damages. In fact, he is even entitled to money for physical and emotional damages that he has suffered.

This is ludicrous. It is an outrage. It is disgusting. Not only does this bill intrude, infringe, and violate the constitutional right to choose, but it rewards abusive fathers. It rewards rapists.

The committee's amendment that would have said that a father who beats the woman, who abuses her, who abandons her, cannot sue her for damages, was eliminated in proceedings by the Committee on Rules. This is shameful. I urge the House to reject this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, it seems very clear to me that we have people who would prefer an issue to a bill that could become law. I offered an amendment in committee that would have provided an exception to the ban in cases where it was nec-

essary to use this procedure to avoid serious adverse physical health consequences to the mother.

Now, people on the other side have argued that health is too broad. I do not agree with that. I find the health concept important. But I also understand the health concept, including mental health, is most directly relevant when we are talking about whether or not to have an abortion.

This bill does not say you cannot have an abortion; it says you may not use this particular procedure. Where we are talking about a ban on a specific procedure, then physical issues become more prominent, because the mental question generally is as to whether or not an abortion is permitted.

Here is what the majority is insisting upon. A doctor believes he can show that it is necessary under the wording of this bill to use this procedure for a woman who has established her right to an abortion, because otherwise there would be severe physical adverse health consequences, and the majority says no. The majority says even if avoiding this procedure will subject the woman to severe adverse physical health consequences, as long as she is not going to die, but if she is severely physically damaged, then they cannot use this procedure. And the chairman of the full committee, with the intellectual honesty he brings to the issue, said if it is a choice between the woman incurring serious physical health damage and the life of the fetus, then the woman's health must give way.

The chairman of the committee made that explicit when he opposed the amendment, and that is the choice that the Members are not being allowed to make. I am not being allowed to offer an amendment that would have provided an exception to severe physical adverse health consequences. I think that bespeaks an interest on the part of some in an issue and not a law.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this closed rule.

Mr. Speaker, this is a difficult issue. That is why I had hoped that we could work with the GOP leadership to reach consensus on this legislation. We have repeatedly tried to compromise with the Republican leadership to write a bill that the President could support. As my colleagues know, the President has said very clearly that he will sign this legislation if it contains a narrow exception to protect those few women who need this procedure to preserve their health. I personally asked the leadership to work with us, to craft a narrow health exception to the bill. They were unwilling.

The GOP leadership was also unwilling to allow a vote on the bipartisan

Hoyer-Greenwood substitute. That legislation would have banned all late-term abortions, all late-term abortions, except those performed to save the life or preserve the health of the pregnant woman.

The President will veto the bill in its current form. He has made that very clear. So rather than work with us to send the President a bill that he will sign, the Republican leadership would rather pass legislation that he will veto.

Let us be clear. This vote today is about the value of women's health. The President said that he will not sign a bill unless it protects women's health, and the GOP leadership will not go along. I am sorry that the leadership chose to turn this sensitive matter into a political issue. Unfortunately, it has become very clear that this leadership does not want to ban this procedure, they want a political issue.

I urge my colleagues to defeat this closed rule so that we can include a health exception to the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I strongly oppose late-term abortions, but I believe that when the mother's life or health are at risk, that choice should be made by a woman and her physician and not by the Federal Government.

Mr. Speaker, what the American people do not know about this bill is this: If we want to save babies, why does this bill just outlaw one abortion procedure? The fact is, this bill still makes it legal to have abortions at the end of the eighth or ninth month of pregnancy. What the American people do not know is that late last night the Committee on Rules refused to even let this House vote on the bipartisan Greenwood-Hoyer bill that would have outlawed all late-term abortion procedures, not just one procedure.

I can respect those who support this bill, Mr. Speaker, but they should be honest. There is no proof that this bill will save even one baby. By outlawing one procedure and allowing others, you are not saving babies, you are risking the health of mothers.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

□ 1130

Mr. BUNNING. Mr. Speaker, today I rise as a father of 9 and a grandfather of 30, in strong support of the partial-birth abortion ban and the rule which allows this bill to come to the floor.

Today's debate is different from most abortion debates we see on the floor each year. This debate is not about the viability of the fetus, this debate is not when life begins. This is about the killing of an infant.

The defenders of partial-birth abortion do not even try to deny that we

are talking about a viable human being. Instead, the defenders of partial-birth abortion have always tried to defend it by saying it is only used in cases of protecting the health and future fertility of the woman or the mother. This claim is obviously not true. Former Surgeon General C. Everett Koop, along with doctors from all over this country, have stated that partial-birth abortions are never medically necessary to protect the health or future fertility of the mother.

During the last month the truth regarding this procedure has finally come to surface. The pro-abortion movement has developed a serious credibility problem. Mr. Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, admitted that he misled Congress. The pro-abortion movement lied about partial-birth abortion. The truth is that this barbaric procedure is not a rarity. Doctors are performing thousands of partial-birth abortions each year. The majority of them are being performed as elective procedures done on healthy women carrying healthy babies. That is a tragedy.

It is time to put an end to this barbaric procedure. I ask my colleagues to join me in support of H.R. 1122.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I am pleased to follow the gentleman from Kentucky. The Hoyer-Greenwood bill would have prevented any abortion, not just by this procedure but by any procedure, I tell the gentleman from Kentucky, on healthy women with healthy babies. This bill that the gentleman is supporting will prevent not one abortion, not one. Why? Because it deals with only one procedure.

There are other procedures, and I presume that the gentleman believes those procedures are equally, in his terms, barbaric. If he does not, I would yield for a question on that issue. But my assumption is he does. So the issue here is whether they are going to allow in order Hoyer-Greenwood.

The Republican Party, when it was in the minority, railed against the Democrats for arbitrarily and arrogantly preventing amendments to reflect different views. They said we wanted to prevent open and fair debate.

Not only did the Committee on Rules last night prevent debate and prevent other amendments, they also prevented even the work of their own committee. They had the temerity to reject out of hand the committee process. This group that came to reform the Congress in 1995 and talk about process, talk about fairness, talk about openness, this rule is outrageous, America, because it does not allow the views of the American public to be reflected on this floor and allow Members the right to say, as I want to tell my constitu-

ents, and I presume many do as well, I am against late-term abortion, period. Do I make exceptions? Yes, I do.

I recently lost my wife on February 6. It was a painful experience. We have three children. I could not do anything about the cancer that gripped her body, but if I could have done something had she been pregnant with one of our three girls and saved her life, by God, I would have done it. If the doctor had told me, Judy will not be able to have further children if we do not perform an abortion, I would have said, as much as I love my three daughters, Doctor, save Judy's life and our ability to have more children.

That is what this debate is about. The Committee on Rules has muzzled us. We cannot address that issue. We address only one procedure.

Is it a procedure which we revile? It is. Is there a Member in this House who will come to this floor and tell me there is another procedure they believe is more humane, more fair, more acceptable?

If there is, have them come to the floor. I understand there is an honest difference of opinion. The alternative procedures that can be employed are not supported by many, by most, perhaps by all who will vote for this bill. I understand that. I think that is a fair position.

But what, I say to the gentleman from New York [Mr. SOLOMON] is not fair, what is deeply unfortunate in this Democratic body, is to not give us the opportunity to have Members be able to express their views by voting for or against alternative amendments.

Vote against this unfair, this unfortunate rule that has been presented to us.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. MCINNIS].

Mr. MCINNIS. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, there is nothing more unfair than using this inhumane treatment on an unborn child, a living human being. Let me quote, and I will include the article by Robert Novak in this morning's Washington Post; he says, "Hoyer's bill makes this exception: 'If in the medical judgment of the attending physician the abortion is necessary to avert serious health consequences to the woman,'" and then it goes on to say that when HOYER was asked March 12, what does that mean, and the question said, does it include mental health. Mr. HOYER said, "Yes, it does." HOYER then launched into a discourse that indicated no psychosis is necessary, only what he calls "psychological trauma."

The article goes on to say, in short, any doctor could perform a partial-birth abortion at his own inclination. That means there are no detriments at all. Any partial-birth abortion could be

allowed at any time. That is why we want this bill to be only on the issue of partial-birth abortion and not on the issue of abortion itself.

Mr. Speaker, I include for the RECORD the article referred to:

CLINTON'S ABORTION SCAM  
(By Robert D. Novak)

Rep. Steny Hoyer, a nine-term Maryland Democrat who is carrying President Clinton's abortion colors, was all too honest in a Capitol Hill press conference March 12. He revealed that his Clinton-blessed bill to supposedly ban "late-term" abortions provides no restriction at all. In fact it is a world-class scam.

Public opinion, for once, is on the pro-life side when it comes to "partial-birth" abortions, which remove the living baby from the mother, as if in a birth, and suck out its brains, often with the help of surgical scissors. The Republican-sponsored Partial-Birth Abortion Act, to be voted on by the House today, permits this only in very rare instances where the life of the mother is endangered. But Bill Clinton has promised to repeat his 1996 veto unless the health of the mother is also protected.

Accordingly, Hoyer's bill makes this exception: "if in the medical judgment of the attending physician, the abortion is necessary . . . to avert serious health consequences to the woman." What, Hoyer was asked March 12, does that mean?

"We're not talking about a hangnail," Hoyer replied. "We're not talking about a headache . . . Does it include mental health? Yes, it does." Hoyer, than launched a discourse that indicated no psychosis is necessary, only what he called "psychological trauma." In short, any doctor could perform a partial-birth abortion at his own inclination.

That's all there is to the "dramatic shift" by Clinton feverishly heralded on the Boston Globe's front page March 7. The newspaper disclosed a Clinton "compromise" would ban late-term abortions, except for the mother's life and health exemptions. That day at his press conference, the president was fuzzy about what he supported. But on March 8, the Globe reported that the White House said, "Clinton's remarks should be interpreted as an endorsement for a bill banning third-trimester abortions," though there would be a "very narrow exception for health reasons."

But not so narrow, it turned out. Four days later, Hoyer and Republican Rep. James Greenwood of Pennsylvania, ardent abortion rights advocates, introduced the bill the Globe was talking about. It would outlaw any abortion "after the fetus has become viable." The doctor on hand would be the one to define viability (the earliest a baby can survive outside the womb). So, the Hoyer-Greenwood bill really permits any abortion any time an abortionist sees fit.

A formal presidential statement will endorse that bill, Clinton aides say, if a vote on it is permitted today. On Tuesday, Hoyer asked Rep. Henry Hyde, Judiciary Committee chairman, whether the House could vote on his bill. "Over my dead body!" Hyde, long a pro-life stalwart, cheerily replied.

Hyde's obstinacy is justified by last year's comments from pro-abortion activist Susan Cohen, referring to a close Senate vote on a health-of-the-mother exception: "We were almost able to kill the bill." Hoyer-Greenwood is intended to be a killer that would mean no bill at all.

Meanwhile, the president persists in fantasies in the face of collapsing myths. Abor-

tion clinic spokesman Ron Fitzsimmons has admitted that he "lied through my teeth" last year when he "spouted the party line" that partial-birth abortions are not routine. As I wrote last December, the procedure is widespread and elective—used in the fifth and sixth months of pregnancy because it is an easier, though more grisly, way to abort the developed fetus.

In his March 8 press conference, Clinton insisted that, contrary to all medical evidence, there are "a few hundred women" a year who resort to this procedure so "that they could have further children." Why does he persist in this untruth? "Because he believes it," a senior White House aide told me.

During the 1996 campaign, the president wrote leaders of his own denomination, the Southern Baptist Convention, that when partial-birth abortion is used "in situations where a woman's serious health interests are not at risk, I do not support such uses, I do not defend them and I would sign appropriate legislation banning them." But that promise is broken by his support of Steny Hoyer's killer substitute. Clinton would be in political trouble if he violated a gun-control pledge, but not where lives of the unborn are concerned.

Mr. McINNIS. Mr. Speaker, let me say something to the gentleman from Maryland. My wife faced exactly the same challenge. I want to make it just as clear as he made it up here, there is never, ever the necessity to abort partial-birth. That means the baby is partially born, to abort that baby, to assist the mother in her challenge against cancer. That is out of this class. It never faces them. There is never a medical necessity to abort a baby 9 months after conception as the baby is all but 1 inch of the delivery.

We would not do that to the worst criminal in this country. For Members who support partial-birth abortion, would they tell me that they would take the worst criminal in this country, they would take him down for his execution, they would pierce his brain, skull, and suck out his brains? Tell me you would do that. Tell me that you support this.

In this country we have more regulations on rats and baboons than we do for the protection of a baby that is partially born.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan [Ms. KILPATRICK].

Ms. KILPATRICK. Mr. Speaker, I rise to oppose the closed rule that is before us this afternoon, and amazingly because it does not talk about abortion, it does not stop one abortion, but stops a procedure that trained professionals have been trained to make those decisions. It takes that right away from them.

As a new person in Congress and having served 18 years in the Michigan House of Representatives, I am appalled that such a rule would come before this Congress where we would not be allowed to debate the issue, where we would not be allowed to actually set forth our opinions and then come to a final vote.

The proposed rule that is before us this afternoon is not fair, it is not right, and it does not allow those who have been elected by our constituencies across America to represent our views and to speak for them.

I urge my colleagues, vote against this closed proposed rule.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, 7 days ago this little girl's mother died of cancer. She was diagnosed with cancer 5½ months into the pregnancy, but under this rule and under this bill, she could have chosen to have aborted the baby. She could have chosen to take cancer treatments. But this little girl's mother, Margie Janovich, said no, life is too precious. Life is too important. I am not going to take the life of my unborn child. I am not going to endanger it.

But even under this bill she could have chosen to go the route of an abortion. I think it is wrong, but this bill allows that. This bill is a fair bill. When we are talking about the physical health of the mother, the life of the mother is in danger, this bill allows that.

But little Mary Beth Janovich is 18 months old today. Her mother is in heaven. She made the ultimate sacrifice. She gave her life for her child. Her other eight children besides Mary Beth look at their mother and respect her mother, and know how much she loves them because she gave her life for little Mary Beth.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Speaker, let me tell the Members what I support. Like most people, I believe that late-term abortions should be outlawed unless the mother's life is in danger or she would suffer serious health problems by continuing the pregnancy. Yet I will not be permitted today to vote on this. My language would stop far more late-term abortions than what will be voted on today. But the leadership will not let us debate this.

I oppose late-term abortions. I co-sponsored legislation to outlaw them. But most people believe that if a mother's life is in danger or there is a serious health problem for the mother, then there should be an exception. That is only common sense.

This Congress today votes on eliminating only a single medical procedure, and it may stop a limited number of late-term abortions, yet I support language that stops all late-term abortions, regardless of medical procedure, unless the mother's life is in danger or she will suffer serious health consequences.

Abortion is an agonizing decision and an agonizing debate. It requires all views. Yet we are not going to be permitted today to vote and to air these

views. We will not be permitted to protect the mother against serious health consequences. I oppose this rule.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, why does the majority not want open debate on this issue, which is literally a matter of life and death? Why have they produced a rule with no amendments and required us to vote on only the most extreme measure, which they know will not become law, because the President has already said he will veto it? Why will they not let us debate this, like we would in all American systems? That is what this country is about.

But they do not want to do that, because this is not about late-term abortion. This is about politics. This is about creating a political issue that we can use in the next election to beat each other up with. That is wrong. What we should be dealing with here is the issue. There are many of us, a vast majority of the House, that agree with what 40 other States, 40 of the 50 States and the District of Columbia do in limiting late-term abortions, except allowing for both the life of the mother and the health of the mother.

We are not the AMA. We are not physicians. We are politicians. We should rely on their expertise. But let us not play politics here. Let us debate the issue. Let us debate it like America debates it, in open and fair debate.

Ms. SLAUGHTER. Mr. Speaker I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

□ 1145

Mr. GREENWOOD. Mr. Speaker, I thank the gentlewoman for yielding time to me.

When I was thinking about running for Congress a few years ago, I came to Washington and I met with the leaders of my party. The leaders of my party said there are many things wrong with the Democrats, but the thing that is perhaps the wrongest with them is that they have changed the House of Representatives, designed by our Founding Fathers to be the greatest deliberative body on Earth. They have changed it into a place where debate cannot occur. They closed the rules.

I said that I am going to run for Congress, and I am going to come to Washington, and I am going to change that process so we can have real debate in the House of Representatives again. And I did. I got here 4 years ago.

Yesterday I went to my Committee on Rules and I asked permission to bring to this floor an idea. The idea is simple. It says there is another way to look at this issue. The other way to look at this issue is that it is not important, the issue is not how an abortion is performed. The issue is when it is performed. I think there should not

be any late-term abortions, any late-term abortions. We do not want abortions in the 7th month or the 8th month or the 9th month. That is wrong. It is too late then. You had your choice. Unless your life is at stake or the woman is seriously at risk of losing her health in a serious way, critical way, and then that is her decision. That is the decision for her and her mate and her priest to make. But I was denied that, and that is wrong and that is why I am against this rule.

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

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, once again this body has been given the opportunity to draw a line against barbarism and brutality by outlawing a form of infanticide known as partial-birth abortion. I will not belabor the gruesome details.

All of us understand the mechanics of this horrendous procedure. Despite the myths that were promulgated by the abortion industry, we know that this procedure is designed to camouflage infanticide as a therapy. We have all heard how Ron Fitzsimmons of the National Coalition of Abortion Providers confessed to having lied to defend the indefensible.

The fact that Fitzsimmons was misleading people was already known last year. In a Wall Street Journal article, a number of doctors had already refuted the myths last year that had been put forward about this procedure. They pointed out that the defenders of this procedure first claimed that the abortion practice did not exist. Then they claimed that the child, yes the child, was already killed by anesthesia. That also turned out to be false. The fact is that this horror is real and that 80 percent of the time this brutal procedure is elective.

While the goal of this legislation is to put an end to this particularly horrifying procedure, I believe that the debate surrounding this legislation has served to remind the American people about the true nature of abortion, that a child is killed. It is the sacred nature of each child's life that compels this legislation. We take this step not only to blot out a particularly blatant horror but to affirm the value of life, however helpless.

As with the case with partial-birth abortion, when the shocking reality of abortion is made clear and the euphemisms are dispelled, the pro-life position prevails. It is time to draw a line against such child abuse and vote in favor of this bill and in favor of life.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I voted for the ban on partial-birth abortions last

year. I expect to do it again. But I am against this rule because it prevents me from voting in a way that fully expresses my own conscience.

My conscience tells me that this procedure ought to be prevented. But it also tells me that in cases of serious, long-term physical health damage—not temporary emotional or physical inconvenience—that the choice ought to be made not by politicians but by the woman involved. If there are not any cases where such a drastic choice exists, as is suggested by those on the Republican side of the aisle, then there would be no exceptions. So there would be no harm in allowing the House to vote on the Frank amendment. I believe the problem with this rule is that, among other things, it does not allow for a vote on the Frank amendment and it should.

Some will say it is not right to trade a life for health, that a woman who is in that situation should suffer long-term physical health problems in order to preserve a life. I might very well agree with that. I probably do theologically. But the fact is that what is being missed here is that, even in that case, it is not my choice. Who anointed me or you or any of us to make that choice in those circumstances?

The essence of adulthood is that adults are supposed to be allowed to make their own moral choices. That is what I was taught and that is what I deeply believe. This rule is nothing but a gag rule. It ensures that we will have to choose between the two political extremes on this issue. It does not allow us to search common ground, and that is dead wrong.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the time.

Mr. Speaker, I rise in support of the bill to stop partial-birth abortions and thank my colleagues who have worked so hard to bring this measure to the floor to end this gruesome procedure. I am pro-life. But regardless of one's position on the issue of abortion, whether they are pro-life or otherwise, the partial-birth abortion procedure is too inhuman to be sanctioned by any civilized society. In this procedure, the abortionist reaches into the woman and forcefully turns the baby around and delivers it, delivers the baby all the way to where almost the entire body is delivered except for the head. The baby is then stabbed in the back of the head, the brains are sucked out of the child with a vacuum. The baby of course at this point is dead, and it is then pulled out of the mother.

I have a hard time even saying this, it is one of the most disgusting and stomach-turning things that I have ever heard in my life. But as disgusting as this procedure is, what is perhaps

even more disgusting is the extreme positions that are taken to defend it. In fact when this issue was debated in the other body, one Senator concluded, when the question was asked, that it would still be the decision of the mother and the doctor to kill the child if the head accidentally slipped out of the mother as the partial-birth abortion procedure was being performed. That is outright killing of a child, and defenders of abortion try to defend it as legal, medical practice.

But that is just one example of the extreme positions that are taken to defend this horrible procedure. I would just say, Mr. Speaker, that I hope this body will come to its senses and put an end to this gruesome procedure known as partial-birth abortions.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong opposition to this rule. It is a sad day when on such an important matter, important in conscience, important to women, that the Republican Party would not allow a constructive amendment and open debate on some of the gut-wrenching issues this deceptively simple but dramatic bill raises but fails to address.

I support banning this type of abortion and every other type of abortion after viability, except when the life of the mother is endangered or her health is seriously at risk. Forty States in America have banned all late term abortions, including Connecticut. I support Connecticut's law. No procedure or any other abortion, no procedure at all to abort a viable fetus except to protect the life or health of the mother.

That is the kind of amendment I wanted to propose so we could talk about the real issues here: the rights of the mother, the life of the mother, the health of the mother, not about the rights of the fetus.

No abortions after viability. That is what we should be talking about. I urge opposition to the rule.

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

Mr. Speaker, if the previous question is defeated, I will offer an amendment making in order the amendments offered by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New York [Mr. NADLER], which were approved by the Committee on the Judiciary, and also make in order the Hoyer-Greenwood substitute. I strongly urge my colleagues to defeat the previous question so that these worthy amendments can be put in order.

This vote on whether or not to order the previous question is not merely a procedural vote. It is a vote against the agenda and a vote to allow the opposition at least for the moment to offer an alternative plan. It is a vote about what the House should be debating.

I urge, again, all my colleagues who are listening to me to understand that we are not following normal House procedure here, that another bill that had been defeated, that will be vetoed, has been brought up in a new term simply as a matter of embarrassment. I know that it may hurt, but it seems to me, in listening to the debate, that the issue itself on late term abortions has taken second place to the political question.

Mr. Speaker, I include for the RECORD the following:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling if January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the *Legislative Process in the United States House of Representatives*, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

"Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

"Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

PREVIOUS QUESTION TO H.R. 100

On page 2, line 1, of House Resolution 100, strike "(2)" and insert "(3)"

On page 2, line 1, of House Resolution 100, immediately following "Judiciary;" insert the following:

"Notwithstanding any other provision of this rule, it shall be in order to consider an amendment to be offered by Representative Frank, which shall be debatable for 30 minutes, and shall be considered as read. The text of the amendment is as follows: "in Section 1531 (a) of H.R. 1122 after "or injury" insert "or to avert serious adverse longterm physical health consequences to the mother."

"Notwithstanding any other provision of this rule, it shall be in order to consider an amendment to be offered by Representative Nadler, which shall be debatable for 30 minutes, and shall be considered as read. The text of the amendment is as follows: "in Section 1531(c)(1) of H.R. 1122 at the appropriate place add the following: "A father cannot obtain relief under this subsection if the father abused or abandoned the mother."

"Notwithstanding any other provision of this rule, it shall be in order to consider an amendment in the nature of a substitute to be offered by Representative Hoyer, or Rep. Greenwood which shall be debatable for one hour, which shall in order without intervention of any point of order or a demand for a division of the question and shall be considered as read. The text of the amendment is as follows:

Strike all after the enacting clause and insert the following:

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 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.

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

A lot of different amendments have been mentioned here today, but I would like to remind my colleagues that the veto override vote for this text in this bill today was 286 Members in the House and 58 Members in the Senate.

I would also like to remind my colleagues that the life of the mother is protected in this bill. We are bringing this bill forward because it speaks to

the partial birth procedure alone. I urge my colleagues to support the rule on H.R. 1122.

Mr. LEWIS of Kentucky. Mr. Speaker, we are set to vote on a rule for a very important piece of legislation.

I urge my colleagues on both sides of the aisle—pro-life and pro-choice—to vote "yes" on the rule.

This rule is more important than most, Mr. Speaker. I'll explain why in a moment.

We have a chance today, in light of new evidence on the subject, to save unborn, late-term babies from a horrible death most people wouldn't wish on an animal.

Let's remember what happens during this procedure: The baby, often as old as 8 or 9 months, is partially delivered. Then killed by the abortionist with surgical scissors.

For years, the proponents of abortion on demand have said that only 500 partial birth abortions were performed each year.

Only 2 weeks ago, the executive director of the National Coalition of Abortion Providers admitted he's "lied through his teeth" when he said the procedure was rarely used. He has admitted that pro-life groups are accurate when saying the procedure is more common, and almost always performed on a healthy mother.

When President Clinton vetoed the partial-birth abortion ban we passed last year, one reason he cited was that we didn't include an exception to protect the health of the mother.

Unfortunately, Mr. Speaker, U.S. abortion law defines health to include emotional, psychological, familial, and even the mother's age as factors.

Indeed, as even the defenders of this practice must admit, these are often the reasons this brutal procedure is used.

That's why I urge members to vote "yes" on the rule.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to voice my opposition to the closed rule on H.R. 1122 that is before us. There is a great deal of emotion surrounding the debate on H.R. 1122. While I may not agree with some of my colleagues views on this issue, I respect that those views are both thoughtful and deeply held. I believe that the strength of our democracy lies in the fact that we open the door to all voices and all opinions—both those that we disagree with and those that we do not.

It is for this reason that I am compelled to speak. I am distressed that this rule does not respect or acknowledge the divergence in our views. I do not ask my colleagues to agree with me on the issue of abortion, or to vote with me, but I do ask that they allow me the opportunity to cast a vote that reflects my views.

In addition, as a member of the Judiciary Committee I am disturbed to see the legislative process so manipulated. At the markup of H.R. 929, the predecessor to today's bill, the Judiciary Committee engaged in extensive, probing debate on the issue of the partial birth abortion ban. While I was not in support of the committee report that emerged from this markup, I respected the fact that it resulted from the legitimate course of the legislative process. That process has now been subverted.

H.R. 1122, the bill that is before us today, is not the bill that came before the Judiciary

Committee last week. It is not the bill that went to the Rules Committee last night. It is an even more narrow and restrictive interference with a mother's privacy, her health, and her life. Further the amendments I proposed to protect the health of the mother and to clarify that a woman would not be civilly liable if she sadly had to have this procedure were rejected. Finally, the Greenwood-Hoyer bipartisan response to protecting the life and health of the mother, although raised in the Rules by myself and others was rejected without reason.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. BARTON of Texas). The question is on ordering the previous question.

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

Mrs. MYRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to not less than 5 minutes the time within which a vote by electronic device, if ordered, may be taken on agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 243, nays 184, not voting 5, as follows:

[Roll No. 61]  
YEAS—243

Aderholt	Collins	Goodlatte
Archer	Combest	Goodling
Army	Cook	Goss
Bachus	Cooksey	Graham
Baesler	Costello	Granger
Baker	Cox	Gutknecht
Ballenger	Crane	Hall (OH)
Barcia	Crapo	Hall (TX)
Barr	Cubin	Hamilton
Barrett (NE)	Cunningham	Hansen
Bartlett	Davis (VA)	Hastert
Barton	Deal	Hastings (WA)
Bass	DeLay	Hayworth
Bateman	Diaz-Balart	Hefley
Bereuter	Dickey	Herger
Billbray	Doolittle	Hill
Billrakis	Doyle	Hilleary
Bliley	Dreier	Hobson
Blunt	Duncan	Hoekstra
Boehner	Dunn	Holden
Bonilla	Ehlers	Horn
Bono	Ehrlich	Hostettler
Brady	Emerson	Houghton
Bryant	English	Hulshof
Bunning	Ensign	Hunter
Burr	Everett	Hutchinson
Burton	Ewing	Hyde
Buyer	Fawell	Inglis
Callahan	Foley	Istook
Calvert	Forbes	Jenkins
Camp	Fowler	John
Canady	Fox	Johnson, Sam
Cannon	Franks (NJ)	Jones
Chabot	Gallely	Kanjorski
Chambliss	Ganske	Kasich
Chenoweth	Gekas	Kelly
Christensen	Gibbons	Kildee
Clement	Gilchrest	Kim
Coble	Gillmor	King (NY)
Coburn	Goode	Kingston

Klink	Packard	Shimkus
Knollenberg	Pappas	Shuster
Kolbe	Parker	Skeen
LaHood	Paul	Skelton
Largent	Paxon	Smith (MI)
Latham	Pease	Smith (NJ)
LaTourette	Peterson (MN)	Smith (OR)
Lazio	Peterson (PA)	Smith (TX)
Leach	Petri	Smith, Linda
Lewis (KY)	Pickering	Snowbarger
Linder	Pitts	Solomon
Lipinski	Pombo	Souder
Livingston	Porter	Spence
LoBlundo	Portman	Stearns
Lucas	Poshard	Stenholm
Manzullo	Pryce (OH)	Stump
Mascara	Quinn	Stupak
McCollum	Radanovich	Sununu
McCreery	Rahall	Talent
McDade	Regula	Tauzin
McHugh	Riggs	Taylor (MS)
McInnis	Riley	Taylor (NC)
McIntosh	Roemer	Thomas
McIntyre	Rogan	Thornberry
McKeon	Rogers	Thune
McNulty	Rohrabacher	Tiahrt
Metcalf	Ros-Lehtinen	Trafficant
Mica	Roukema	Turner
Miller (FL)	Royce	Upton
Mollohan	Ryun	Walsh
Moran (KS)	Salmon	Wamp
Murtha	Sanford	Watkins
Myrick	Saxton	Watts (OK)
Nethercutt	Scarborough	Weldon (FL)
Neumann	Schaefer, Dan	Weldon (PA)
Ney	Schaffer, Bob	Weller
Northup	Schiff	White
Norwood	Sensenbrenner	Whitfield
Nussle	Sessions	Wicker
Oberstar	Shadegg	Wolf
Ortiz	Shaw	Young (AK)

NAYS—184

Abercrombie	Evans	Maloney (NY)
Ackerman	Farr	Manton
Allen	Fattah	Markey
Andrews	Fazio	Martinez
Baldacci	Filner	Matsui
Barrett (WI)	Flake	McCarthy (MO)
Becerra	Foglietta	McCarthy (NY)
Bentsen	Ford	McDermott
Berman	Frank (MA)	McGovern
Berry	Frelinghuysen	McHale
Bishop	Frost	McKinney
Blagojevich	Furse	Meehan
Blumenauer	Gejdenson	Meek
Boehler	Gephardt	Menendez
Bonior	Gilman	Millender
Borski	Gonzalez	McDonald
Boswell	Gordon	Miller (CA)
Boucher	Green	Minge
Boyd	Greenwood	Mink
Brown (FL)	Gutierrez	Moakley
Brown (OH)	Harman	Molinar
Campbell	Hastings (FL)	Moran (VA)
Capps	Hefner	Morella
Cardin	Hilliard	Nadler
Carson	Hinche	Neal
Castle	Hinojosa	Obey
Clay	Hooley	Olver
Clayton	Hoyer	Owens
Clyburn	Jackson (IL)	Pallone
Condit	Jackson-Lee	Pascarell
Conyers	(TX)	Pastor
Coyne	Jefferson	Payne
Cramer	Johnson (CT)	Pelosi
Cummings	Johnson (WI)	Pickett
Danner	Johnson, E. B.	Pomeroy
Davis (FL)	Kennedy (MA)	Price (NC)
Davis (IL)	Kennedy (RI)	Ramstad
DeFazio	Kennelly	Rangel
DeGette	Kilpatrick	Reyes
Delahunt	Kind (WI)	Rivers
DeLauro	Kleczka	Rothman
Dellums	Klug	Roybal-Allard
Deutsch	Kucinich	Rush
Dicks	LaFalce	Sabo
Dingell	Lampson	Sanchez
Dixon	Lantos	Sanders
Doggett	Levin	Sandlin
Dooley	Lewis (GA)	Sawyer
Edwards	Lofgren	Schumer
Engel	Lowey	Scott
Eshoo	Luther	Serrano
Etheridge	Maloney (CT)	Shays

Sherman  
Sisisky  
Skaggs  
Slaughter  
Smith, Adam  
Snyder  
Spratt  
Stabenow  
Stark  
Stokes

Strickland  
Tanner  
Tauscher  
Thompson  
Thurman  
Tierney  
Torres  
Towns  
Velázquez  
Vento

Visclosky  
Waters  
Watt (NC)  
Waxman  
Wexler  
Weygand  
Wise  
Woolsey  
Wynn  
Yates

Manzullo  
Mascara  
McCollum  
McCreery  
McDade  
McHugh  
McInnis  
McIntyre  
McKeon  
McNulty  
Metcalf  
Mica  
Miller (FL)  
Mollohan  
Moran (KS)  
Murtha  
Myrick  
Nethercatt  
Neumann  
Ney  
Northup  
Norwood  
Nussle  
Oberstar  
Ortiz  
Packard  
Pappas  
Parker  
Pascrell  
Paul  
Paxon  
Pease  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pitts

Pombo  
Porter  
Portman  
Poshard  
Pryce (OH)  
Quinn  
Radanovich  
Rahall  
Regula  
Riggs  
Riley  
Roemer  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Roukema  
Royce  
Ryun  
Salmon  
Sanford  
Saxton  
Scarborough  
Schaefer, Dan  
Schaffer, Bob  
Schiff  
Sensenbrenner  
Sessions  
Shadegg  
Shaw  
Shimkus  
Shuster  
Sisisky  
Skeen  
Skelton  
Smith (MI)  
Smith (NJ)

Smith (OR)  
Smith (TX)  
Snowbarger  
Solomon  
Souder  
Spence  
Stearns  
Stenholm  
Stump  
Stupak  
Sununu  
Talent  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Thomas  
Thornberry  
Thune  
Tiahrt  
Traffican  
Turner  
Upton  
Walsh  
Wamp  
Watkins  
Watts (OK)  
Weldon (FL)  
Weldon (PA)  
Weller  
White  
Whitfield  
Wicker  
Wolf  
Young (AK)  
Young (FL)

Visclosky  
Waters  
Watt (NC)

Wexler  
Weygand  
Wise

Woolsey  
Wynn  
Yates

NOT VOTING—10

Bono  
Burton  
Callahan  
Hilleary

Kaptur  
McIntosh  
Oxley  
Smith, Linda

Torres  
Waxman

□ 1223

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.

PERSONAL EXPLANATION

Mr. MCINTOSH. Mr. Speaker, on rollcall No. 62, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. HILLEARY. Mr. Speaker, on rollcall No. 62, I was unavoidably detained from the House Chamber. Had I been present I would have cast my vote as a "Yes".

GENERAL LEAVE

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 100.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?  
There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair notes that there has been a disturbance in the visitor's gallery in contravention of the law and the rules of the House of Representatives. The doormen and the police will remove from the gallery those persons participating in the disturbance.

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.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 100, I

NOT VOTING—5

Brown (CA)  
Kaptur

Lewis (CA)  
Oxley

Young (FL)

□ 1214

Mr. GREENWOOD changed his vote from "yea" to "nay."

Mr. SKELTON and Mr. EHLERS changed their vote from "nay" to "yea."

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARTON of Texas). The question is on the resolution.

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

RECORDED VOTE

Mrs. MYRICK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 247, noes 175, not voting 10, as follows:

[Roll No. 62]

AYES—247

Aderholt  
Archer  
Armey  
Bachus  
Baesler  
Baker  
Ballenger  
Barcia  
Barr  
Barrett (NE)  
Bartlett  
Barton  
Bass  
Bateman  
Bereuter  
Bilbray  
Billrakis  
Billiey  
Blunt  
Boehner  
Bonilla  
Borski  
Brady  
Bryant  
Bunning  
Burr  
Buyer  
Calvert  
Camp  
Canady  
Cannon  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clement  
Coble  
Coburn  
Collins  
Combest  
Cook  
Cooksey  
Costello  
Cox  
Cramer  
Crane

Crapo  
Cublin  
Cunningham  
Danner  
Davis (VA)  
Deal  
DeLay  
Diaz-Balart  
Dickey  
Dingell  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Ehlers  
Ehrlich  
Emerson  
English  
Everett  
Ewing  
Fawell  
Foley  
Forbes  
Fowler  
Fox  
Franks (NJ)  
Gallegly  
Ganske  
Gekas  
Gibbons  
Gilchrist  
Gillmor  
Goode  
Goodlatte  
Goodling  
Gordon  
Goss  
Graham  
Granger  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hamilton  
Hansen

Hastert  
Hastings (WA)  
Hayworth  
Hefley  
Hefner  
Herger  
Hill  
Hobson  
Hoekstra  
Holden  
Hostettler  
Houghton  
Hulshof  
Hunter  
Hutchinson  
Hyde  
Ingalls  
Istook  
Jefferson  
Jenkins  
John  
Johnson, Sam  
Jones  
Kanjorski  
Kasich  
Kelly  
Kildee  
Kim  
King (NY)  
Kingston  
Klecza  
Klink  
Knollenberg  
Kucinich  
LaHood  
Largent  
Latham  
LaTourette  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
Lipinski  
Livingston  
LoBiondo  
Lucas

NOES—175

Abercromble  
Ackerman  
Allen  
Andrews  
Baldacci  
Barrett (WI)  
Becerra  
Bentsen  
Berman  
Berry  
Bishop  
Blagojevich  
Blumenauer  
Boehler  
Bonior  
Boswell  
Boucher  
Boyd  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Campbell  
Capps  
Cardin  
Carson  
Castle  
Clay  
Clayton  
Clyburn  
Condit  
Conyers  
Coyne  
Cummings  
Davis (FL)  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dellums  
Deutsch  
Dicks  
Dixon  
Doggett  
Dooley  
Edwards  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Fazio  
Filner  
Flake  
Foglietta

Ford  
Frank (MA)  
Frelinghuysen  
Frost  
Furse  
Gedjenson  
Gephardt  
Gilman  
Gonzalez  
Green  
Greenwood  
Gutierrez  
Harman  
Hastings (FL)  
Hilliard  
Hinchey  
Hinojosa  
Horn  
Hoyer  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (CT)  
Johnson (WI)  
Johnson, E. B.  
Kennedy (MA)  
Kennedy (RI)  
Kennelly  
Kilpatrick  
Kind (WI)  
Klug  
Kolbe  
LaFalce  
Lampson  
Lantos  
Lazio  
Levin  
Lewis (GA)  
Lofgren  
Lowey  
Luther  
Maloney (CT)  
Maloney (NY)  
Manton  
Markey  
Martinez  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McDermott  
Farr  
McGovern  
McHale  
McKinney  
Meehan  
Meeke

Menendez  
Millender-McDonald  
Miller (CA)  
Minge  
Mink  
Moakley  
Molinari  
Moran (VA)  
Morella  
Nader  
Neal  
Obey  
Oliver  
Owens  
Pallone  
Pastor  
Payne  
Pelosi  
Pickett  
Pomeroy  
Price (NC)  
Ramstad  
Rangel  
Reyes  
Rivers  
Rothman  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sandlin  
Sawyer  
Schumer  
Scott  
Serrano  
Shays  
Sherman  
Skaggs  
Slaughter  
Smith, Adam  
Snyder  
Spratt  
Stabenow  
Stark  
Stokes  
Strickland  
Tanner  
Tauscher  
Thompson  
Thurman  
Tierney  
Towns  
Velázquez  
Vento

call up the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 1122 is as follows:

H.R. 1122

*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 1997".

**SEC. 2. 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 two years, or both. This paragraph shall 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, illness, or injury: *Provided*, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

"(2) As used in this section, 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) 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. Pursuant to House Resolution 100, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] each will control 1 hour.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

□ 1230

Mr. Speaker, today for the fourth time the House considers an issue which has provoked discussion around the country and last year brought a flood of millions of postcards and calls to Capitol Hill. H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, bans a particular type of abortion procedure known as partial-birth abortion. A partial-birth abortion is any abortion in which a living baby is partially vaginally delivered before the abortionist kills the baby and completes the delivery. An abortionist who violates the ban would be subject to fines or a maximum of 2 years imprisonment or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban. The cause of action can be maintained by the father of the child or, if the mother is under 18, the maternal grandparents.

Thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery.

Mr. Speaker, the infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery. Thus breech delivery, a procedure which obstetricians use in some circumstances to bring healthy children into the world, is perverted and made an instrument of death. The physician traditionally trying to do everything in his power to assist and protect both mother and child during the birth process deliberately kills the child in the birth canal.

While every abortion takes a human life, the partial-birth abortion method takes that life during the fifth month of pregnancy or later as the baby emerges from the mother's womb, and this procedure bears an undeniable resemblance to infanticide. H.R. 1122 would end this cruel practice.

The realities of this practice are truly horrible to contemplate. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier.

In his testimony before the Constitution Subcommittee on June 15, 1995, Prof. Robert White, director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Re-

serve School of Medicine, stated, and I quote, "The fetus within this time-frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After specifically analyzing the partial-birth abortion procedure, Dr. White concluded, and I quote again, "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Now, the advocates of abortion have engaged in a furious effort to deny the realities of partial-birth abortion. They have repeatedly misrepresented the facts on this gruesome procedure. Shortly after H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, was introduced in 104th Congress the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood began to make a variety of false claims about the partial-birth abortion procedure. These claims continued into the 105th Congress that continue to this day. Let me give just two examples.

Opponents of the bill argued, and the media accepted, that anesthesia administered to the mother during a partial-birth abortion kills the infant before the procedure begins, and therefore there is no partial delivery of a living fetus. But Dr. Norig Ellison, the President of the American Society of Anesthesiologists, says this claim regarding anesthesia has, "absolutely no basis in scientific fact."

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy because anesthesia does not kill an infant if one does not kill the mother.

The American Medical News reported on the controversy in a January 1, 1996, article which stated, "Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some abortion proponents are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it."

The creation of this anesthesia myth by abortion advocates is particularly unconscionable because it poses a threat to the health of mothers. Dr. Ellison explained that he was deeply concerned that widespread publicity may cause pregnant women to delay necessary and perhaps lifesaving medical procedures totally related to the birthing process due to misinformation regarding the effect of anesthetics on the fetus. He also pointed out that annually more than 50,000 pregnant women receive anesthesia while undergoing necessary, even lifesaving surgical procedures. If the concept that anesthesia could produce neurologic demise of the fetus were not refuted, pregnant women might refuse to undergo necessary procedures.

Clearly, anesthesia administered during a partial-birth abortion neither kills the unborn child nor alleviates the child's pain. But despite the widespread circulation and the egregious nature of the falsehood that anesthesia harms unborn children, proabortion organizations which purport to care for women's health have taken no steps to retract their erroneous statements or to inform women that anesthesia administered to a mother does not kill her unborn child.

Abortion advocates have also claimed that partial-birth abortion is rare and used only in difficult circumstances. This has been a claim that has been at the center of the debate in opposition to this bill. In fact, the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood have falsely claimed from the beginning of the debate over partial-birth abortion that it is a rare procedure performed only in extreme cases involving severely handicapped children, serious threats to the life or the health of the mother or the potential destruction of her future fertility. Once again this claim is contradicted by the evidence.

Dr. Martin Haskell, an Ohio abortionist, told the American Medical News that the vast majority of partial-birth abortions he performs are elective. He stated, "And I'll be quite frank: Most of my abortions are elective in that 20-to-24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

Another abortionist, Dr. McMahon of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Constitution Subcommittee a graph which showed the percentage of flawed fetuses that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies that Dr. McMahon aborted were perfectly healthy, and many of the babies he described as flawed had conditions that were compatible with long life either with or without a disability. For example, Dr. McMahon listed nine partial-birth abortions performed because the baby had a cleft lip.

On September 15, 1996, the Sunday Record, a newspaper in Bergen, NJ, reported that in New Jersey alone at least 1,500 partial-birth abortions are performed each year, three times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons.

This article refuted the abortion advocates' claims that partial-birth abortion was both rare and only performed in extreme medical circumstances. The article quotes an abortionist at the New Jersey clinic that annually performs the 1,500 partial-birth abortions as describing their patients who come

in during the fifth and sixth months of pregnancy, quote:

"Most are Medicaid patients, and most are for elective, not medical, reasons. People did not realize or did not care how far along they were, most are teenagers."

The evidence is incontrovertible. Thousands of partial-birth abortions are performed every year on the healthy babies of healthy mothers during the fifth and sixth months of pregnancy. However, abortion advocates have continued to disseminate false information to Congress, the press and the public. As recently as February 25 of this year, the home page of the National Abortion Federation informed journalists and other Web visitors, quote:

"This procedure is used only in about 500 cases per year, generally after 20 weeks of pregnancy and most often when there is a severe fetal anomaly or maternal health problems detected late in pregnancy."

The same week the National Abortion Federation Web page misinformed the public the New York Times reported that an abortion rights advocate admitted that he had lied about partial-birth abortion. Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, said that he intentionally lied through his teeth. And I am using his words there. He said he lied through his teeth when he told a "Nightline" camera that partial-birth abortion is rare and performed only in extreme medical circumstances. The New York Times reported that Mr. Fitzsimmons says the procedure is performed far more often than his colleagues have acknowledged and on healthy women bearing healthy fetuses. "The abortion rights folks know," he said. The Times took some of its information from an American Medical News article in which Mr. Fitzsimmons was interviewed. Fitzsimmons told the American Medical News that proabortion spokespersons should drop their spins and half-truths. He explained that their disinformation has hurt the abortionists he represents and said:

"When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they are primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret," close quote.

Ron Fitzsimmons' admissions makes clear that the proabortion lobby has engaged in a concerted and ongoing effort to deceive the Congress and the American people about partial-birth abortion. They attempted to hide the truth because they know the American

people would be outraged by the facts that thousands of partial-birth abortions are performed every year, primarily in the fifth and sixth months of pregnancy, on the healthy mothers of healthy babies.

When President Clinton vetoed H.R. 1833 during the last Congress, he relied on information, or I should say misinformation, from abortion advocates. He claimed that, unless partial-birth abortion was performed in some situations, women would be eviscerated or ripped to shreds so they could never have another baby.

I suggest what is eviscerated and ripped to shreds in this debate by the opponents of this bill is the truth.

The claim that the President made has been proven to be completely false. When he was interviewed in the American Medical News, former Surgeon General C. Everett Koop said: "In no way can I twist my mind to see that the late-term abortion, as described, the partial birth, and then the destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortions."

In addition, a group of over 400 obstetricians, gynecologists and maternal fetal specialists have unequivocally stated partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact the opposite is true. The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.

Not only are obstetricians, gynecologists and maternal fetal specialists concerned that women may be harmed by partial-birth abortion, but a leading authority on abortion techniques himself has also expressed concern about the safety of the procedure.

Warren Hern, M.D., an abortionist who wrote the Nation's most widely used book on abortion procedures, said quote, "I have very serious reservations about this procedure. You can't really defend it. I'm not going to tell somebody else they should not do this procedure, but I'm not going to do it." He continued:

I would dispute any statement that this is the safest procedure to use. It is clear that there is no need for partial-birth abortion. Look at what this procedure is. This is partial-birth abortion.

Now, I have described this procedure many times in the course of this debate. Every time I describe it, I wince. This is something we should not have to be talking about here. But this is something that is going on in America, and it is something that the American people have a right to know about, and it is something which should come to an end.

In partial-birth abortion, guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

□ 1245

The baby's leg is pulled out into the birth canal. The abortionist delivers the baby's entire body, except for the head. Then, and this is the critical step in this procedure, I hope all of the Members will pay particular attention to this step, because in this step the abortionist jabs scissors into the baby's skull, the scissors are then opened to enlarge the hole made in the baby's skull. Of course, that is the step that kills the baby.

Then, having killed the child, the scissors are removed and a suction catheter is inserted into the hole, the baby's brains are sucked out, and the delivery is completed.

Let me ask my colleagues this, particularly those who have claimed that this is a procedure necessary to protect the health of women. How could jamming scissors into the back of the baby's head be required for the health of the mother? If my colleagues look at this procedure, they will simply see that the claims make no sense. The claims made by supporters of partial-birth abortion about the mother's health, along with all of the other falsehoods, are advanced by people who are desperate to escape from reality in their quest to defend the indefensible.

In this House many issues come and go. Most of the votes we cast in this Chamber are soon forgotten. But today's vote on partial-birth abortion will be remembered. The Members of this House will not be able to escape their responsibility for the votes they cast on this important issue. I appeal to my colleagues, put aside the myths, put aside the distortions, put aside all of the misinformation. Look at the facts. Consider the truth. Face up to the reality of partial-birth abortion. Look at this procedure, look at it, look at what it results in. It cannot be defended. Support the Partial-Birth Abortion Ban Act and bring this brutal practice to an end.

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

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

Mr. Speaker, I say to my colleagues of the 105th Congress, we assemble again to take up an issue that we have dealt with in the previous Congress, the President has dealt with by vetoing it, the Congress has dealt with the attempt to override by not being able to override, and so we gather today with the same piece of legislation attempting to do the same thing. Why?

Well, it just so happens that notwithstanding my good friend, the gentleman from Florida [Mr. CANADY], whose desire and commitment to this subject matter has led the Congress into this situation for two Congresses in a row, we are faced with a constitutional problem.

Let us spell it out right at the beginning of this debate, shall we?

It is a constitutional problem that we did not invent, and it is embodied in two parts of the Constitution, the 5th amendment and the 14th amendment, in the parts of those amendments that are known as the due process clauses. In the due process clauses, it has been found by the U.S. Supreme Court on more than one occasion that a right of privacy to the woman that has a reproductive choice is grounded in constitutional guarantees.

Now, that is the state of the American law as we meet here this afternoon in the House of Representatives. Unfortunately, I say to the gentleman from Florida [Mr. CANADY], there is only one way we can change that, and that is through a constitutional amendment that would alter the Supreme Court's repeated findings on this subject.

So my colleagues might ask that since we have been through this exercise in the 104th Congress, why do we not just introduce a constitutional amendment? Good question. Why do we not just amend the Constitution if we are trying to stop abortion?

Well, the reason I believe is patently clear. Most Americans and certainly most women and certainly a far majority of the doctors realize that some abortions are necessary, and they also realize that some abortions are not necessary. As a matter of fact, most of the States have already outlawed the gruesome drawing that was first brought forward by the gentleman from Florida [Mr. CANADY] because that is a late-term abortion, banned by statute in 40 States and the District of Columbia, prohibited entirely. And so we want to talk about not trying to inflame this discussion.

So I say to my colleagues, we are coming back on a constitutionally protected question in which the health and the life of the mother is constitutionally protected. Elementary.

In the Canady proposal before us there is a safeguard of life; there is not a safeguard of health. Why will we not put in health?

Well, ask the gentleman. But because it is not in here, we are not able to move this forward as a constitutional proposition, whether myself or the gentleman from Florida [Mr. CANADY] like it or not. It is unconstitutional. Most legal scholars have said that. The President has said that. Most of the Congress, in failing to override the veto, have conceded that. So why are we doing it again? Why?

Well, because the only way we can get to this problem if we do not want to introduce a constitutional amendment, as we ought to, is to go at ending abortion in this country procedure by procedure, and where else to start but the inaccurately, politically named partial-birth abortion ban. Is there such a term in medical dictionaries? No. Used in medical circles? No. Used

in political circles? Yes. Invented for the purpose of this debate? Yes. So here we are again.

The fact of the matter is, the health of the mother is what prevents the President from supporting a congressional ban. As long as we leave that out, President Clinton will veto this bill. He has told us that repeatedly, and he is telling us that again today. I am explaining it again today. I do not care how many Congresses we use, how many times we reintroduce this bill, how many times the House Committee on the Judiciary votes this to the floor, it is unconstitutional. Please understand that.

So we are here confronted with whether the health of the mother should be overridden or whether it should not. Well, we say that unless you put health in, we will have to respectfully oppose this proposition as it was in the other Congress. The President will respectfully veto this proposition as he did in the other Congress. The override is probably going to be as unsuccessful as it was in the other Congress.

So we gather here today to follow the Canady mission. No matter how legal, no matter how constitutional, we are going to do this anyway. We are going to get a vote, we are going to debate it, we are going to put up inaccurately rendered depictions.

Of course, there are doctors that agree with the gentleman from Florida [Mr. CANADY]. Of course there are doctors, and the American College of Obstetricians and Gynecologists, that do not agree with the gentleman from Florida [Mr. CANADY], and so here we are to begin the debate.

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

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond briefly to a point the gentleman made about the constitutionality of this legislation. The claim made by opponents of the bill is that this is a bill that violates Roe versus Wade. There is an important point to understand here. I do not agree with Roe. I think the Court was wrong in that decision, and that is a debate that will go on.

However, in that decision the Court dealt with the status of the unborn child. In this bill we are not dealing with the unborn child, we are dealing with a child that is partially delivered, the child that is in effect four-fifths born, and I think that distinguishes this bill from the facts in Roe, and actually in that case, which involved a Texas statute, there was a particular provision in the Texas statute which imposed penalties for killing a child in the process of birth, and the Court explicitly withheld a ruling on the constitutionality of that provision.

So I believe that although I find fault with Roe, I do not believe that this bill is inconsistent with it.

Mr. Speaker, I yield 1 minute and 15 seconds to the gentleman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Speaker, I want to express my absolute support for the Partial-Birth Abortion Ban Act. I thank the gentleman from Florida [Mr. CANADY] for all of his hard work on this bill, and I join all of those who believe in the basic value of human life in working for passage of this important legislation.

The truth of the matter is that partial-birth abortion is a horrendous act of murder. It is not a late-term abortion, it is not a necessary medical procedure. Such phrases conceal the brutal and inhumane reality. The details of a partial-birth abortion are horrible beyond words, and the law must not continue to condone so terrible an atrocity.

Today this Congress and this Nation has the opportunity to take an affirmative stand for the basic value of human life. We might talk for hours about the medical evidence, the detailed studies, and the expert testimony, all of which would tell us that the ban on partial-birth abortions is the right and just thing.

However, we must always keep in mind that the fundamental issue is the life of an unborn child and the value that our Nation places on that life. This is the matter before the Congress, which is why we must make certain to pass the ban. To ban the partial-birth abortion is to say that America will not tolerate the cruelty and inhumanity that it represents.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SCOTT].

Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Michigan.

□ 1300

Mr. CONYERS. Mr. Speaker, this is implied from the Federal court decision in Ohio that the gentleman from Florida [Mr. CANADY] does not like on Roe versus Wade. The contention that H.R. 929 falls outside of the restriction of Roe because the fetus is "almost" born is fallacious on its face. The intact D&E procedure targeted by the bill, and by the way, D&E procedure is the correct term, the D&E procedure targeted by the bill falls within the general understanding of abortion. The definitions used in the bill and even the title of the bill, repeatedly utilize the term "abortion." To attempt to assert that the abortion procedures covered by the bill are somehow exempt from the constitutional protections of Roe is to abandon legal credibility. Indeed any arguments to such effect have already been implicitly rejected by the

Federal court in Ohio, which has found unconstitutional a State law ban on intact D&E procedures absent an adequate health exception.

Mr. SCOTT. Could the gentleman indicate what he was reading, Mr. Speaker?

We will get the citation on that for the gentleman.

Mr. Speaker, I cannot support this bill because it is unconstitutional. In a full committee debate on a similar bill, the proponents have acknowledged that it is in fact unconstitutional under the present Supreme Court decisions. Though abortion has always been a controversial issue, the fact is that since 1973, in the Supreme Court Roe versus Wade, abortion has been legal in this country.

It is still the law of the land that a woman's right to an abortion before fetal viability is a fundamental right, but the Government may prohibit postviability abortions absent a substantial threat to the life or health of the mother.

We may agree or disagree on the Supreme Court decisions, but that is in fact the law of the land. The Supreme Court has prohibited regulations that place an undue burden on women seeking abortions, and included in this undue burden concept is a prohibition against regulations that jeopardize a woman's health by chilling the physician's exercise of discretion in determining which abortion method may be used.

Mr. Speaker, this bill will prohibit the use of one procedure that may be the safest for women in certain circumstances. The American College of Obstetricians and Gynecologists, the largest organization of women's doctors, says that this legislation has the potential of prohibiting specific medical practices that are critical to the lives and health of American women.

Mr. Speaker, such interference in a physician's exercise of discretion jeopardizes the health of women and is as dangerous as it is unconstitutional. Although the health of the mother must remain the primary interest in order to meet constitutional muster, this bill includes no provision which allows an exception from the ban in those cases where other methods pose a serious health risk to the mother.

The Partial-Birth Abortion Act will not prevent a single abortion. It simply prevents one procedure that in certain circumstances is the most appropriate procedure available.

Mr. Speaker, many of my colleagues and I are open to working with the majority on language that would have brought this bill within constitutional limits. For example, many of us support a ban, a total prohibition, on all abortions not protected by Roe versus Wade; that is, all abortions not specifically excepted and prohibited from prohibition under Roe versus Wade. This

bill only prohibits one procedure, not the decision to undergo an abortion.

Therefore, if this bill passes, some women may be relegated to a more dangerous procedure which may well increase their chances of being killed, maimed, or sterilized, and I hope my colleagues will work to protect the health of the women in America by defeating this bill.

Mr. CONYERS. Mr. Speaker, if the gentleman will continue to yield, I want to point out to the gentleman from Florida [Mr. CANADY] that my referencing the statement that I read was implied from a Federal court decision in Ohio entitled Women's Medical Professional Corporation versus Voinovich.

#### GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation now being considered.

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

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, this a very difficult issue. It is difficult for Members of Congress, it is difficult for America, it traumatizes most people to debate this issue. I would hope that we could do it in a civil manner, in an intelligent manner, and in a bipartisan manner, because if we ban this particular procedure, I think we are doing what is right to bring down the number of abortions in this country that I think both sides want to accomplish.

Mr. Speaker, I know that this is difficult because many of my colleagues tell me that they are not doctors. Mr. Speaker, we are asked every day in this body to be scientists, to vote on the hydrogen program; to be road experts, and vote for ISTE programs for construction; to be gun experts and decide whether to ban an AK-47. Today we must vote on this particular issue. I would hope my colleagues, Democrat and Republican, conservative and liberal, would vote to ban this brutal, gruesome, and inhumane procedure.

When I talk about this procedure, I am not going to describe it. I am not going to describe it. I am going to give hopefully the advice that I have received from the medical community, because I am not a doctor, but I have talked to the medical profession about this.

What have they said? The American Medical Association's Council on Legislation voted unanimously, unanimously, 12 to 0, to prohibit this medical procedure, 12 to nothing. They called it basically repulsive. Surgeon General, former Surgeon General C. Everett Koop, very respected by both

sides of the aisle, has said, and I quote, "In no way can I twist my mind to see that the late-term abortion as described, you know, partial-birth and then destruction of the unborn child before the head is born, is a medical necessity for the mother."

Finally, OB-GYN's that I have talked to and my staff has talked to with over 40 years of experience have said that there is absolutely no medical need for this gruesome abortion procedure. Mr. Speaker, I would hope that we would come together today and ban this procedure.

Finally, Mr. Speaker, in the February 3, 1997 edition of Time Magazine, "How a Child's Brain Develops," we are finding that the most critical years, based upon cutting edge research, now are 0 to 5 in children's learning abilities. In 5 years we will probably learn that it takes place even earlier, and in this article, it also says that a child's capability of learning a second language is best at zero to 6.

As a Democrat that believes in education and will fight for every dollar for preschool programs, that believes in the rights of children, I would hope that we would start by banning this procedure today to help our children, and continue to fight later on to help prevent unwanted pregnancies, to help with preventive and abstinence programs, and to fund programs for our children in this Nation.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 4 minutes to the gentlewoman from New York, Mrs. NITA LOWEY, the former chair of the Congressional Woman's Caucus.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1122. This is a highly emotional and personal issue. There are deeply held views on both sides of the debate, and I know that my colleagues who oppose a woman's right to choose do so sincerely and with great conviction. Mr. Speaker, I say to my friends, I respect their beliefs but I oppose this bill.

The legislation before us today is clearly unconstitutional. It endangers the lives and health of American women. It would put doctors in jail, and it is the first step on the road to the back alley.

Mr. Speaker, this bill tramples on Roe versus Wade and is a direct assault on the constitutionally protected right to choose. The legislation bans abortions prior to fetal viability, a prohibition that the Supreme Court has repeatedly declared unconstitutional.

Prior to viability, women have the right to choose without Government interference, and although the Supreme Court has consistently ruled that abortion restrictions after viability must protect the life and health of the pregnant woman, the bill contains only a narrow exception to protect a woman's life, and no exception at all to protect her health.

The bill says that the health of the woman does not matter. I say it does. Women from around the Nation testified before Congress that this procedure protected their lives and health, women like Tammy Watts, Claudia Addes, and Maureen Britel, who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes, they had picked out names. They did not decide to abort because of a headache. They did not choose to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body stands in judgment of them? Who would impose himself in the operating room and circumscribe their options? In those tragic cases where family hear the news that their pregnancies had gone horribly awry, who should decide? When the couple gets the news that their baby's brain is growing outside of its head, that it has no spine, who should decide?

The one thing I know for sure is that this body, this Congress, should not be making that decision. At that terrible, tragic moment the Government has no place. Yet this ban will put Congress directly in the operating room, and impose the Federal Government in the doctor-patient relationship. It will force trained physicians to choose between the health of their patients and imprisonment.

We know that women will continue to seek abortions, even if they are criminalized. We remember the days before Roe versus Wade. We know that thousands of women died undergoing unsafe, illegal abortions, and we will not allow this Congress to force American women into the back alley ever again. This is just the beginning. The Republicans will not stop with one procedure. They want to ban all abortions at any time by any method.

Mr. Speaker, as a mother of three beautiful grown children, as a recent grandmother, as one who respects life with every ounce of my soul, I urge my colleagues to vote against this ban.

□ 1315

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act. America is too good for infanticide. Babies have to stay protected by our Constitution. If babies go first, who is next?

I want to take this opportunity to share with you a memo from a pro-abortion group that I just got, assuming that all women will support this gruesome procedure. They gave us instructions on how to debate the procedure and they said, and I will quote, Do

not talk about the fetus. No matter what we call it, this kills an infant. Do not argue about the procedure, the partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Mr. Speaker, I urge my colleagues to see past the smoke screen that has been created by the abortion lobby. Again, America is too good to support infanticide.

NATIONAL RIGHT TO  
LIFE COMMITTEE, INC.,  
Washington, DC, March 20, 1997.

CONGRESSMAN HOYER SAYS THE GREENWOOD-HOYER "MOTION TO RECOMMIT WITH INSTRUCTIONS" ALLOWS EVEN THIRD-TRIMESTER ABORTIONS FOR "MENTAL HEALTH" AND "PSYCHOLOGICAL TRAUMA"

When the House takes up the Partial-Birth Abortion Ban Act (HR 1122) Thursday, March 20, Rep. Steny Hoyer (D-Md.) and Rep. Jim Greenwood (R-Pa.) are expected to offer a "motion to recommit with instructions" that will include the substance of the measure that they introduced on March 12 as HR 1032, which they call the "Late-Term Abortion Restriction Act."

The Hoyer-Greenwood measure would: Allow all methods of abortion, including partial-birth abortion, on demand until "viability"; and

Empower the abortionist himself ("the attending physician") to define what "viability" means; and

Even after this self-defined "viability," and even in the third-trimester, allow partial-birth abortions to be performed whenever "in the medical judgment of the attending physician, the abortion is necessary . . . to avert serious adverse health consequences to the woman." [emphasis added] [see Hoyer's explanation below]

At a March 12 press conference in the House Radio-TV Gallery, which was tape-recorded, Congressman Hoyer was asked what the word "health" means in his statement. Mr. Hoyer responded as follows:

[We] included the language "serious adverse health consequences." We're not talking about a hangnail, we're not talking about a headache. Does it include—and this is one of the things that the opponents of this particular legislation, the proponents of the pro-life position, would contend—does it include mental health? Yes, it does. [emphasis added]

I point out that the overwhelming majority of Americans, and Members who vote on this floor, are for an exception for rape and incest. The exception of rape and incest, of course, is not because a pregnancy resulting from rape or incest causes a physical danger to the woman. It is because it poses a psychological trauma to the woman to carry to term, either because she is very young, impregnated by her father or brother or some other family member, or because she is raped. In the debate some years ago, for example, I used Willy Horton as an example. [End of Hoyer quote. Italics indicates Mr. Hoyer's verbal emphasis]

Thus, by the explicit statement of its author, the Hoyer-Greenwood motion would allow partial-birth abortions (and other abortions) even in the final three months of pregnancy, whenever an abortionist simply affirms that this would prevent "serious" "mental health" "consequences." Further, Mr. Hoyer's own interpretation of "mental health" is not limited to women who are, say, severely psychotic. Rather, Mr. Hoyer

explicitly acknowledged that "serious . . . health" covers "psychological trauma." Legally, the language is all-encompassing.

Moreover, under the Hoyer-Greenwood measure, the abortionist himself decides what "viability" means. This is like Congress passing a bill to "ban" so-called "assault weapons," with a provision to allow each gundealer to define "assault weapon." The Hoyer-Greenwood bill does not "regulate" the abortionist; rather, it empowers the abortionist to regulate himself.

In real medical practice, "viability" begins at 23 weeks, when the baby's lung development is sufficient to allow survival in about one case in four. But late-term abortionists often have their own idiosyncratic notions of when "viability" occurs, which may have no relationship to neonatal medicine or to the babies' actual survival prospects.

In short, the Hoyer-Greenwood bill does not "restrict" abortions after viability, nor does it "restrict" third-trimester abortions. Indeed, the Hoyer measure would be an empowerment by Congress for abortionists to perform third-trimester abortions with complete impunity.

Under the Hoyer-Greenwood measure, Congress would confer on the abortionist himself explicit authority to judge, by his own standards and immune from review by any other authority: (1) what "viability" means, and (2) whether an abortion would prevent "serious" harm to "health," including "mental health" or "psychological trauma," in Mr. Hoyer's words.

Thus, under the Hoyer-Greenwood bill, it is impossible for an abortionist to perform an "illegal" third-trimester abortion, because he alone decides what is legal. Such a law would be a mere facade—it would not prevent a single partial-birth abortion, nor would it prevent a single third-trimester abortion.

For further documentation on partial-birth abortions, the Partial-Birth Abortion Ban Act, and the Clinton-Hoyer-Daschle "phony bans," contact the National Right to Life Committee's Federal Legislative Office at (202) 626-8820, fax (202) 347-3668, or see the NRLC Homepage at [www.nrlc.org](http://www.nrlc.org).

[From the Washington Post Health Section, Sept. 17, 1996]

#### VIABILITY AND THE LAW (By David Brown, M.D.)

The normal length of human gestation is 266 days, or 38 weeks. This is roughly 40 weeks from a woman's last menstrual period.

Pregnancy is often divided into three parts, or "trimesters." Both legally and medically, however, this division has little meaning. For one thing, there is little precise agreement about when one trimester ends and another begins. Some authorities describe the first trimester as going through the end of the 12th week of gestation. Others say the 13th week. Often the third trimester is defined as beginning after 24 weeks of fetal development.

Nevertheless, the trimester concept—and particularly the division between the second and third ones—commonly arises in discussion of late-stage abortion.

Contrary to a widely held public impression, third-trimester abortion is not outlawed in the United States. The landmark Supreme Court decisions *Roe v. Wade* and *Doe v. Bolton*, decided together in 1973, permit abortion on demand up until the time of fetal "viability." After that point, states can limit a woman's access to abortion. The court did not specify when viability begins.

In *Doe v. Bolton* the court ruled that abortion could be performed after fetal viability if the operating physician judged the procedure necessary to protect the life or health of the woman. "Health" was broadly defined.

"Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial and the woman's age—relevant to the well-being of the patient," the court wrote. "All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment."

Because of this definition, life-threatening conditions need not exist in order for a woman to get a third-trimester abortion.

For most of the century, however, viability was confined to the third trimester because neonatal intensive-care medicine was unable to keep fetuses younger than that alive. This is no longer the case.

In an article published in the journal *Pediatrics* in 1991, physicians reported the experience of 1,765 infants born with a very low birth weight at seven hospitals. About 20 percent of those babies were considered to be at 25 weeks' gestation or less. Of those that had completed 23 weeks' development, 23 percent survived. At 24 weeks, 34 percent survived. None of those infants was yet in the third trimester.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK] the ranking member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank our senior member for yielding me the time. I appreciate the skill with which he is managing our side of this very difficult issue.

I want to call attention to an amendment which the majority refused to allow. When Members have come forward, as the gentlewoman from New York just did, with an eloquence and passion that is a model of how issues ought to be discussed, and talk about threats to the health of women and talk about how this bill does not allow a doctor to take into account serious adverse health consequences, some of my friends on the other side said, well, health is too vague. Health could mean severe mental health problems. We want to rule that out.

But what they do not say is that they do not only want to rule out mental health, which seems to be a valid consideration, they would deny the use of this procedure to a woman even if the doctor could show that it was necessary to avoid serious physical damage to her health. And I have offered an amendment that says only that, that we will not preclude this if a doctor finds it necessary to avoid long-term serious adverse physical health damage. They will not allow that amendment. They will not allow even a vote on that.

The chairman of the full committee, a man of great intellectual integrity who was against abortion in any form or shape, says the reason he voted against that amendment was that if it is a choice between the life of the fetus and severe physical health damage to

the mother, then the mother must incur that damage and not only that, we in Congress will decide that the mother must incur that damage.

I think the failure to allow a vote on serious physical health adverse consequences in the first place deprives them the right to argue about mental health because they will not allow any health requirement.

We are not talking about whether or not you have an abortion at all but about the procedure. And what they are trying to do is to force a vote which would, and let us be very clear, the vote would make it impossible for a doctor to even try to show that it was necessary to use this procedure to avoid serious long-term physical damage.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, I think the point is there is not ever a case, never a case where this procedure is needed to protect the life of a woman.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman has made his point.

Let me say this, if in fact Members were confident of that, then the amendment would be harmless because this bill does not say, I do not like this bill, but I am dealing with the framework you put forward, the bill does not say, if in the opinion of the physician, it says you can have such an exception for life if it is necessary. My amendment tracks that language. My amendment says, the doctor would have to show that it was necessary to prevent long-term physical health.

The gentleman at the microphone, a doctor, is convinced that never, ever, ever in the whole history of the world would it be physically possible. That is a judgment he is qualified to make.

But I do not believe we as a Congress ought to legislate that it is never possible. The fact is that if it is never possible, the exception will not be a very large one because it is not a subjective amendment.

I will go back to what the chairman of the full committee said, as I said, a man of great integrity, he said, if there is a choice between physical damage to the mother, serious adverse physical damage, and the life of the fetus, even if we are talking about a fetus with the brain on the outside, as the gentlewoman from New York pointed out, that tragic situation, this would not be allowed.

I want to make it clear, I do not believe you should restrict into physical health in general, but here we have an unusual bill. This bill concededly by its sponsors does not try to stop abortions. It would allow all manner of abortion except this procedure.

Now, your mental health would be relevant, and it still would be as to

whether or not you could have an abortion. A severely depressive situation would be a justification for an abortion, as the exception. When we are talking only about this procedure versus that procedure, then it seems to me it is relevant to talk only about physical. But again the assertion that it is never, ever going to be physical, and we have had women and doctors who disagree, the doctors do disagree, the question is, Should the Congress adopt the view that it is never valid to try to avoid serious physical health damage to the mother if that means this particular abortion procedure?

That, I wanted to point out, is the amendment that they would not even let us vote on. That is the choice. I think it is unfortunately indicative of some Members who might rather have an issue to take to the country than a piece of legislation.

I believe the adoption of this legislation, of this amendment, even though I might not like it, could lead to a signed bill. The failure even to allow a vote on this and the insistence on defeating it, it seems to me, shows a preference for an issue over a piece of legislation.

I thank my ranking member for yielding me the time.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important, first of all, having delivered greater than 3,100 babies and cared for over 10,000 women in my medical experience, I want to again reemphasize, there is no medical indication ever for this procedure.

To answer the gentleman from Massachusetts' question, why would you, if in fact there is a reason to do this procedure, why would you do it to a live baby? Why would not the doctor kill the baby first, which in fact is what they do.

The very false arguments, false arguments that are put forward is that the baby, with the encephalocele or the externalized brain, the people that do this procedure actually kill the children first. There is no reason to use that as an argument. That sets up my second point.

This argument is about whether or not we are going to talk about the truth of the procedure. You will not find in any medical textbook, you will not find in any residency training program where they teach doctors to care for women's health, you will never find where this procedure is taught or is shown as an indicated procedure. Why not? Very simple reason: It is not ever indicated. It is not indicated in the medical literature. It has been abhorred.

There was a statement earlier that said that the ACOG was worried about this because it had the potential of inhibiting. They said, they do not like

this procedure either. What they said is the Congress dealing with these issues have the potential of inhibiting care. Potential is very much different than changing or affecting care.

We were told that this was done on a small number of infants and that it was always done or most always done on infants with severe deformities. That was an out-and-out lie. I stood on this floor last year and said that was untrue. I will tell Members today, it is untrue, absolutely, without question that this is ever needed to take care of a woman's health.

Second point, it was said that a woman's fertility can only be protected sometimes by using this. That is exactly the opposite of the truth. I can give you cases where women's fertility because of this procedure has been ruined forever. It goes against everything we are taught in the medical community to preserve fertility and to preserve a woman's health.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

First, I would say, I think the gentleman from Oklahoma's comments help focus this. He said that as far as this legislation is concerned, if the fetus was killed earlier in the procedure, then this bill would not have any affect. I think that shows, we are not here talking about not having the abortion or not bringing an end to the potential life. I think that ought to be clear.

I think we have heard arguments on the other side that suggested that this is opposition to abortion. That underlines the point that has been made here. This is not a bill about stopping abortions in any circumstances, mental health, whatever the reason. It is saying, well, you did not perform the fatal act early enough.

I think that is a great distinction with very little difference. I think that it undercuts the arguments they have been making. I think people have been led to believe that this was going to prevent late term abortion. We have the acknowledgment that it does no such thing and does not even try to.

Second, as to the medical argument, I do not think Congress ought to arbitrate disagreements among doctors. There are doctors who have said they would find this procedure useful in some particular circumstances. For Congress to legislate that it would never ever be useful physically to use this particular procedure rather than another is, it seems to me, a great overreach.

Again, I want to underline, as the gentleman from Oklahoma made clear, we are not talking about stopping abortions. We are not talking about stopping abortions even late in preg-

nancy. We are talking about dictating particular procedures to doctors even if they think the physical health of their patient would be better served otherwise.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on each side.

The SPEAKER pro tempore [Mr. MCINNIS]. The gentleman from Michigan [Mr. CONYERS] has 34¾ minutes remaining, and the gentleman from Florida [Mr. CANADY] has 34¾ minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER], a member of the Committee on the Judiciary.

Mr. BUYER. Mr. Speaker, I rise in support of this measure to ban the partial-birth abortion procedure. The procedure is defined in the bill as the partial delivery of a living fetus which is then destroyed prior to the completion of delivery. This is a particularly appalling procedure in which the difference between complete birth and abortion is a matter of a few inches in the birth canal.

The bill applies only to the procedure in which the living fetus is partially delivered prior to the abortion act being completed. There is the exception in the bill for the instances in which the life of the mother is at risk. It is amazing for me to listen to people here say we are not going to let Congress get involved in this issue. They should stay out of the operating room, when in fact Congress does get involved with prohibiting certain drugs to be used, overnight stays for mastectomy, prohibiting physician-assisted suicide.

We have got mandates. I heard a gentlewoman from New York standing here who is an advocate of the overnight stays for Medicaid births, and I agree with her. But yet she wants the Government to get involved in certain things but not certain things—drawing the line.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this bill. Make no mistake about it, this vote with all the emotional rhetoric and the exaggerated testimony is a frontal attack on Roe versus Wade, plain and simple.

The majority leadership wants to do away with Roe, the radical right wants to do away with Roe, and this bill is the first step. So let us be honest about this. This bill, which the President vetoed last year, will outlaw a medical technique which is rarely used but is sometimes required in extreme and tragic cases.

□ 1330

For example, when the life of the mother is in danger or a fetus is so malformed that it has no chance for

survival. When a woman is forced to carry a malformed fetus to term, they are in danger of chronic hemorrhaging, permanent infertility or death.

Friends, I have a personal story. My life has been touched by these extreme and tragic cases. In the early 1900's, when my grandmother was in the late stages of her first pregnancy, a terrible complication arose. At a critical moment they knew that my grandmother would die unless a late-term abortion was performed. Because of my grandmother's life and health and because her life and health were saved, my mother was born a few years later. A late-term abortion made my life possible.

Let me read my colleagues a brief list of organizations that oppose this bill: The American College of Obstetricians and Gynecologists, the American Public Health Association, the American Nurses Association, the list goes on and on. Doctors and nurses oppose this bill because they see tragic cases like my grandparents all the time. They know that H.R. 1122 will cost women their lives or reproductive health.

The majority party in this House has proved time and again its resolve to make Roe versus Wade ring hollow for most American women. We cannot let this happen. Protect a woman's right to choose, protect women's lives and women's health, leave medical decisions up to the patient and the physician, not the Congress. Vote "no" on this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee, [Mr. BRYANT] a member of the Committee on the Judiciary.

Mr. BRYANT. Mr. Speaker, I guess we have moved from the spirit of Hershey and our bipartisan retreat and we are now talking about the radical right and calling names.

I would remind the gentlewoman from California that this radical right that opposed this procedure voted in record numbers last year, 288 Members of the House, which showed a bipartisan spirit. Both Democrats and Republicans supported this ban. If they are all radical right, then more power to the radical right.

I want to talk very quickly on this issue of health. I sat on the floor last year and heard the arguments from the other side, maybe it is the radical left, I do not know, using numbers: There are only 500 of the procedures done a year and it is only in the most grossly abnormal cases. However, Mr. Fitzsimmons cleared that up when he came out and said no, that is an absolute lie.

We have seen reports out of a New Jersey newspaper where there are 1,500 procedures like this done in one hospital. Are there that many abnormalities in one hospital that they do 1,500 of these? No. I suggest to my colleagues that these are being done for the convenience of the doctors.

It is a grossly inhumane procedure. If it were a criminal penalty, it would be outlawed by the eighth amendment to the Constitution which prevents cruel and inhuman treatment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Speaker, I have only been here 3 months, and what I hear today upsets me greatly. I am against late-term abortion. I am against any kind of abortion. I am also a nurse. We have 435 Members in this Congress. Two, I believe, are doctors; two, I believe, are nurses; and yet here we are making decisions on women's health and lives and the children.

I am sorry, there is not one person in this Chamber that wants to see a child die, but I feel we are hypocrites.

I am on the Committee on Economic and Educational Opportunities and I am fighting for every dollar to certainly take care of those children that have severe disabilities. I am on the Juvenile Task Force trying to protect the children that are alive. If we cannot take care of the children that are chosen to be born in this country, because women do want children, who are we to have the right to have that decision?

Further down the road we will have bills here that we are going to be voting on so doctors can have the choice of saying what is good for a patient that has breast cancer, and yet here we stand making these choices.

No one wants to take a child's life. Nobody. Who are we to make a decision for that woman? We cannot make that decision for the woman. We are not in her shoes.

And as it seems we are going to make those choices, I am not even allowed to vote on a bill that would certainly take away late-term abortions. I am being forced to vote for a bill that I do not want. Those are the choices that I am being given here. I think that is terrible.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, during this debate we have heard a great deal about exceptions, about medical judgment and about statistics. I believe this debate goes much deeper. This debate searches out the soul of our culture. It is ultimately a question of how we are willing to define ourselves as a civilization.

We must ask ourselves, are we so self-indulgent in our Nation that all notions of right and wrong can be summarily reduced to a matter of choice? Is there no point at which we can agree that the sanctity of human life takes precedence over the lure of choice?

A recent editorial writer in Arkansas defined the true debate that we face today. He said partial-birth abortion

has long since ceased to be a medical question. It is a political question. It is about competing values. It is about whether we should be able to destroy human life in order to shape ours in a way that we would prefer. It is about what we hold sacred in our Nation. It is about our culture.

Mr. Speaker, let us reaffirm America as a culture of hope, a culture of life.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I think many people here will have noticed that there are very few women in this body, but I want to speak to the women of America:

You are the ones that this bill will harm. Ask yourself this question. What will it be like if this bill passes? When you go to your doctor's office, who will make the medical decisions? Will you and your physician or will the politicians in this room make the decision?

I want to tell my colleagues about somebody who went to her doctor's office with a terrible decision: Coreen Costello from California. They had a much-wanted pregnancy but they found that the fetus had become dreadfully damaged. What her physician said was, "We want you to have this surgery because it will save your opportunity to have another child."

They were opposed to abortion, this family, but this was a medical decision. They went ahead with the procedure. And just 2 years later, Coreen was delivered of a healthy baby.

But let me tell you, make no mistake, women of America, that the next time, if this bill passes, that you go to your doctor's office, you will not get all the options. You will not get the best medical advice. You will get the advice of a great number of politicians.

I am going to vote "no" on this bill. I am going to vote for women, I am going to vote for doctors, and I encourage my colleagues to do the same.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, today I am wearing a pin given to me by one of my constituents, Luella Britton, from Bay City, Michigan.

These tiny feet that are fully formed are the exact size of an unborn baby's feet at 10 weeks after conception, the first trimester. The procedure we are debating is most often performed during the second or third trimester. In some cases, the baby is fully developed and could survive outside the womb.

If modern medical science considers a child delivered at 24 weeks viable, how can we consider his or her counterpart expendable?

I agree that individuals should have the right to make decisions that affect their lives. I also strongly believe in the sanctity of life. If 80 percent of abortions in this country are elective,

we have to reevaluate the value that our society places on human life.

If this decision is not made in the case of rape or of incest, or if the mother's life is not in danger, then this is a selfish decision. At 10 weeks an unborn child's feet are perfectly formed. I ask my colleagues to think of an unborn child at 4 months or 8 months. That child is whole, alive, and in many cases can survive outside the womb.

A vote for House Resolution 1122 will protect children. A vote against House Resolution 1122 will end thousands of children's lives.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. DELAHUNT], a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, this legislation infringes on the constitutional right of a woman to elect a medical procedure which may, in the judgment of her physician, be the best means of preserving her life and her health. This bill is not about procedure, it is about women's lives.

At the Committee on the Judiciary markup I read into the record a portion of the testimony of Maureen Britell, a constituent of mine from Sandwich, MA. She is also a woman of remarkable courage who came forward to tell her story because of her concern that the procedure performed on her would be illegal if this bill becomes law. She describes herself as a textbook case of why this legislation is dangerous.

Mrs. Britell discovered in the sixth month of her pregnancy that her unborn daughter had a fatal anomaly in which the fetal brain fails to develop. Her doctors advised her to induce labor and end the pregnancy immediately for the sake of her health. As a devout Catholic, she was extremely reluctant to do this, but ultimately decided, with the support of her family and her priest, to have the abortion.

During the delivery, the fetus became lodged in the birth canal. The doctors had to cut the umbilical cord, ending the baby's life in order to complete the delivery and avoid serious health consequences to Mrs. Britell.

In her testimony she said, "Although the delivery did not proceed as expected, the doctors acted in a medically appropriate way and I recovered well. At the hospital we were able to hold our baby and say our goodbyes. Our parish priest performed a small Catholic funeral for the family and a few close friends. Our baby was buried at Otis Air Force Base on Cape Cod. My husband and I are still mourning the loss of our daughter."

One might have hoped that, confronted with a story such as this, the authors of this legislation would think again; that they would try to modify their bill. Unfortunately, nearly all amendments offered in committee were rejected and the bill we are considering

excludes even the few that were agreed to.

As we heard, my friend, the gentleman from Massachusetts [Mr. FRANK], offered an amendment to confine the constitutionally mandated health exception to situations in which the abortion is necessary to avert serious adverse physical health consequences to the mother. The proponents defeated that amendment and they have refused to allow a similar amendment to come to the floor today.

Supporters of this bill have expressed a concern that a health exception could mean anything and would allow a woman to have abortions for frivolous reasons. The Frank amendment, had they accepted it, would have dealt with that concern.

Rather than accept this amendment to accommodate situations like that of Maureen Britell, it was claimed that her procedure was not a partial-birth abortion at all, and would not be subject to the bill. In fact, the primary sponsor of the bill claimed at the committee markup that it was not even an abortion.

This despite the fact that her doctors considered it an abortion. Her insurance company considered it an abortion and refused to cover it. And the bill itself defines a "Partial-birth abortion" as one "in which the person performing the abortion partially vaginally delivers a living fetus before killing the infant and completing the delivery." Well, that is precisely what took place in Ms. Britell's case.

One can understand the desire of the proponents to try to distinguish such cases because they cannot answer for them. They may also be legitimately confused as to which procedures are covered by the bill and which are not. In this they would hardly be alone. A statute that unintelligible cannot pass constitutional muster. In fact, the Supreme Court has struck down an abortion statute because it, like the present bill, "condition[ed] potential criminal liability on confusing and ambiguous criteria."

Furthermore, the bill cannot be reconciled with the decision in *Roe v. Wade*. Among other things, it fails to provide an exception for the health of the mother, as both *Roe* and later cases require. A State may not prohibit abortion even after the point of fetal viability "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Even the dissenting justices in *Roe* and its companion case, *Doe v. Bolton*, said that abortion could not be barred if necessary to avoid "substantial hazards to either life or health."

Even more tellingly, the majority has refused to allow a vote on a bipartisan substitute that would bar all abortions—regardless of the procedure by which they are carried out—after the point of fetal viability, except

where necessary to preserve the woman's life or avert serious health consequences. This is the law today in 40 States and the District of Columbia. Yet it is not enough for the proponents.

That is because the true purpose of this bill was never to end a particular abortion procedure nor even to restrict late term abortions. Its true goal is to undermine the central principle of *Roe v. Wade*, which prohibits the government from placing the welfare of a non-viable fetus above the health and safety of the pregnant woman.

Again, the proponents have been quite frank about this. At our markup, the chairman himself expressed his belief that the life of the unborn child—regardless of its stage of development—should take precedence over the woman's health.

While I have only the deepest respect for the gentleman's convictions, I cannot share them. And I do not think he or anyone else has the right to impose them on a woman who finds herself in the devastating situation that Maureen Britell and her family went through. Despite the intemperate language of the bill and some of its supporters, she is not a murderer, and the choice she made was not infanticide. It was the only choice she had, and no government has the authority to take that away.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding this time to me.

Mr. Speaker, the leadership of the pro-abortion movement are highly skilled and extraordinarily savvy in masking the violence and cruelty to baby girls and boys killed by abortion and the harmful effects to women. Nobody muddies the water like they do. That leadership has now been exposed once again by one of its own as a fraud. And to think they almost got away with it again.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, has publicly confessed that he, "Lied through his teeth" when he told a TV interviewer, according to the *New York Times*, that partial-birth abortion was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

□ 1345

It seems I heard a lot of my colleagues say that in the last debate on this matter. According to the *AMA News* and the *New York Times*, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie and that in the vast majority of cases the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Mr. Fitzsimmons says that the abortion folks knew it, which means the

whole antibaby gang deliberately tried to deceive us all and the Nation. And they almost got away with it.

Interestingly, he also said the anti-abortion people, the pro-lifers, we knew it as well, and we did, and we said it on this floor. Unfortunately, there were very few who listened when we pointed out these facts.

As a matter of fact, most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National Republican Coalition for Choice, People for the American Way, Population Action International, Zero Population Growth and others who signed letters that went to my office and yours, one of them on October 25, 1995 that said, "This surgical procedure is used only in rare cases, fewer than 500 per year, and most often performed in the case of wanted pregnancies gone tragically wrong."

We know that is not true. It is a lie. We know that these groups have lied to us, and it is not the first time, Mr. Speaker, that these groups have lied to us.

Dr. Bernard Nathanson, the former abortionist who did thousands of abortions and one of the founders of NARAL, has said that lying and junk science were and continue to be commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson has said that in the early days they absolutely lied about maternal mortality, they lied about the number of illegal abortions, they lied and said that there is no link between abortion and breast cancer, and there is a link, and they lie about the so-called safety of abortion, and of course, the big lie on partial-birth abortion has been exposed for everybody in this Chamber to see. The procedure is not rare. It is common. It is common, and it is used with devastating consequences on both the mothers as well as on the babies.

Remember last year several of you took to the floor and said that anesthesia caused fetal demise. That falsehood was blown right out of the water as well as another big lie that was used by my friends on the other side of the aisle and on this side of the aisle and spoon fed to you in fact sheets and talking points by the pro-abortion lobby. The president of the American Society of Anesthesiologists, Dr. Noring Ellison came forward and testified before the Senate Judiciary Committee on November 17, 1995 and said:

I believe this . . . to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinforma-

tion regarding the effect of anesthetics on the fetus.

In my medical judgment, it would be necessary—in order to achieve neurological demise of the fetus in a partial-birth abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

I have not spoken with one anesthesiologist who agrees with Dr. McMahon's conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand.

Remember all this when Planned Parenthood, which performs or refers for 230,000 abortions each year, lobbies you and plies you with talking points and fact sheets. They simply are not to be trusted—even their ideological soulmates in the government and media should have serious doubts about these groups' credibility.

These same pro-abortion groups—many of which get huge Federal, State, and local government subsidies—also wrote us that, "lawmakers . . . have no place . . . in the operating room."

But unless you construe an unborn baby to be a disease or tumor, it is the abortionists who have turned the operating room into an execution chamber.

Like some deranged horror movie doctor who dresses well and looks respectable on the outside, the abortionist in these execution rooms partially delivers a helpless child, only to thrust a pair of scissors into the baby's head so a suction device can vacuum out his or her brains.

This is madness. This is inhumane. And lawmakers should not shrink from our moral responsibility to stop it.

Mr. CONYERS. Mr. Speaker, would the gentleman from New Jersey be reminded that we do not call each other liars in the course of the debate?

Mr. SMITH of New Jersey. Will the gentleman yield?

The SPEAKER pro tempore [Mr. MCINNIS]. The request of the gentleman from Michigan [Mr. CONYERS] is denied.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Ms. DEGETTE] and remind our membership that she is replacing Pat Schroeder, our distinguished ranking member on the Committee on the Judiciary.

Ms. DEGETTE. Mr. Speaker, I rise today to urge my colleagues to vote no on this resolution. There has been a great deal of distortion spread about this so-called partial-birth ban. First of all, this bill does not ban abortions, even post viability. It would still allow post viability abortions.

What it does do is outlaw an ill-defined medical procedure. It stops a procedure which is so vaguely defined that it is not even recognized in medical literature because partial-birth is not a medical term at all.

Tragically, deliberate confusion has driven this debate out of control to a point where rational people are ignoring the facts, their own principles and

even their own hearts. We have just heard rhetoric today that the pro-choice community has distorted the facts on this procedure. Quite to the contrary. Neither side has concrete national or State statistics on the number of intact D&E procedures that are performed.

Let us focus on what we do know and not on what we do not know. In 1992, the last year for which we have statistics, only .04 percent of all abortions even took place after 26 weeks when this procedure may become necessary. At this stage, every single one of these women were facing threats to their life or health or were carrying a fetus with severe abnormalities.

Mr. Speaker, I urge my colleagues to think rationally. To assume that any woman would choose this tragic procedure after carrying a healthy fetus for 8 or 9 months is offensive to the women who are facing this gruesome decision and it is offensive to all women.

I think if my colleagues had had the opportunity to hear Eileen Sullivan testify before the Committee on the Judiciary last week, they would understand how frightening and dangerous this proposed ban is to women.

Eileen is 1 of 11 children in an Irish Catholic family. She faced this tragedy in the eighth month. She stated to the committee: We wept. We discussed what to do, what was best and safest, and in the end she, her husband, and her doctor made this tragic choice.

Eileen Sullivan chose this procedure as a last resort. She and her husband desperately wanted this baby, but the pregnancy had gone awry. To ban this procedure for women like Ms. Sullivan who face no other option will deprive them of their lives or their future ability to have children.

Let me be clear to those who are unsure of the serious ramifications of this bill or the meaning of their vote today. In the 24 years since Roe versus Wade, American women have never been in more danger of losing their right to choose their own health decisions than they are today.

Mr. Speaker, I urge my colleagues to vote against this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, partial-birth abortions should not be a partisan issue. Democrats and Republicans who share a fundamental belief that life is precious are in agreement: The partial-birth abortion procedure is gruesome, it is hideous, and it is unnecessary. We believe that life should be protected, not cut short by a pair of scissors in the hands of an abortionist.

If there is one good thing that we can do this year, one thing that would save the lives of children who are being brutally killed, it is the passage of legislation that would outlaw this terrible procedure. Members on both sides of

the aisle know how atrocious it is, and we have all heard the grisly details, because we know the truth, that thousands of partial-birth abortions are performed each year on healthy mothers with healthy babies. We must act now to ban this terrible procedure.

Mr. Speaker, the choice is simple. We can either turn our backs and allow thousands of babies to be killed at the very moment of birth, or we can vote to preserve life, protect innocent children and ban partial-birth abortions once and for all. I urge passage of this important legislation.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, about 2 weeks ago, Members of this body went to Hershey, PA, to learn how we might disagree in a civilized manner, and I think this issue is challenging and testing the commitments we made at that time to deal and disagree with each other in a way that is respectful and civilized. This is an issue that American people have very strong feelings about, and those strong feelings are shared by Members of this body.

I think it is important that we state where we agree and where we disagree because there are some agreements. I do not believe there is a single Member of this body, and I definitely include myself, who believes that abortion ought to be an elective procedure post viability, and to the extent that any of us have suggested otherwise, we should stop doing that because we do not believe that. That is not where our disagreement is.

There are those of us in this Chamber who believe, and oftentimes it is a matter of religious belief, that abortions should be made illegal in all cases. I am not among those who believe that. But I respect the Members of this body who do. The disagreement is over who should make the decision to terminate a pregnancy post viability, when a woman's life is in danger or she is facing a serious health consequence, and then prior to viability who should make the decision in every case.

There has been a lot of discussion about numbers and who said what when. The issue is this, simply this. If there is even a single woman, and I know one, Vickie Wilson, who needs access to this procedure in order to protect against a very serious health ramification, then in my judgment she and her family, not the Congress of the United States, ought to make that decision.

That is what this issue is about. We have an alternative that would prohibit abortions post viability on an elective basis. I think we ought to adopt this alternative and I think we ought to allow the woman and her family to decide when serious health consequences and her life are at risk.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. ADERHOLT].

Mr. ADERHOLT. Mr. Speaker, I am not here to reiterate what has already been said about the partial-birth abortion procedure. We all know it is a gruesome and horrific way to end a life. We have heard the testimony of Brenda Pratt Shafer, a pro-choice nurse who wrote that witnessing this procedure was the "most horrible experience of my life," and Mr. Ron Fitzsimmons admitting that we had been lied to about the frequency of abortions on healthy fetuses. We have been told that this procedure is used rarely, in dire circumstances and only to protect the health and life of the mother. But it is just not true.

If we were to begin executing criminals by stabbing scissors in the back of their skulls and then sucking out their brains until the body goes limp, we would have every human rights group in this country screaming.

I ask my colleagues to remember that over 400 doctors, including C. Everett Koop, the former Surgeon General, has stated that it is never medically necessary to have a partial-birth abortion. In fact, in many cases the health of the mother is highly at risk and jeopardized by this procedure.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, today is the first day of spring, but I believe that we are continuing to be surrounded by darkness. I ask, Mr. Speaker, will the vote we are taking today help us reach what I believe are our twin goals, to preserve the dignity of a woman's right to choose and to decrease and diminish the need for abortions? Sadly, this vote will not.

Does the discussion we are having today create more civility in Congress? Will it create a more resilient bond of trust between ourselves and the people we represent? The answer once again, Mr. Speaker, is not at all.

Abortion is a terribly tragic consequence, but we will not take away the tragedy of abortion by banning it legislatively or by placing extreme restrictions on its availability. In my judgment, exceptions must always be sustained in the event that the life of the mother, the health of the mother, or the future reproductive capacity of the mother, are placed in jeopardy.

I wish to add, Mr. Speaker, that those who are touting this issue as a religious issue, in my humble judgment, should be a bit more cautious. Search the New Testament through and through. There are no references to abortion. For that matter examine the teachings of Jesus and see if you can find one, even one comment on abortion. I submit, Mr. Speaker, that a matter deemed so central to the faith would have drawn at least one com-

ment from the founder of the faith who did say, "He who is without sin cast the first stone," who did say "I have come that you might have life and have life more abundantly."

Tout this issue as a religious issue if you will, but please do not forget that, created in the image of God, we humans are endowed with the ability as well as the responsibility to make responsible human choices and to live with the consequences. We in the Congress, still predominantly white males, have not been given authority to usurp choice for the women who must face these terrible life defining decisions, nor are we assigned the task of being moral arbiters of a situation that defies the imposition of moral, religious, and spiritual absolutes.

The challenge that abortion presents to the well-being of this country will not go away because Congress acts on legislation whose primary purpose is to exercise excessively sanctimonious, righteous indignation.

□ 1400

Let us not substitute the real work we have to do in this Congress and in the country with intrusive and restrictive governmental decree or with questionable dogmatic fiat. I am voting against this divisive bill, Mr. Speaker, because of its dehumanizing quality and demeaning spirit that is part of it.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. BARR], a member of the Committee on the Judiciary.

Mr. BARR of Georgia. Mr. Speaker, there are certain common themes that seem to be repeating themselves by the pro-abortion arguments on the other side, over and over and over again. There is a very good reason for that. The strategy, including the precise words to use, are well laid out in a memorandum that lays out the blueprint for the pro-abortionist in this argument in order to disguise what is really at stake here. I read from a memo dated September 17, 1996, from Lake Research:

Do not talk about the health and condition of the fetus. Voters believe that this procedure, no matter what we call it, kills an infant.

Truer words were never spoken.

Do not argue about how often this procedure is used. Voters believe that even one time is too many.

Truer words were never spoken.

Do not argue about the procedure. The partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Truer words were never spoken.

Yet those on the other side that keep arguing for this horrible, gruesome procedure would have us believe that it is just commonplace, that there is nothing wrong with it, that it is simply a matter of choice. It is not simply a

matter of choice, it is a matter of life. They know it, and American voters know it.

[Memorandum]

SEPTEMBER 17, 1996.

To: Clients and friends.  
From: Lake Research.  
Subject: Positioning on so-called "partial birth" abortion.

Many of you have asked for research on the best way to frame a vote against legislation to ban the so-called "partial birth" abortion procedure. We have developed the following guidelines from a range of research we have done this fall that has touched on the issue. Overall, we believe that our strongest message is that late abortion is a medically necessary procedure to save the life and health of the mother.

Do talk about the life and the health of mothers.

Voters take the health of women, of mothers especially, very seriously. Importantly, many women who are more traditional (homemakers, for example), who tend to be anti-choice, also believe that motherhood tends to be undervalued, and they are responsive to a message that makes the health of mothers, and protecting their ability to bear children and care for them in the future, a high priority.

Don't talk about the health and condition of the fetus.

Voters believe that this procedure, no matter what we call it, kills an infant. We cannot get around this basic belief. When we start to talk about cases where the fetus is not viable, we risk sliding down a slippery slope that leads voters to conclude that we should risk subjective judgments about which babies live and which die. However, being sure to use the language of "severely deformed fetuses" helps counter this, by making clear that the infant would not be close to being viable.

Do talk about this procedure as medically necessary.

This communicates to voters that having this procedure is not a "choice," and certainly not a decision that is made casually or lightly. On the contrary, these abortions happen only in the most tragic and dire of health circumstances, and only when it is medically necessary. This language also implies that a doctor is involved, and voters believe that politicians should stay out of this decision.

Don't argue about how often this procedure is used.

The absolute number of times this procedure is used is irrelevant. Voters believe that even one time is too many. What we can say is that we wish this procedure was never necessary, but that when it is necessary to save the life and health of the mother, it should not be illegal and it should not be something that involves politicians. Instead, it should be a decision made by a woman, her family, her doctor, and her clergy.

Do put a very human face on the issue.

The other side would like voters to believe that this procedure is chosen by heartless and irresponsible people who are murdering children because it is more convenient. We know that this is not true. The women who undergo this procedure are often mothers with families. This is something tragic that happens to families, and something they would have done almost anything to avoid. President Clinton's veto message was affective in large part because he introduced America to the real women who have suffered through this.

Don't argue about the procedure.

The "partial-birth" procedure is gruesome. There is no way to make it pleasant to voters, or even only distasteful. Absolutely do not try to point out inaccuracies in the other side's descriptions. It gets us nowhere.

Note that the message used by many in the pro-choice community that this legislation is just the first chip in Roe versus Wade, a foot-in-the-door strategy towards the ultimate goal of eliminating reproductive rights, works only among pro-choice activist. It is not effective among voters broadly. In addition, the message used by some that this bill is wrong because it is the first time that a specific medical procedure has been the subject of legislation is also ineffective among voters broadly. Remember that, no matter what we say, we cannot make voters think that late-term abortions are a good thing. The public is by-and-large pro-choice, but this mainly means that they think that abortion is an issue the government and politicians should pretty much stay out of, not that they view abortion as a positive choice. Most Americans would agree with President Clinton's framework of "abortion should be safe, legal, and rare," and they are comfortable with many types of regulation, including substantial restrictions on abortion after the first trimester.

In sum, there are many reasons that this legislation appalls us, but voters are most likely to agree with us when we focus on a single argument: that this is a medically necessary procedure to save the life and health of the mother, and that making it illegal is just the wrong thing to do.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the deputy whip of the minority, the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, this is not a debate that should be occurring in the Congress today. This is not a decision for us, for legislators, for policymakers. We are not men and women of medicine, of science. I am not a doctor; I did not go to medical school. We have no business telling doctors how to practice medicine.

No government, Federal, State or local, should tell a woman what she can or cannot do with her body. Decisions about health, decisions about medicine, decisions about conscience, are not for us to make. These decisions should be left in the homes, churches, and synagogues of women facing these hard, wrenching decisions.

This is an issue between a woman and her family, a woman and her doctor, a woman and her conscience, a woman and her God. Let us not invade the homes of American women, the hospital, and the health care centers. Let us not attempt to play doctor. Let us not attempt to play God. Let us say no to politicians in the bedrooms, the family rooms, and the operating rooms.

Mr. Speaker, let us say no to this ill-conceived bill.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. WELDON] a gentleman who does not play at being a doctor, who is a medical doctor.

Mr. WELDON of Florida. Mr. Speaker, I think the gentleman for yielding

this time to me, and I rise in strong support of this legislation. I would like to reference my comments to some comments made earlier about not lying or calling each other liars. And there has been a lot of debate today with claims that this procedure is rare and only used in the setting of fetal deformities, and there is an abundant amount of information out there that shows that it is not rare. We have one clinic that is reported doing 1,500 in one clinic, and then there is also abundant evidence that in the vast majority of cases there are no fetal deformities. These are done on healthy infants, and the debate is involving are we going to respect the sanctity of the life of the child?

It is not a decision just between a woman and her God. There is a third party involved in this. In many cases it is a fully developed normal child, and to repeat over and over again that it is rare and to repeat over and over again that the children, the babies, have fetal deformities is just wrong.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute to ask the distinguished doctor and Member of Congress a question.

If we add a doctor, the health exception, we would agree with the gentleman, and this bill could possibly become law. Would the gentleman have any objection to that?

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

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

Mr. WELDON of Florida. Mr. Speaker, I would be willing to accept that if the gentleman from Michigan will define "health" in terms of the physical health of the woman to mean only the life of the mother. Now the Supreme Court has decided that the health of the mother can mean just about anything. The definition of mental health is so broadly interpreted as to make any restriction meaningless.

Mr. CONYERS. Exactly right. Mr. WELDON of Florida. Has to include mental health.

Mr. CONYERS. Mr. Speaker, before I yield back to the gentleman I just want to remind him, and I thank him for his agreement, that the gentleman from Massachusetts [Mr. FRANK] tried to offer a physical health limitation amendment and was precluded by the gentleman's party's leadership. That is why we cannot come to closure on this issue. And the gentleman will have on the chance for recommittal to vote for precisely that provision that he has articulated, and I yield to the doctor.

Mr. WELDON of Florida. Mr. Speaker, I have looked into this amendment language and believe that the language is still too broad and would create a loophole in the current bill that is unacceptable.

The SPEAKER pro tempore. Time of the gentleman from Michigan has expired.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, today we face yet another attempt by the new majority to roll back a woman's right to choose. Let me place this vote today in perspective.

Last Congress there were 52 antichoice votes on the floor of Congress. My colleagues who support this bill are barely trying to disguise their agenda. They mean to attack Roe versus Wade procedure by procedure. They mean to attack the right of women to control their decisions about their health, their families, and their life. Eliminating late-term abortion is just their first step toward sending the debate back more than 20 years back before the Supreme Court.

Congress can outlaw procedures, but they can never outlaw the circumstances that lead some women to need abortions late in pregnancy. No matter how good the technology gets, tragic discoveries are sometimes made late in pregnancies, and for these women we need to have the best and safest medical care available.

This new bill would have a woman die if her life were threatened by the pregnancy itself. Again instead of allowing a doctor, a woman, and her family to make this decision, they would have the woman die.

This bill also allows abusive and absent husbands to sue doctors who perform procedures that are sometimes necessary in tragic situations. So now we care more about abusive husbands than we do about a woman's health.

How odd that the new majority calls itself family friendly. How odd that the new majority says that they want to get government off our backs. Yet they are trying to dictate, procedure by procedure, the most intimate decisions that a woman has to make in her life about her own life, about her health, and about the future of her family.

Congress has no place in women's decisions and no place in women's tragedies.

Mr. CONYERS. Mr. Speaker, I yield the gentlewoman from New York [Mrs. MALONEY] an additional 30 seconds and I ask her to yield to me.

Mrs. MALONEY of New York. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. The gentlewoman could not be more correct. The Republican platform of 1996 reads that the constitutional protection of women's right to choice should be revoked by constitutional amendment. Here are bills that are pending in the Committee on the Judiciary for doing it, at least the legitimately correct way, through a constitutional amendment. But here they are coming through the back door again with CANADY's partial-birth abortion bill.

The SPEAKER pro tempore. The Chair advises that the gentleman from

Michigan [Mr. CONYERS] has 12 minutes remaining and the gentleman from Florida [Mr. CANADY] has 23 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, my colleagues know that I do not support the Republican agenda on abortion or constitutional amendments to preclude it. In fact I have fought for a woman's right to choose. But this is an extremist amendment. This is an extremist procedure, and it is not about a woman's right to choose; it is about a baby's right to life.

That is what this is about. We have protected a woman's right to choose. That is why more than 99 percent of all the abortions performed in this country are performed before the third trimester, but if we asked the doctors who performed this procedure, they will tell us that the vast majority of these procedures are performed on young, healthy women with healthy fetuses, and it is wrong.

I spoke to a group of junior high students this morning. They asked me about this issue. I told them my position. They disagreed, and one of the women, young girls; these were 13- and 14-year-old girls; she said "But what if a girl has a baby and then she decides when that baby is almost due to be delivered that she has a lot of other things in her life and the baby is going to get in her way?" Hard to understand, but hard to sanction, hard to support.

The fact is that we discredit the credibility of the pro-choice movement, the right of a woman to control her life when we support this kind of extremist position.

I support this bill. The Democratic Party and the pro-choice movement ought to as well.

Mr. Speaker, I have been committed throughout my career to making reproductive choice a right for women as proscribed by the Supreme Court of the United States. I have fought to uphold the principle that no government should tell women that such an important decision is not her own.

And this is what the Supreme Court has said repeatedly. They said in Roe versus Wade that the Government has no right to limit a woman's right to choose to have an abortion in the first trimester of pregnancy. In the second trimester they said that the Government may make some restrictions and in the third they may restrict it entirely except to save her life or health.

With advances in medical technology the Supreme Court updated this decision. In 1992 they reformed the trimester framework in deciding Casey versus Planned Parenthood and said that States may make restrictions only after fetal viability. Recent studies suggest that this occurs around the 24th week of gestation.

The procedure in this bill defined as partial-birth abortion is not a procedure protected by the Supreme Court. It occurs after fetal viability,

and despite the lack of recorded information as to its prevalence, recent revelations of several members of the pro-choice community lead us to believe that it occurs on normal fetuses and healthy mothers.

According to the Center for Disease Control, only 1.5 percent of all abortions performed in the United States are performed after 21 weeks gestation. This argument over the number of these procedures performed is irrelevant. This procedure should not be performed on healthy viable fetuses and healthy mothers. Even if it is only once a year, but certainly not 5,000 times a year.

Let me address briefly the controversy surrounding Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers.

Mr. Fitzsimmons is a constituent of mine, and I have been acquainted with him for many years.

Mr. Fitzsimmons has been the object of criticism from many within the pro-choice community because he made the decision to confirm what had already been reported in the Washington Post and other publications. This was that late term abortions were being performed more frequently than we were being told, and that they were being performed on normal fetuses. He also confirmed that these facts were plainly inconsistent with previous statements he made.

But this episode is not about Ron Fitzsimmons. It is about the obligation of the pro-choice movement to be candid and forthcoming to members of the public, the President, and Members of this House. I hope that the pro-choice community will learn from this episode and use it as an occasion to re-channel its efforts toward a reaffirmation of the truth in public discourse and a reasonable sense of balance between the freedom to choose and taking responsibility for our actions.

Mr. CONYERS. Mr. Speaker, I reserve the balance of our time. We have a lot less than the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, those of us who are pro-life are concerned about the health of the mother, and I believe those in this body who are pro-choice are concerned about the life of the child. We cannot reduce this debate to simple accusations which demagog rather than try to embrace the whole of our separate concerns, whichever side of this debate on which we fall. The dividing line here is the exception of health of the mother, which some want to incorporate into in bill. No one argues about the need to save the life of the mother.

I have listened to statements by the AMA and Dr. Koop, and I would like to offer a statement by Dr. Bernard Nathanson who has spent a great part of his professional life dealing with these issues. Dr. Nathanson, when he made this statement, was a visiting scholar at the Center for Clinical and Research Ethics at Vanderbilt University. He says and I quote:

With respect to late-term abortions for women who suffer serious health consequences as a result of the pregnancy, let me assure you that this operation, partial-birth abortion, is so fraught with significant surgical hazards and complications that it is more likely to tip the health scales and kill the pregnant woman than it is to save her life. As the hazards and complications of the procedure, I have yet to see in the conventional peer review medical literature a well-controlled, thoroughly documented study of the procedure in question.

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But given my own extensive experience with abortion, I would venture with reasonable certainty that the short- and long-term consequences of this procedure are, to be charitable, formidable.

Mr. Speaker, I support this bill and I feel it offers the protection necessary for vulnerable children who have no voice in this matter.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Judiciary.

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

I am particularly happy to follow the two colleagues that have just spoken, because I think that it shows that this truly is an issue on which Republicans and Democrats can agree, and particularly it shows that even people like the gentleman from Virginia [Mr. MORAN], who is a pro-choice Member, see this procedure as on the other side of the acceptable line. I think it is very nice to follow both of my colleagues.

Mr. Speaker, I insert in the RECORD an article from the Sunday Record that talks about some of the facts of this procedure and some of the implications of it. I think it is very important that we speak the truth here and that we get to the bottom of this.

Basically, what we are talking about is a procedure that I believe, and I hope most of our colleagues believe, should not be countenanced in a civilized society. It is something really that we cannot tolerate in a civilized society, and therefore something that I hope we can all vote, Republicans and Democrats and yes, even some pro-choice Members, can vote to ban today.

The article referred to is as follows:

[From the Inglis, SC, Sunday Record, Sept. 15, 1996]

REVIEW AND OUTLOOK: THE FACTS ON  
PARTIAL-BIRTH ABORTION  
(By Ruth Padawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called "partial-birth" abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year in this country involve the partial-birth method, in which a live fetus is pulled partway into the birth canal before it

is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a "minuscule amount" are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors "deliver" the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D-N.Y., to call it "just too close to infanticide."

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize an abortion procedure since the landmark Roe vs. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact "dilation and evacuation"—a common name for the method, for which no standard medical term exists—is very rare, "an obstetrical non-entity," as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories for this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says "450 to 600" are done annually.

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimates jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

"I always try an intact D&E first," said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or "classic," D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. "I do an intact D&E whenever I can, because it's far safer," he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

"We've made umpteen phone calls [to find intact D&E practitioners]," said Saporta, who said she was surprised by The Record's findings. "We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment."

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is a widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses "babies" and asserts that the partial-birth method has "often been performed" in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said women would use it for reasons as frivolous as "hates being fat," "can't afford a baby and a new car," and "won't fit into prom dress."

"We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide," said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or

hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. "The nurses would stage a war," said a provider there. "The law is one thing. Real life is something else."

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedure say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, "Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by an expansive definition."

#### WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1995, the Planned Parenthood Federation of America issued a press release asserting that the procedure "is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality."

In February, the National Abortion Federation issued a release saying, "This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life."

Clinton offered the same message when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus' neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

"We have an occasional amino abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. "Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

The physician who teaches said: "In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart disease, and in another, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated."

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were "purely elective."

The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing "depression" as the most common maternal reason for his late-term non-elective abortions and listing "cleft lip" several times as the fetal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides, Saporta said, "When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy." Saporta said that claim is not true. "That has been their focus, and we've been playing defense ever since."

#### WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

"Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out?" said one of the five doctors who regularly uses the method at Metropolitan Medical in Englewood. "What matter is what's safest for the woman," and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reason the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 5 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans' queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then "delivering" it dead after 12 to 48 hours of painful labor. That method is

clearly more dangerous, and if it doesn't work the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack that is, now that abortion foes have America's attention.

Congress is expected to call for the override vote this week or next, once again turning up the heat on Clinton, barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override succeeds—a two-thirds majority is required—the measure will be sent to the Senate, where an override is less likely, given that the initial bill passed by 54 to 44, well short of the 67 votes needed.

[From the Management of Metropolitan Medical Associates, Englewood, Sept. 23]

#### ABORTION NUMBERS QUESTIONED

We, the physicians and administration of Metropolitan Medical Associates, are deeply concerned about the many inaccuracies in the article printed on Sept. 15 titled, "The facts on partial-birth abortions."

The article incorrectly asserts that MMA "performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation."

This claim is false, as is shown in reports to the N.J. Department of Health and documents submitted semiannually to the state Board of Medical Examiners. These statistics show that the total annual number of abortions for the period between 12 and 23.3 weeks is about 4,000, with the majority of these procedures being between 12 and 16 weeks.

The intact D&E procedure (erroneously labeled by abortion opponents as "partial-birth abortion") is used only in a small percentage of cases between 20 and 23.3 weeks, when a physician determines that it is the safest method available for the woman.

Certainly, the number of intact D&E procedures performed is nowhere near the 1,500 estimated in your article. MMA performs no third-trimester abortions, which the state is permitted to ban except where life and health are endangered.

Second, the article erroneously states that most women undergoing intact D&E procedures have no medical reason for termination. The article then misquotes a physician from our clinic as stating that "most are Medicaid patients . . . and most are for elective, not medical, reasons . . . Most are teenagers."

This is a misrepresentation of the information provided to the reporter. Consistent with Roe vs. Wade and state law, we do not record a woman's specific reason for having an abortion. However, all procedures for our Medicaid patients are certified as medically necessary, as required by the New Jersey Department of Human Services.

Because of the sensitive and controversial nature of the abortion issue, we feel that it is critically important to set the record straight.

[From the Inglis, SC Record, Oct. 2, 1996]

#### LETTERS TO THE EDITOR

The Record's response:

The editor replies: The Record stands behind the story and rebuts the claims in Metropolitan Medical's unsigned letter. Company officials subsequently declined through

an attorney to have their names appear on the letter.

Metropolitan Medical's letter contradicts what two prominent staff physicians at the clinic—one of whom is also a high-ranking administrator—told Staff Writer Ruth Padawer independently of each other. The first physician said the clinic each week performs 60 to 100 abortions at 20 weeks gestation or later, or 3,000 to 5,000 a year. The second physician told Padawer that the clinic handles 3,000 such cases a year.

Both physicians also independently told Padawer that at least half the post-20 week abortions performed at the clinic were by the intact D&E method.

Metropolitan Medical asserts that it performs no third-trimester abortions. The Record never said otherwise; we referred only to abortions between weeks 20 and 24.

As for the Metropolitan Medical's claim that a quotation by one of its doctors was "erroneous": Padawer read back to him all of his quotations, including the one about the Medicaid patients. She also read him the paragraph preceding the following the quotations. He confirmed the accuracy and context of each quotation. He also said he had no problem with their publication, as long as his name was not revealed. We stood by that promise.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, when something is wrong, we as a Congress are compelled to address the situation. The last Congress moved the ball forward and raised awareness that it is time for us to finish the job.

I urge this debate to remain focused on the truth. There are those that claim that this procedure is rare, yet one clinic in my home State of New Jersey admitted to performing over 1,500 of these abortions that occur while the baby's heart is still beating.

The number of these procedures, which is nothing less than infanticide, is too many in New Jersey and far too many in our Nation.

Day after day, issue after issue, Members take to the floor of the House and talk about legislation in terms of how much better it will make the lives of the American people. But before we continue on issues that might make life better, we must show a greater commitment to life itself. We must give life a chance before we can make it better.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I just would like to clarify several statements that we heard from our colleagues. The American College of Obstetricians and Gynecologists states, and I quote, "D&X may be the best and most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

My colleagues, do we want to compromise that physician's judgment in the delivery room and perhaps cause hazard to the health or life of a woman? Let us think carefully.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I am not going to stand up here and rant and rave or accuse the other side of being evil-minded, because frankly, I think there are a lot of people over there that strongly believe in their position, but I believe they are really misguided. I think instead of using their heads, maybe it is time to use their hearts.

This issue is divided between whether we should save the life of the mother or save the life of the child. Life is life. It is important no matter whose life it is. It really saddens me that we cannot stand up for the most innocent of life.

We have detailed how gruesome and how disgusting this procedure is. Many would stand up when we talk about China, when a baby girl has her back snapped when she is born because the people want a baby boy instead of a baby girl and they have a one-child policy. We say that is disgusting. We say that is infanticide. If this is not infanticide, then what is?

I would think that our God goes to the outer edges of our universe and weeps bitterly that a people could do this to the most innocent in a society. Let us stand up for all life, be it the life of the mother or the life of the baby. Let us stop this heinous practice.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very important that we take this solemn occasion in the manner that it should be taken, and that is that we are discussing life and death and we are discussing the opportunity for the future life and the fertility of a woman.

I think that this discussion also suggests very clearly that there is much disagreement with how we preserve the life and health of the mother that then preserves the life and health of the child.

Doctors disagree, and therefore, it is important to note that we here on this floor should not take it upon ourselves to interfere with a very important, delicate and personal decision. The American College of Gynecologists and Obstetricians says that the best and the most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, can only be decided by the doctor, in consultation with the patient, based upon the woman's particular circumstance.

Why are the Republicans trying to first put upon the floor of the House this bill, and then replacing it with last term's bill, and refuse to allow any consideration of real legislation that would preserve the health of the mother in order to preserve the future fertility of a woman.

What about Vicki Stellar? Vicki wanted a child, however, it was determined by her physicians that she had a fetus that did not have a brain, whose cranium was filled with water. They wanted this child. They named him Anthony. But with her God and the physician and her family, they decided that this procedure was the best procedure for Vicki to remain fertile. And because of the procedure, it preserved her fertility, and she was able to get pregnant again and able to give birth to a healthy boy named Nicholas in 1995.

This Congress had a choice that would have helped more women like Vicki. We had a bipartisan approach. We had the Greenwood-Hoyer amendment or substitute that my colleagues on the other side of the aisle could have simply accepted, that would have this Congress to preserve the life and health of the mother. This provision, to preserve the life and health, was rejected and late into the night the Republicans came with an undisclosed piece of legislation.

King Solomon had this choice, one baby and two women, and he represented the government; and King Solomon, in his wisdom, in his Biblical wisdom, knew that the women should decide. He took away government. The women decided, a life was preserved, the baby survived. Leave the choice to the woman, her physician, her family, and her spiritual leader.

Mr. Speaker, I rise this morning to voice my opposition to H.R. 1122. H.R. 1122 as it is written now presents us with a moral issue, a religious issue, and, as Members of Congress who have sworn to uphold the U.S. Constitution, a constitutional issue. I admit today that I am pro-preserving life over the tragedy of having to abort at late term. However, I am also for preserving the life and health of the woman. Sadly, we do not do that today.

Partial birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and patient; but more importantly her spiritual leader and her God.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. When this occurs the mother is faced with a terrible decision of whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the government. We should protect the sanctity of the

woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her physician, and her God. This legislation criminalizes the legal decision of physicians and potentially makes the woman liable.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain male child is their own. The power and authority to determine to whom that child belongs rests only with King Solomon, but in his wisdom this man gave those mothers the power to choose the child's fate. In his wisdom, King Solomon realized that the relationship between a mother and child is one with which the State should not interfere.

I believe that anti-abortion activists are truly committed to preserving the sanctity of life. However, those Members in their wisdom, should accept the Greenwood-Hoyer compromise amendment that would protect the health and life of the mother. I intend to vote for that legislation today. With such an exception this legislation would have been made law last year and many of these procedures could have been averted. I believe Republicans do not want bipartisan legislation to save lives. They simply want a crucifixion.

In addition, we cannot ignore the fact that H.R. 1122 is unconstitutional. We in Congress should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in *Roe versus Wade*. In *Roe* the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so must be balanced against the State's interest in protecting prenatal life. The *Roe* Court determined that post-viability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late-term abortions, except where the life or health of the mother is involved.

In *Planned Parenthood versus Casey*, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an "undue burden" on that right. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." Let's not try to overturn the law of the land.

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in *Roe* and *Casey*, which has been reaffirmed by every subsequent Supreme Court decision on this issue, and so is unconstitutional.

I ask my colleagues to vote against H.R. 1122 and in so doing signal their commitment to preserving the health and future fertility of American women and to upholding the U.S. Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming [Mrs. CUBIN].

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Florida [Mr. CAN-

ADY] for his hard work and diligence on this issue.

I am proud to say that I am an original cosponsor of the ban on partial-birth abortions. This bill, which is identical to last year's legislation, prohibits medical doctors who perform abortions from utilizing partial-birth abortion procedures.

I am married to a physician, and we have discussed this a lot of times throughout our married life and just through our intimate lives. Taking a life, a viable life, at any stage is not acceptable. One time my son said to me, "Mom, you know, I do not believe there is such a thing as an unwanted child." I believe there is such a thing as unwanted pregnancies, but not an unwanted child, and especially when that life could be viable outside the womb and when the life could go on.

Mr. Speaker, H.R. 929 imposes fines or potential imprisonment of up to 2 years for abortionists who perform partial-birth abortion, and it allows the father or maternal grandparents to file a civil lawsuit against the doctor for monetary damages. The bill, however, does include an exception to save the life of the mother.

Since the beginning of the debate over this legislation, it has become evident that there is still a great deal of misinformation about how often this procedure is actually utilized. In the last few weeks, much has been made of the abortion rights lobbyist, Ron Fitzsimmons, who admitted, and I quote, "lying through his teeth" when he said the procedure was rare and invoked almost exclusively to protect the mother's health. He was lying through his teeth when he said that.

A national organization of over 400 physicians who specialize in obstetrics, gynecology, fetal medicine, and pediatrics recently stated that, "Never is the partial-birth procedure medically indicated. Rather, such infants are regularly and safely delivered alive with no threat to the mother's health or fertility."

Mr. Speaker I ask my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas. Ms. EDDIE BERNICE JOHNSON.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to admit that I am not pro-abortion. My roots consist of growing up in the Catholic church and being educated at a Catholic college. I am a nurse, and I am pro-choice.

A woman's decision to undergo an abortion procedure is one of the most personally agonizing decisions she will have to make. In late term abortions, women have had the opportunity to choose abortion and did not because they wanted the child. But because of some untoward turn of health events, sometimes this procedure becomes necessary.

To the maximum extent possible, the Government should avoid any intrusion into this painful process. The Government cannot and should not replace family, friends, clergy, and physicians. These are not the kind of issues that any woman comes to this body to ask for an answer. This is not where they seek that advice.

We have been guaranteed by our Constitution a right to privacy and a freedom of religion. This is not the proper body to discuss life and death issues that licensed physicians and families should be making without the intrusion of this body.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, we hear a lot about the life of the mother, but that is in this bill, right here. It says, "it is necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury."

Mr. Speaker, in the name of compassion, in the name of mercy, what about the choice of the unborn child? Hear her scream, hear his scream. How can we continue to defend something as gruesome as this? Have mercy on this body.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

□ 1430

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

Mr. Speaker, the results of this debate are a foregone conclusion, yet this matter is too serious to have been treated as it has been, as a setup. There was a better way.

We have questions that need answering: Why a bill that is unconstitutional on its face in defiance of *Roe versus Wade*? Why a bill that was never considered in committee? Why a bill that trades off mother for fetus? Why a bill that is sure to be vetoed? Why a bill that lower Federal courts have already indicated was unconstitutional? Why a bill that makes a tragic necessity for a late-term abortion even more tragic?

This is very serious. It deserved to be treated seriously. It deserved the bipartisan solution that was indeed available. We have compounded the tragedy of late-term abortions here today.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, for many of us as Christians we begin to celebrate Easter this week. Easter, for our faith, represents the triumph of life over death. This legislation today could represent the triumph of life over death for thousands of the unborn.

How ironic it is for our President to surround himself with children and many photo opportunities, and submit legislation to this Congress to provide

health coverage to our children, and then to veto legislation banning the slaughter of innocent unborn.

This great Nation really is separated from other nations not just by a standard of material wealth, but rather, and most exclusively, by our standards of justice. I ask the Members, how can we claim that justice prevails in our Nation when we allow this barbaric procedure to continue unchecked? How can we as a Congress and a nation continue to ignore the health and life of children?

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I would like to read a letter which I received yesterday from a constituent in Hamden, CT:

DEAR CONGRESSWOMAN DELAURO: I am writing to implore you to vote against the bill banning late-term dilation and evacuation, more commonly known as "partial-birth abortions". The bill would ban this abortion when a mother's or the fetus's health is the reason for this choice. This is a very personal issue to me since I am one of the women who opted to undergo this procedure.

We had been trying to conceive a child for more than a year and were in the process of undergoing infertility testing when, to our surprise and utter joy, we discovered that I was pregnant. I spent many hours talking and singing to my child, and dreaming of her future; dreams which all shattered when a routine blood test at 16 weeks revealed abnormalities.

I was urged to undergo amniocentesis and ultrasound. I found myself lying on that table praying. I knew in my heart that something was terribly wrong.

The 2 weeks that followed were among the longest of my life. At one point I awakened from a nightmare sobbing. Ten days later, my husband came home early from work. He sat down on our bed and told me that our doctor had called him and the news was not good. He burst into tears.

We met with our Rabbi and a genetics counselor from the hospital. Our baby had a very rare chromosomal abnormality, so rare it did not have a name. The genetic counselor came to our home with all the case studies she could find relating to this disorder, fewer than ten. Perhaps there were so few cases because most died young or died in utero.

On December 7, 1992, I chose to end this much-desired and sought-after pregnancy. More than 4 years later I still mourn the loss of this child, a little girl. I know that our decision was the right one for all concerned and I am thankful that we have the right to make it. I feel certain that it was a decision that no woman wants to make, but one which in some situations is the least horrific of truly horrendous alternatives.

After more struggles with infertility, we were finally blessed with a wonderful, happy baby girl. She turned 2 years old last month and has been an endless source of joy and comfort to us. . . . There really are extenuating circumstances that require truly horrible measures to be taken. Thank you. Please continue in your efforts to keep abortion legal, even late in a pregnancy.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. RYUN].

Mr. RYUN. Mr. Speaker, the Lord has blessed my wife and me with four precious children. When they were babies I held them, I fed them, I took care of them, and I even helped change their diapers. I knew then that if anyone would really try and hurt them, that I would do whatever I could to defend them, and as I know all the Members would here with their children.

This is the time to stand up and to defend the innocent, the children of our country. We in this Chamber have been elected to defend the truths of our country, one of which is we believe in the rights of the individual, the pursuit of life and liberty, and the pursuit of happiness.

Have we as citizens allowed our minds and hearts to be seared in such a way that the crushing of the skull that was described earlier and the sucking out of the brains of a head that is still in the mother's womb is really to be considered a defensible act? This is a gruesome act, and if Members wince when I talk about that, then they should. How can we allow this to continue? We must stop this. A Nation cannot long endure which condones participation in such brutality and uncivilized acts.

Mr. Speaker, I challenge my colleagues that are here today and will vote later that we end this uncivilized and brutal act of partial-birth abortions.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York, JERRY NADLER, the ranking member of our subcommittee.

Mr. NADLER. Mr. Speaker, this bill says very clearly that a fetus is more important than the physical health of the mother. But this bill is not about abortion. We all have different views. Some people view abortion as murder. Some think it is perfectly permissible. Some think it permissible up to a certain stage, others to a later stage. The Supreme Court says the constitutionally guaranteed right to choose is until viability.

But this bill is not about abortion, it is about electoral politics. If an abortion is permitted under our law at 20 weeks or at 23 weeks or at 24 weeks, what moral distinction, what moral distinction is there between whether the fetus is killed in the uterus and then extracted or partially extracted and then killed? The fetus is still dead, it is an abortion. An abortion involves killing a fetus.

We have different views on abortion here, but the Supreme Court, the Constitution guarantees the right to abortion. There is no moral distinction. It is purely electoral politics, an electoral politics in which the majority wishes to put the health of the mother at risk.

Mr. Speaker, I rise to strongly oppose this unprecedented and mean-spirited assault on the constitutional right to choose.

What this bill says very clearly is that a fetus is more important than the physical health of the mother.

So, let us say a woman becomes pregnant, and while she's pregnant the father rapes her, and beats her to a pulp, and throws her down the stairs.

This abuse then causes severe damage to her and to the fetus, and the doctor tells her that, because of her injuries, carrying the pregnancy to term will probably result in permanent severe physical injury, perhaps leaving her sterilized or paralyzed for life. Maybe the fetus is so severely damaged that it has no chance at life.

Even if the doctor determines that the best abortion procedure to protect her life and health is the one that would be banned by this bill, this woman cannot have that procedure.

This woman, who is now severely traumatized, who is injured by the battering, would be forced to have another procedure that could leave her sterile, or paralyzed. The bill supporters seem to believe that it is OK.

How dare any Member, have the arrogance to step in at this critical moment and say they know best, that they have the right to make this difficult decision.

If she decides to have the abortion anyway, this bill would allow the father to sue her and her doctor. My amendments, which were accepted by the committee and included in the bill up until last night, would have prevented abusive fathers, or fathers who abandon women, from suing for damages. But this provision has been taken out.

Some Members of this House may believe that women have abortions for trivial reasons. Some have even suggested that a woman who has had a fight with her boyfriend might have a late term abortion. That is a vile slander against every woman in America today. In fact, women who choose to have abortions do not do so lightly. Some Members of Congress may not see women as rational and moral individuals, but the Constitution still recognizes their moral and individual autonomy. That is why it prohibits governmental intrusions like this bill.

But this is not about abortion. It is about electoral politics.

How dare a bunch of Washington politicians presume to dictate to American women faced with a difficult situation—in many cases, with a fetus that will not be able to survive and grow—children without brains, or with brains growing on the outside of their heads—women who are faced with the prospect of death or sterility from a ruptured uterus if they don't have this procedure. These are wrenching, life-altering moments. These women have in many instances named their babies, furnished nurseries, notified grandparents, and then, in an instant, their dreams are wiped out by tragedy.

Do we really want to make this situation the subject of a criminal prosecution or a law suit? Do we really want to see doctors in handcuffs? Do we really want to put doctors behind bars for doing what they believe is in the best interest of their patients? Do we really want to make women and their medical providers go to court to prove in lengthy litigation that death would have occurred in any event? Can this always be proved, and if so, how certain do

you have to be? Is a 50 percent chance of death tolerable under this law? Twenty-five percent? And a threat to a woman's health or to her ability to try to have more children doesn't even rate consideration in this bill.

By refusing to add an exception in order to avoid serious health consequences to the woman, the proponents of this bill are admitting that they would rather argue this issue, than ban this procedure.

Shame on this House for having the arrogance to judge people in this most vulnerable and tragic of circumstances. Shame on this House for playing politics with the lives of American families.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time for the purpose of closing.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. PELOSI].

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

Mr. Speaker, I rise in opposition to the Canady legislation, because this bill would force doctors to choose between their best medical judgment and a prison sentence. The bill is an unprecedented intrusion by Congress into medical decisionmaking, and in fact, indeed, lacks respect for women.

I urge my colleagues to vote against this legislation, and heed the words of Vicky Wilson, who said, "I strongly believe this decision should be left within the intimacy of the family unit. We are the ones who have to live with the decision." Indeed, Vicky had to do that when she was faced with carrying a fetus who had a fatal condition, and carrying it to term would have imperiled her life and her health.

I urge my colleagues to vote "no" on the Canady legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have not listened to all of the debate, but I know the substance of I think all the debate. There has been some discussion about dishonesty, misrepresentation that existed on the pro-choice side, and I suggest to Members that exists on the pro-life side of this issue.

Mr. Speaker, I will oppose this bill, and will offer at the appropriate time legislation which will in fact speak to stopping late-term abortions.

Will it have exceptions? Yes, it will. I think the overwhelming majority of Americans support exceptions. In fact, the gentleman from Illinois [Mr. HYDE] supports exceptions, rape and incest. As I have pointed out to the Committee on Rules, rape and incest is not a physical competition, it is a mental health exception.

I think, in fairness to the gentleman from Illinois [Mr. HYDE], he intellectually does not believe that ought to be accepted. I think he is intellectually honest in that position. We have legitimate differences.

This bill deals with one procedure, as if to say that this procedure ought to be eliminated. My good friend, the gentleman from New Jersey [Mr. SMITH], for whom I have great respect and affection, will tell us, I think, that none of the alternative procedures are humane, are appropriate, are anything but murder. I think that is his position.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. HOYER. I would yield.

Mr. SMITH of New Jersey. Will the gentleman yield?

The SPEAKER pro tempore. The gentleman's time has expired.

The gentleman will suspend.

The gentleman's time has expired. The gentleman from Michigan [Mr. CONYERS] has 1 minute remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of our time to the distinguished gentleman from Texas, Mr. CHET EDWARDS.

The SPEAKER pro tempore. The gentleman from Texas [Mr. EDWARDS] is recognized for 1 minute.

Mr. EDWARDS. Mr. Speaker, when I first voted on this bill in November of 1995, I agonized about it, because my wife was pregnant, 8 months pregnant with our first child, a child that I had prayed and hoped for.

Fortunately, that baby was born and is today the joy of our life. But I voted against this bill at that time because I felt no one, no one in this House had the right to tell my wife or me what we should do if her health or her fertility had been at risk.

Today I am voting against this bill with another person in mind, the child by the name of Nicholas Stella, born 1 week before our first blessed child came into this world. Had this bill been law 3 years ago, Nicholas Stella would not be alive today. What right does any Member of this House to tell Vicky Stella that she should have been denied the joy of having her son, just as we have had the joy, so many of us, of having children ourselves?

I am voting pro-life. I am voting for the lives of Nicholas Stella and all the other children who would not be alive today had this bill been the law of the land.

Mr. CANADY of Florida. Mr. Speaker, I am pleased to yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

□ 1445

Mr. HYDE. Mr. Speaker, I beg of my colleagues the courtesy of not asking me to yield. I do not intend to yield. I have much to say and little time to say it in.

Mr. Speaker, when you have a theme as large and as profound as ours is today, you need the help of great lit-

erature to describe the magnitude of the horror of partial-birth abortion. I suppose Edgar Allen Poe could describe it, but it is startling how the words of the ghost of Hamlet's father seem to anticipate our debate today:

I could a tale unfold, whose lightest word would harrow up thy soul, freeze thy young blood; make thy two eyes, like stars, start from their spheres; thy knotted and combined locks to part; and each particular hair to stand on end, like quills upon the fretful porcupine.

There is no Member of this House who does not know in excruciating detail what is done to a human being in a partial-birth abortion. A living human creature is brought to the threshold of birth. She is four-fifths born, her tiny arms and legs squirming and struggling to live. Her skull is punctured. The wound is deliberately widened. Her brains are sucked out. The remains of the deceased are extracted. In the words of the abortion lobby, the baby undergoes demise. What a creative addition to the lexicon of dehumanization.

If calling an infant a fetus helps you, if calling this obscene act intact dilation and evacuation assuages your conscience, by all means do so. Anything is better than a troubling conscience. But you must know the only thing intact in this procedure is the baby, before, of course, the abortionist plunges his scissors, his assault weapon, into her tiny neck. Then she is not very intact.

Something was rotten in the state of Denmark in Shakespeare's great drama. Something is rotten in the United States when this barbarity is not only legally sanctioned but declared a fundamental constitutional right.

While we are on Hamlet, who can forget the most famous question in all literature: "To be or not to be?" Every abortion asks that question, but forbids an answer from the tiny defenseless victim struggling to live.

When this issue was debated in the last Congress, the President and the defenders of partial-birth abortion claimed that the procedure was, in the President's now familiar euphemism, rare, and that it was used only in times of grave medical necessity. All of us know now, as many of us knew then, that those claims were lies. They were lies. The executive director of the National Coalition of Abortion Providers admitted on national television that he and others in the pro-abortion camp simply flatly lied about the incidence of partial-birth abortion.

It is not the case that these abortions are rare. It is not the case that this procedure is used only reluctantly and in extremis. It is not the case that this procedure is used only in instances of medical emergency. Partial-birth abortion, infanticide in plain English, is

business as usual in the abortion industry. That is what the executive director of the National Coalition of Abortion Providers told us.

Is this House prepared to defend the proposition that infanticide is a fundamental constitutional right?

Partial-birth abortion is not about saving life. Partial-birth abortion is about killing. Killing is an old story in the human drama, fratricide scarred the first human family, according to Genesis, but the moral prohibition on killing is as old as the temptation to kill. Most of the familiar translations of the Bible render the commandment, Thou shalt not kill. A more accurate translation of the Hebrew text would read, Thou shalt not do murder. That is to say, Thou shalt not take a life wantonly for the purposes of convenience or problem solving or economic benefit, nor trade a human life for any lesser value.

The commandment in the Decalogue against doing murder is not sectarian dogma. Its parallel is found in every moral code in human history. Why? Because it has been understood for millennia that the prohibition against wanton killing is the foundation of civilization.

There can be no civilized life in a society that sanctions wanton killing. There can be no civil society when the law makes the weak, the defenseless and the inconvenient expendable. There can be no real democracy if the law denies the sanctity of every human life. The founders of our Republic knew this. That is why they pledged their lives, their fortunes, their sacred honor to the proposition that every human being has an inalienable right to life.

Our Constitution promises equal protection under the law. Our daily pledge is for liberty and justice for all. Where is the protection, where is the justice in partial-birth infanticide?

Over more than two centuries of our national history, we Americans have been a people who struggled to widen the circle of those for whom we acknowledge a common responsibility. Slaves were freed, women were even franchised, civil rights and voting rights acts were passed, our public spaces made accessible to the handicapped, Social Security mandated for the elderly—all in the name of widening the circle of inclusion and protection.

This great trajectory in our national experience, that of inclusion, has been shattered by Roe versus Wade and its progeny. By denying an entire class of human beings the protection of the laws, we have betrayed the best in our tradition. We have also put at risk every life which someone, some day, somehow might find inconvenient. "No man is an island," preached the Dean of St. Paul's in Elizabethan times. He also said, "Every man's death diminishes me, for I am involved in mankind."

We cannot today repair all the damage done to the fabric of our culture by Roe versus Wade. We cannot undo the injustice that has been done to 35 million tiny members of the human family who have been summarily killed since the Supreme Court, strip-mining the Constitution, discovered therein a fundamental right to abortion. But we can stop the barbarity of partial-birth abortion. We can stop it. We must stop it, and we diminish our own humanity if we fail.

Historians tell us we live in the bloodiest century in human history. Lenin, Stalin, Hitler, Mao, Pol Pot, the mountain of corpses reaches to the heavens and hundreds of millions of innocents cry out for justice.

We cannot undo the horrors inflicted on the human spirit. We cannot repair the wounds already sustained by civilization. We can only say, never again.

But in saying never again, we commit ourselves to defend the sanctity of life. In saying no to the horrors of 20th century slaughter, we solemnly pledge not to do murder, because the honoring of that pledge is all that stands between us and the moral jungle.

Mr. Speaker, we have had enough of the killing. The constitutional fabric has been shredded by an unenumerated abortion license which, sad to say, includes the vicious cruelty of partial-birth abortion. The moral culture of our country is eroding when we tolerate a cruelty so great that its proponents do not even wish us to learn the truth about this procedure.

This Congress has been blatantly, willfully, maliciously lied to by proponents of the abortion license.

Enough. Enough of the lies, enough of the cruelty, enough of the distortion of the Constitution. There is no constitutional right to commit this barbarity. That is what we are being asked to affirm.

In the name of humanity, let us do so, and in the words of St. Paul, "Now is the acceptable time."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair would remind visitors in the gallery that they are not allowed to express approval or disapproval. The Chair asks that they respect that rule.

Mr. PICKERING. Mr. Speaker, several weeks ago, a national journalist asked, "What kind of nation are we that would allow a procedure known as the partial birth abortion?"

I am proud to be an original cosponsor of H.R. 929—the Partial-Birth Abortion Ban Act of 1997. Currently, thousands of these types of abortions are performed annually from the fifth and sixth months of pregnancy through the full term on healthy mothers carrying healthy babies—babies that have reached the point of viability.

The partial birth abortion is so gruesome, even some supporters of abortion are opposed to it. Senator DANIEL PATRICK MOYNIHAN refers to this heinous procedure as infanticide.

In 1995, the American Medical Association's Legislative Council—a panel consisting of 12 doctors—unanimously voted to recommend banning partial birth abortions. One of these doctors described the procedure as "basically repulsive." More than 300 physicians and medical specialists joined former U.S. Surgeon General C. Everett Koop last year in saying that this procedure is never medically necessary to protect a mother's life or her future fertility.

Mr. Speaker, it is unfortunate and disturbing that President Clinton, even when presented with clear medical evidence, refuses to support a ban on partial birth abortions. Opponents of the ban on this type of abortion characterized the procedure, in previous congressional debates, as a rare technique seldom used for anything but protection of the life of the mother or in cases of extreme fetal abnormality. But then, Mr. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, a pro-abortion group, admitted that he "lied through his teeth" last year when he said that this procedure is rare and only performed about 500 times a year under extreme circumstances. Mr. Fitzsimmons now says that thousands upon thousands of these procedures are performed every year, on primarily healthy women with healthy babies.

Mr. Speaker, I have four young children. During each of my wife's pregnancies, modern technology allowed me to hear our babies' heartbeats. Sonograms allowed me to see inside the womb as my children kicked and moved. I watched their heartbeats and counted their fingers and toes. In later stages, I touched and felt their movements inside their mother. These experiences presented clear and unmistakable evidence that there is life before birth.

Through recent technological advances, we now know many things about child development prior to birth. Sonograms and other technologies make it possible for all parents to hear, see, and touch our children before actual delivery. With this new knowledge, we cannot turn our backs on our responsibility to protect the lives of innocent children.

We must ask ourselves the same question as the journalist, "What kind of nation are we that would allow partial birth abortions?" An early observer of America, Alexis de Tocqueville, said "America is great because America is good." If this is to continue to be true, we must act now to stop this grisly procedure that opponents and supporters of abortion alike refer to as infanticide.

Mr. Speaker, it's time to call on our Nation's conscience and the "better angels of our nature." It's time to stop partial birth abortions and pass this bill for our children. We are a better Nation than one that allows such practices to exist. We can start here to renew and reaffirm that we hold certain truths as self-evident—that life and liberty are inseparable and both should be held as sacred.

Ms. MCCARTHY of Missouri. Mr. Speaker, when Congress considers issues as critical as those debated today involving the life and health of American women, public policy considerations should take precedence over partisan politics. I am disappointed that we were unable to engage in such a discussion on this difficult issue.

The procedural maneuvers of the majority party removed all hope of having meaningful consideration of the late term abortion issue. The original language proposed in H.R. 929 was dropped by the Rules Committee last night and the consideration of the bipartisan Hoyer-Greenwood measure prohibited. The Frank motion would have allowed the House to reflect further on language which would provide necessary safeguards for women who might have no other option but to use this procedure.

I firmly support the current law of the land regarding a woman's right to privacy. I believe that viable pregnancies dictate more protection and that adopting the Frank language is a reasonable solution. Unfortunately, political gamesmanship has thwarted thoughtful policymakers who want to meaningfully address this issue.

I have wrestled with this difficult vote in terms of balancing my concern associated with this specific procedure and the need to observe the Roe decision which reflects the mainstream in Congress and in America. I will continue to work for a more thoughtful deliberation by the House of Representatives on this divisive issue.

Mr. Speaker, thank you for the opportunity to discuss this important subject.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel they should only be allowed when necessary to preserve the life of or prevent serious health consequences to the mother. The bill we are considering today, like the similar bill I opposed last year, does not protect a woman from serious threats to her health—from serious threats to her future ability to have children.

Unfortunately, the leadership did not allow us to consider an alternative today that does provide an exception to preserve the life of the mother or to prevent serious health consequences to the mother. I support the Greenwood-Hoyer legislation that would ban all late-term abortions—not just those considered "partial-birth" abortions in H.R. 1122—except in cases when necessary to preserve the life of or to prevent serious health consequences to the mother, as required by the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I rise in earnest support of the Partial-Birth Abortion Ban Act. I thank the chairman of the Constitution Subcommittee, Mr. CANADY, for yielding and for his dedication to this cause. It is regrettable the President vetoed this bill, but thankfully, Mr. CANADY, along with Chairman HYDE, have continued the fight and today we again have the opportunity to present our case to the American people and to appeal directly to the President to reconsider his misguided position.

The President's veto of the Partial-Birth Abortion Ban Act is indefensible and his reason for vetoing the bill does not hold up under scrutiny. The President claims this abortion procedure is the "only way," for women with certain prenatal complications to avoid serious physical damage, including the ability to bear further children. If this is accurate, then why is partial-birth abortion not taught in a single medical residency program anywhere in the United States? Why has no peer-reviewed medical research ever endorsed it?

The fact is a partial-birth abortion is never necessary to preserve the health or future fer-

tility of the mother. However, you do not have to take my word for it. Former Surgeon General C. Everett Koop has stated he believes the President was "mislead by his medical advisors on what is fact and what is fiction in reference to late-term abortions." Dr. Koop concluded that there was no way he could twist his mind to see that a partial-birth abortion is a medical necessity for the mother. Hundreds of other doctors have come forward to reiterate Dr. Koop's position. The sad and dangerous fact is the partial-birth abortion procedure itself is very risky and poses a significant threat to the pregnant woman's health and fertility.

The difference between a partial-birth abortion and homicide is a mere 3 inches. A Congress, President, and society that strives for civility and decency should not tolerate such barbarism.

Mr. COYNE. Mr. Speaker, I am opposed to late-term abortions except in cases where it is absolutely necessary to preserve the life or the health of the mother. Accordingly, I am opposed to H.R. 929 because it does not provide for the serious health concerns of the mother when she and her doctor believe that her health is in jeopardy.

This procedure should only be used in cases where there is a serious risk to a woman's life or health, and I believe that H.R. 929 could have been drafted to allow a limited exception for those cases in which it is truly necessary.

Currently the 40 States—including Pennsylvania—that prohibit postviability abortions must provide exceptions for the life and health of the mother. Surely the supporters of H.R. 929 could have written exceptions that would prohibit the procedure in most cases but that would allow women and their physicians, in the most limited and serious of cases, access to a procedure that will preserve both the life and health of the women involved.

Further, I believe that H.R. 929 is inconsistent with Supreme Court precedent set forth in *Roe versus Wade* and upheld in *Planned Parenthood versus Casey*. Even those Justices who dissented in *Roe* asserted that life and health exceptions in abortion laws could not constitutionally be forbidden. Further, the Supreme Court has consistently held—in both *Roe* and *Casey*—that States cannot prohibit abortions before fetal viability. Because H.R. 929 does not provide an exception for threats to the mother's health, and because it prohibits some previability abortions, I believe that the legislation is unconstitutional and would be declared so by the current Supreme Court.

I believe that H.R. 929 is a tragedy. It is a tragedy not only because of the terrible consequences it will have for women facing devastating circumstances, but also because of the manner in which the bill has been moved through the legislative process. The legislation's proponents fully realize the constitutional infirmities of H.R. 929 and they fully realize the likelihood that the Supreme Court will declare the legislation unconstitutional. They have nevertheless persisted in refusing to incorporate changes in the legislation that would allow it to become law and thereby consistent with Supreme Court decisions. Because of the bill's supporters' intransigence, the good that could come from limiting the number of late-term abortions—with the appropriate constitu-

tional protections—may never be realized. I can only conclude that this legislation is being exploited for political gain. That is a tragedy.

For these reasons, I cannot support H.R. 929.

Mr. PORTMAN. Mr. Speaker, as an original cosponsor of the Partial-Birth Abortion Ban Act, I wish to express my support for outlawing the troublesome practice of partial-birth abortions. I cosponsored and supported this legislation during the last session of Congress and voted to override the President's unfortunate veto of the bill.

As my distinguished colleague from Illinois, Mr. HYDE, so eloquently pointed out earlier, partial-birth abortion is, in many respects, a polite term for infanticide. Indeed, Mr. Speaker, I ask you: What will future generations think of a society that allows this practice? For the moral health of our country, and for future generations, we should take action today to ban partial birth abortions.

Opponents of the ban suggest that partial-birth abortions are needed to protect mothers with pregnancy-related complications, but this argument simply does not hold up to the testimony of abortion providers and medical experts. Indeed, the executive director of the National Coalition of Abortion Providers has admitted that, in most cases, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus more than 20 weeks old. Former Surgeon General of the United States C. Everett Koop has said that there is "no way" he can see a medical necessity for this barbaric procedure. The American Medical Association's legislative council has unanimously supported the partial-birth abortion ban.

Congress has the opportunity today to do the right thing by banning partial-birth abortions. We have a duty to protect the unborn from this horrific procedure. I hope my colleagues will listen to their consciences and vote to make partial-birth abortions illegal once and for all.

Ms. HARMAN. Mr. Speaker, I rise today in strong opposition to H.R. 1122, the late-term abortion ban, which represents a direct challenge to *Roe versus Wade* and a woman's right to choose. I cannot support legislation which takes choices about a woman's health from her, her family, and her doctor, and places them in the hands of legislators.

And make no mistake about it: that's exactly what this bill is designed to do. With no exception for the health of the mother, this bill is not about families and children; it's about laying the groundwork for an assault on reproductive choice.

Since the initial introduction of this bill, I have met with a number of women who had the procedure this bill attempts to ban, and in each case the story was the same. These were wanted children but, to each woman's horror, it was learned at 30 weeks or more of pregnancy that the baby had such severe deformities—no internal organs, a brain outside the head, no brain—as to prevent its survival outside the womb. As Coreen Costello told me:

In my 30th week of my third pregnancy, I had a procedure that would have been

banned by [H.R. 1122]. Our daughter, Katherine Grace, was diagnosed with a lethal neurological disorder that left her unable to move any part of her tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her head was swollen with fluid, her little body was stiff and rigid and excess fluid was puddling in my uterus. Our doctors—some of the best medical experts in the world—told us there was no hope for our daughter. Because of our strong pro-life views, we rejected having an abortion. But when it became apparent that the pregnancy was affecting my health and might ruin my fertility, we knew we had to act and an intact D&E was the best option for my circumstances.

For women like Coreen Costello, the ability to bear children in the future will be jeopardized if they do not have the medical option that H.R. 1122 bans. This is a tremendously difficult, painful, and above all personal choice, and legislators should not force their will on women or medical professionals in this situation.

Mr. Speaker, there is simply no reason not to include an exemption in this bill for a woman's health. The fact that there is no such exemption in the bill's language points to the political nature of this legislation. I urge my colleagues to consider the importance of protecting women, and to vote against this bill.

Mr. WELDON of Pennsylvania. Mr. Speaker, once again we are on the floor of the House to discuss the partial birth abortion. Because of the political debate surrounding this important issue, advocates have been able to take a truly horrific procedure and whittle it down to a 5-second soundbite, a paragraph in type, and a few diagrams and charts; none of which can truly capture this gruesome operation. Gruesome as it is, however, the debate should not be about the operation itself, but rather its victim.

We are often quick to forget in this age of convenience, that as a result of each one of these procedures, a single, special, unique human life is lost. Each time, a life is stolen along with all of its potential and promise and we will never know how many future astronauts, fathers, teachers, counselors have been lost in the mechanical movement of those metzenbaum scissors.

As recent information has shown, most of the lives snuffed out are those of healthy, viable children whose only crime is temporary inconvenience. Each one is a hope, a future, and a promise that is lost and can never be recovered.

Mr. Speaker, today we have the opportunity to make a difference, to protect the lives and futures of these victims. For their future, I urge my colleagues to vote for this bill and I will look forward to the Senate and President joining us in our important work.

Mr. DOOLITTLE. Mr. Speaker I rise today in strong support of the Partial-Birth Abortion Ban Act, just as I did a year ago. I would like to insert into the RECORD the following column by Charles Krauthammer, which destroys many of the myths surrounding this issue.

[From the Washington Post, Mar. 14, 1997]

#### SAVING THE MOTHER? NONSENSE

(By Charles Krauthammer)

Even by Washington standards, the debate on partial-birth abortion has been remarkably dishonest.

First, there were the phony facts spun by opponents of the ban on partial-birth abortion. For months, they had been claiming that this grotesque procedure occurs (1) very rarely, perhaps only 500 times a year in the United States, (2) only in cases of severe fetal abnormality, and (3) to save the life or the health of the mother.

These claims are false. The deception received enormous attention when Ron Fitzsimmons, an abortion-rights advocate admitted that he had "lied through his teeth" in making up facts about the number of and rationale for partial-birth abortions.

The number of cases is many times higher—in the multiple thousands. And the majority of cases involve healthy mothers aborting perfectly healthy babies. As a doctor at a New Jersey clinic that performs (by its own doctors' estimate) at least 1,500 partial-birth abortions a year told the Bergen Record: "Most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were."

Yet when confronted with these falsehoods, pro-abortion advocates are aggressively unapologetic. Numbers are a "tactic to distract Congress," charges Vicki Saporta, executive director of the National Abortion Federation. "The numbers don't matter." Well, sure, now that hers have been exposed as false and the new ones are inconvenient to her case.

Then, the defenders of partial-birth abortion—led by President Clinton—repaired to their fall-back position: the heart-tugging claim that they are merely protecting a small number of women who, in Clinton's words, would be "eviscerated" and their bodies "ripped . . . to shreds and you could never have another baby" if they did not have this procedure.

At his nationally televised press conference last Friday, Clinton explained why this is so: "These women, among other things, cannot preserve the ability to have further children unless the enormity—the enormous size—of the baby's head is reduced before being extracted from their bodies."

Dr. Clinton is presumably talking about hydrocephalus, a condition in which an excess of fluid on the baby's brain creates an enlarged skull that presumably would damage the mother's cervix and birth canal if delivered normally.

Clinton seems to think that unless you pull the baby out feet first leaving in just the head, jam a sharp scissors into the baby's skull to crack it open, such out the brains, collapse the skull and deliver what is left—this is partial-birth abortion—you cannot preserve the future fertility of the mother.

This is utter nonsense. Clinton is either seriously misinformed or stunningly cynical. A cursory talk with obstetricians reveals that there are two routine procedures for delivering a hydrocephalic infant that involve none of this barbarity. One is simple to tap the excess (cerebral spinal) fluid (draw it out by means of a small tube while the baby is still in utero) to decompress (reduce) the skull to more normal size and deliver the baby alive. The other alternative is Caesarean section.

Clinton repeatedly insists that these women, including five he paraded at his ceremony vetoing the partial-birth abortion ban last year, had "no choice" but partial-birth abortion. Why, even the American College of Obstetricians and Gynecologists, which supports Clinton's veto, concedes that there are "no circumstances under which this procedure would be the only option to save the life of the mother and preserve the health of the women"—flatly contradicting Clinton.

Moreover, not only is the partial-birth procedure not the only option. It may be a riskier option than conventional methods of delivery.

It is not hard to understand that inserting a sharp scissors to penetrate the baby's brain and collapse her skull risks tearing the mother's uterus or cervix with either the instrument or bone fragments from the skull. Few laymen, however, are aware that partial-birth abortion is preceded by two days of inserting up to 25 dilators at one time into the mother's cervix to stretch it open. That in itself could very much compromise the cervix, leaving it permanently incompetent, unable to retain a baby in future pregnancies. In fact, one of the five women at Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Why do any partial-birth abortions, then? "The only possible advantage of partial-birth abortion if you can call it that," Dr. Curtis Cook, a specialist in high-risk obstetrics, observes mordantly, "is that it guarantees a dead baby at time of delivery."

Hyperbole? Dr. Martin Haskell, the country's leading partial-birth abortion practitioner, was asked (by American Medical News) why he didn't just dilate the woman's uterus a little bit more and allow a live baby to come out. Answer: "The point is here you're attempting to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth instead."

We mustn't have that.

Mr. LARGENT. Mr. Speaker, I would like to insert the following article from the American Medical News into the RECORD.

[From the American Medical News, Mar. 3, 1997]

#### MEDICINE ADDS TO DEBATE ON LATE-TERM ABORTION

[BY DIANE M. GIANELLI]

WASHINGTON.—Breaking ranks with his colleagues in the abortion rights movement, the leader of one prominent abortion provider group is calling for a more truthful debate in the ongoing battle over whether to ban a controversial late-term abortion procedure.

In fact, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said he would rather not spend his political capital defending the procedure at all. There is precious little popular support for it, he says, and a federal ban would have almost no real-world impact on the physicians who perform late-term abortions or patients who seek them.

"The pro-choice movement has lost a lot of credibility during this debate, not just with the general public, but with our pro-choice friends in Congress," Fitzsimmons said. "Even the White House is now questioning the accuracy of some of the information given to it on this issue."

He cited prominent abortion rights supporters such as the *Washington Post's* Richard Cohen, who took the movement to task for providing inaccurate information on the procedure. Those pressing to ban the method call it "partial birth" abortion, while those who perform it refer to it as "intact" dilation and extraction (D&X) or dilation and evacuation (D&E).

What abortion rights supporters failed to acknowledge, Fitzsimmons said, is that the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. "The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else," he said.

He knows it, he says, because when the bill to ban it came down the pike, he called around until he found doctors who did them.

"I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances," he said.

The National Abortion Federation's Vicki Saporta acknowledged that "the numbers are greater than we initially estimated."

As for the reasons, Saporta said, "Women have abortions pre-viability for reasons that they deem appropriate. And Congress should not be determining what are appropriate reasons in that period of time. Those decisions can only be made by women in consultation with their doctors."

#### BILL'S REINTRODUCTION EXPECTED

Rep. Charles Canady (R-Fla.) is expected to reintroduce legislation this month to ban the procedure.

Those supporting the bill, which was also introduced in the Senate, inevitably evoke wincing by graphically describing the procedure, which usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The physician then forces a sharp instrument into the base of the skull and uses suction to remove the brain. The procedure is usually done in the 20- to 24-week range, though some providers do them at later gestations.

Abortion rights activists tried to combat the images with those of their own, showing the faces and telling the stories of particularly vulnerable women who have had the procedure. They have consistently claimed it is done only when the woman's life is at risk or the fetus has a condition incompatible with life. And the numbers are small, they said, only 500 to 600 a year.

Furthermore, they said, the fetus doesn't die violently from the trauma to the skull or the suctioning of the brain, but peacefully from the anesthesia given to the mother before the extraction even begins.

The American Society of Anesthesiologists debunked the latter claim, calling it "entirely inaccurate." And activists' claims about the numbers and reasons have been discredited by the very doctors who do the procedures. In published interviews with such newspapers as *American Medical News*, *The Washington Post* and *The Record*, a Bergen County, N.J., newspaper, doctors who use the technique acknowledged doing thousands of such procedures a year. They also said the majority are done on healthy fetuses and healthy women.

The New Jersey paper reported last fall that physicians at one facility perform an estimated 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact D&E. One of the doctors was quoted as saying, "We have an occasional amino abnormality, but it's a minuscule amount. Most are Medicaid patients . . . and most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were."

A Washington Post investigation turned up similar findings.

#### 'SPINS AND HALF-TRUTHS'

Fitzsimmons says it's time for his movement to back away from the "spins" and "half-truths." He does not think abortion rights advocates should ever apologize for performing the procedure, which is what he thinks they are doing by highlighting only the extreme cases.

"I think we should tell them the truth, let them vote and move on," he said.

Charlotte Taft, the former director of a Dallas abortion clinic who provides abortion counseling near Santa Fe, N.M., is one of

several abortion rights activists who share many of Fitzsimmons' concerns.

"We're in a culture where two of the most frightening things for Americans are sexuality and death. And here's abortion. It combines the two," Taft said.

She agrees with Fitzsimmons that a debate on the issue should be straightforward. "I think we should put it on the table and say, 'OK, this is what we're talking about: When is it OK to end these lives? When is it not? Who's in charge? How do we do it?' These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago."

Fitzsimmons thinks his colleagues in the movement shouldn't have taken on the fight in the first place. A better bet, he said, would have been "to roll over and play dead, the way the right-to-lifers do with rape and incest." Federal legislation barring Medicaid abortion funding makes exceptions to save the life of the mother and in those two cases.

Fitzsimmons cites both political and practical reasons for ducking the fight. "We're fighting a bill that has the support of, what, 78% of the public? That tells me that we have a PR problem," he said, pointing out that several members of Congress who normally support abortion rights voted to ban the procedure the last time the measure was considered.

From a practical point of view, it also "wasn't worth going to the mat on . . . I don't recall talking to any doctor who said, 'Ron you've got to save us on this one. They can't outlaw this. It'd be terrible.'" No one said that.

He added that "the real-world impact on doctors and patients is virtually nil." Doctors would continue to see the same patients, using an alternative abortion method.

In fact, many of them already do a variation on the intact D&E that would be completely legal, even if the bill to outlaw "partial birth" abortions passed. In that variation, the physician makes sure the fetus is dead before extracting it from the birth canal. The bill would ban only those procedures in which a live fetus is partially vaginally delivered.

Lee Carhart, MD, a Bellevue, Neb., physician, said last year that he had done about 5,000 intact D&Es, about 1,000 during the past two years. He induces fetal death by injecting digoxin or lidocaine into the fetal sac 72 hours before the fetus is extracted.

#### DAMAGE CONTROL

Fitzsimmons also questions whether a ban on an abortion procedure would survive constitutional challenge. In any event, he concludes that the way the debate was fought by his side "did serious harm" to the image of abortion providers.

"When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret."

Saporta says her groups never intended to send this message to doctors.

"We believe that abortion providers are in fact maligned and we work 24 hours a day to try to make the public and others understand that these are heroes who are saving women's lives on a daily basis," she said.

When Fitzsimmons criticizes his movement for its handling of this issue, he points

the finger at himself first. In November 1995, he was interviewed by "Nightline" and, in his own words, "lied," telling the reporter that women had these abortions only in the most extreme circumstances of life endangerment or fetal anomaly.

Although much of his interview landed on the cutting room floor, "it was not a shining moment for me personally," he said.

After that, he stayed out of the debate.

#### DON'T GET 'SIDETRACKED' BY SPECIFICS

While Fitzsimmons is one of the few abortion rights activists openly questioning how the debate played out, it is clear he was not alone in knowing the facts that surround the procedure.

At a National Abortion Federation meeting held in San Francisco last year, Kathryn Kohlbert, one of the chief architects of the movement's opposition to the bill, discussed it candidly.

Kohlbert, vice president of the New York-based Center for Reproductive Law and Policy, urged those attending the session not to get "sidetracked" by their opponent's efforts to get them to discuss the specifics of the procedure.

"I urge incredible restraint here, to focus on your message and stick to it, because otherwise we'll get creamed," Kohlbert told the group.

"If the debate is whether the fetus feels pain, we lose. If the debate in the public arena is what's the effect of anesthesia, we'll lose. If the debate is whether or not women ought to be entitled to late abortion, we probably will lose."

"But if the debate is on the circumstances of individual women . . . and the government shouldn't be making those decisions, then I think we can win these fights," she said.

#### PUBLIC REACTION

The abortion rights movement's newest strategy in fighting efforts to ban the procedure is to try to narrow the focus of the debate to third-trimester abortions, which are far fewer in number than those done in the late second trimester and more frequently done for reasons of fetal anomaly.

When the debate shifts back to "elective" abortions done in the 20- to 24-week range, the movement's response has been to assert that those abortions are completely legal and the fetuses are considered "pre-viable."

In keeping with this strategy, Sen. Thomas Daschle (D-S.D.), plans to introduce a bill banning third-trimester abortions. Clinton, who received an enormous amount of heat for vetoing the "partial birth" abortion ban, has already indicated he would support such a bill.

But critics counter that Daschle's proposed ban—with its "health" exception—would stop few, if any, abortions.

"The Clinton-Daschle proposal is constructed to protect pro-choice politicians, not to save any babies," said Douglas Johnson, legislative director of the National Right to Life Committee.

Given the broad, bipartisan congressional support for the bill to ban "partial birth" abortions last year, it's unlikely Daschle's proposal would diminish support for the bill this session—particularly when Republicans control both houses and therefore, the agenda.

And given the public reaction to the "partial birth" procedure—polls indicate a large majority want to ban it—some questions occur: Is the public reaction really to the procedure, or to late-term abortions in general? And does the public really make a distinction between late second- and third-trimester abortions?

Ethicists George Annas, a health law professor at Boston University, and Carol A. Tauer, PhD, a philosophy professor at the College of St. Catherine in St. Paul, Minn., say they think the public's intense reaction to the "partial birth" abortion issue is probably due more to the public's discomfort with late abortions in general, whether they occur in the second or third trimesters, rather than to just discomfort with a particular technique.

If Congress decided to pass a bill banning dismemberment or saline abortions, the public would probably react the same way, Dr. Tauer said. "The idea of a second-trimester fetus being dismembered in the womb sounds just about as bad."

Abortions don't have to occur in the third trimester to make people uncomfortable, Annas said. In fact, he said, most Americans see "a distinction between first-trimester and second-trimester abortions. The law doesn't but people do. And rightfully so."

After 20 weeks or so, he added, the American public sees a baby.

"The American public's vision of this may be much clearer than [that of] the physicians involved," Annas said.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of H.R. 1122, the Partial-Birth Abortion Ban Act, as an original cosponsor of similar legislation, H.R. 929.

This important legislation will bring to an end the common practice of a most mean and extreme procedure. As we know, Congress adopted the Partial-Birth Abortion Ban Act in 1995-96, only to see President Clinton veto the measure. The House overrode the President's veto, but it was sustained in the Senate. Thus, this grotesque procedure remains in place today.

Partial-birth abortion is obviously strongly opposed by Americans who are pro-life. But it is so outrageous and so extreme that a respected Member of the other body—a member of the President's political party—said that partial birth abortion is just too close to infanticide. Thus, many Americans who are pro-choice also oppose partial birth abortion. I expect that many pro-choice Representatives will vote to ban partial birth abortion today.

Unfortunately, supporters of this procedure have gone to every length to continue to protect partial-birth abortion for every purpose. The President justified his veto based on facts which have since been debunked.

The Washington Post editorialized in a piece titled "Lies and Late-Term Abortions," on March 4, 1997, that "Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, has admitted . . . that he, and by implication other pro-choice groups, lied about the real reasons women seek this particular kind [partial-birth] of abortion . . . Mr. Clinton will be hard-pressed to justify a veto on the basis of the misinformation on which he rested his case last time." Mr. Fitzsimmons said he "lied through his teeth" about the nature and frequency of partial birth abortion in the United States. Furthermore, according to Dr. Pamela Smith, the Director of Medical Education in the Department of Obstetrics and Gynecology at Mt. Sinai Hospital in Chicago, "there are absolutely no obstetrical situations encountered in this country which require a partially-delivered human fetus to be destroyed to preserve the health of the mother."

I believe all sides of this issue should base their case on the truth. And the truth is that partial birth abortion is barbaric. This measure represents simple mainstream common sense. I urge support of the bill.

Mr. WATTS of Oklahoma. Mr. Speaker, I thank Mr. CANADY of Florida and I congratulate him on his leadership on this critical issue.

Let us not fool ourselves about what we are voting on here today. The partial-birth abortion procedure inflicts a terrible violence on the body of a helpless child. This is not a point of debate—everyone acknowledges the medical details of what the abortionist does during a partial-birth abortion. It is a violent and horrific procedure.

And let us be clear. A partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. In fact, the procedure can significantly threaten a mother's health or ability to carry future children to term.

So how can we—the citizens of a supposedly civilized society—how can we say that abortion is a procedure that will be unrestrained and unrestricted—that there will be absolutely no limits and no parameters placed on this procedure that does such terrible violence to its victim.

Who will speak for the victim—the unborn child, or in this case the partially-born child—who has no voice—unless we are their voice, unless we speak for them.

My colleagues, I urge you to speak for these voiceless victims today by voting to ban this brutal abortion procedure.

Mr. STOKES. Mr. Speaker, I rise in opposition to H.R. 1122, the Partial-Birth Abortion Ban Act. This legislation constitutes an unprecedented intrusion by Congress into medical decisionmaking, and poses a significant risk to women's health. In addition, this legislation fails to meet clearly established constitutional standards.

H.R. 1122, introduced by Congressman SOLOMON, is identical to the partial-birth abortion ban legislation vetoed by President Clinton during the 104th Congress. I voted against this measure during the last Congress, and will continue to oppose a ban on certain abortion procedures that does not provide an exception to protect a woman's life or health.

Moreover, since partial-birth abortion is not a medically recognized term, H.R. 1122 uses extremely vague and nonmedical terminology to indicate exactly what is outlawed. As a result, the measure could be interpreted to prohibit a wide range of medical procedures. Furthermore, there are no accepted medical or legal guidelines to help doctors determine whether procedures they perform may fall within the prohibitions of this bill.

This would have a devastating impact on a medical community already intimidated by murders, threats, and violent blockades of medical facilities. Doctors would now fear imprisonment for performing late-term abortions where a fetus will not survive, or where a woman's life, health, or future reproductive capacity may be severely threatened.

The intact D&E, one of the procedures this bill appears designed to outlaw, is used by some physicians who have stated that, in their judgment, it best protects their patient's health. In these situations, these doctors report that

the intact D&E procedure causes less trauma to the woman, lowers the risk of unnecessary bleeding and reduces complications, including enhancing a woman's prospect for success in future pregnancies. In this regard, H.R. 1122 unethically forbids doctors from exercising their best professional judgment on behalf of their patients.

Mr. Speaker, a law banning a specific surgical technique would be an unprecedented intrusion by Congress into the practice of medicine, and an intrusion that has no basis under the Constitution. By banning the use of certain abortion procedures before fetal viability, H.R. 1122 is a clear violation of the Roe versus Wade decision which affirmed that, before viability, a woman has the right to choose to terminate her pregnancy without interference by Government.

Furthermore, without an exception to protect a woman's health or life, H.R. 1122 also violates the Supreme Court's 1992 Planned Parenthood versus Casey decision. This ruling asserted that, after viability, the Government may restrict abortion, but only if the law contains exceptions for pregnancies that, if carried to term, would endanger the woman's life or health. I support the Court's decision and will continue to oppose efforts that would take this right away from the individual.

Mr. Speaker, it is ill-advised and potentially harmful to any individual seeking medical attention for Congress to interfere with professional medical judgments and outlaw treatment options that may best preserve a patient's health. I urge my colleagues to join me in opposing H.R. 1122.

Mr. GOODLATTE. Mr. Speaker, as a member of the Subcommittee on the Constitution and an original cosponsor of this important legislation, I rise in strong support of H.R. 929, the Partial-Birth Abortion Ban Act of 1997.

Partial-birth abortions are gruesome procedures. They are something I wouldn't wish on my worst enemy. Only the most calloused among us can hear a description of this procedure and not wince. To borrow from John Wesley, it is the "sum of all villainies"—infanticide in its rawest form.

A greater tragedy occurred last year, however, than the several thousand partial-birth abortions that were performed in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. That tragedy occurred when President Clinton vetoed our attempt to stop this horrific procedure.

During the debate over partial-birth abortions in the 104th Congress, the pro-abortion camp asserted that this procedure is rarely performed. Those of us who supported a ban on partial-birth abortions took serious exception to this allegation, arguing that they are performed with alarming frequency. In vetoing the Partial-Birth Abortion Ban Act last year, President Clinton obviously bought into the arguments of the pro-abortion lobby.

In the last few weeks, Ron Fitzsimmons—the executive director of the National Coalition of Abortion Providers—has admitted that he

"lied through his teeth" about the nature and number of partial-birth abortions. As we argued last year, Mr. Fitzsimmons is now admitting that thousands of partial-birth abortions are performed every year, in the fifth and sixth months of pregnancy or later, on healthy babies with healthy mothers. Clearly, the pro-abortion lobby engaged in a pattern of deception regarding this issue—only time will tell whether President Clinton was an ignorant victim or a knowing perpetrator of this terrible cover-up.

With the Partial-Birth Abortion Ban Act of 1997, Congress is giving President Clinton an opportunity to atone for last year's sinful veto. The President still has time to do the right thing. I hope he will.

I was asked recently why, since we failed in our attempt to ban this procedure last year and Bill Clinton is still the President, the 105th Congress believes it will succeed where the 104th Congress failed. Leaving the recently-exposed lies of the abortion industry aside for a moment, the answer is that regardless of the odds, we have a duty to end injustice where we find it, and a solemn responsibility to protect those who cannot protect themselves.

At a recent subcommittee hearing, representatives from the pro-abortion lobby repeated time and again that Congress should not involve itself with this issue. However, the pro-abortion lobby needs to remember that Congress consists of the people's representatives. What these people are really saying, therefore, is that the American people should not be allowed to debate this issue through their duly elected representatives. I strongly disagree—a civilized society cannot afford to abandon its standards of morality.

Mr. Speaker, Congress will continue the fight to protect and preserve innocent children. I urge all of my colleagues, whatever their position on abortion, to vote "yes" on H.R. 929. I yield back the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I rise today in opposition to H.R. 1122. This deeply personal and private decision is between a woman, her family, her physician and her beliefs, not the Federal Government. Without providing protection for the health and life of the mother, legislation that prevents doctors from providing patients with the most appropriate medical care is unacceptable. My position on this most sensitive of personal decisions is very simple. When the life or health of a woman is at stake, the Federal Government should not tell the family and their doctor what to do. Regrettably, the alternate bill introduced by Representatives GREENWOOD and HOYER that provided an exception for severe health consequences will not be considered today. Instead, with this legislation, Congress is once again promoting an indifference to the health of women instead of rendering a serious policy determination on a matter of grave consequence.

Mr. RILEY. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act of 1997 which would put an end to the barbaric procedure known as the partial-birth abortion.

Mr. Speaker, it is now a matter of public record that this type of abortion is performed at least several thousand times a year, usually in the fifth or sixth month of pregnancy.

I want to be clear on one point. We have heard time and again from the other side

today that we must protect the life of the mother.

Hundreds of medical doctors including former Surgeon General C. Everett Koop have come forward and stated without reservation that the "partial birth abortion is never medically necessary to protect a mother's health or her future fertility."

Let me repeat that, "partial birth abortion is never medically necessary \* \* \*"

So let's stop playing politics and using fear and scare tactics. Let's honestly debate the issue at hand.

Partial birth abortion is a horrifying procedure that must be ended. We have a moral obligation to stand up for the sanctity of life.

I urge my colleagues to join in this bipartisan effort to protect those who cannot protect themselves.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 929, the Partial-Birth Abortion Ban Act.

Last year—apologists for this abominable practice raised a fog of mendacity during our deliberations. Today that fog has been pierced.

What everyone can clearly see today, Mr. Speaker, is that partial-birth abortion is a practice that exposes abortion for what it truly is—the killing of an infant.

This debate is not about when life begins—for the infants targeted by this procedure are most certainly alive. This debate is over a matter of inches.

And Mr. Speaker—I submit that the constitutional right to life has jurisdiction over those inches.

Ms. KILPATRICK. Mr. Speaker, my colleagues, I rise in opposition to the final passage of legislation in this form. As a life-long pro-choice elected official, I would normally reject this legislation as a matter of principle. However, my opposition to this legislation is also based on several specific reasons that, if implemented by this legislation, would have a chilling effect upon the lives and safety of women and for the respect of precedents established by the Supreme Court.

This legislation is constitutionally unsound. This legislation directly opposes the precedents established in the Supreme Court under *Roe versus Wade*, in that it bans a particular procedure during the pre-viability stage of pregnancy.

This legislation handcuffs health care options for physicians. While I am not a medical doctor, a lot of the procedures that doctors perform—gynecological examinations, emergency tracheotomies, setting broken bones—are not pretty and can seem downright gruesome. However, sometimes, procedures that are needed to absolutely, positively save someone's life is necessary. For example, I am sure that many of us recall the person who had to have her leg amputated while trapped in the rubble of the Oklahoma City bomb blast.

This operation was the only way that this person's life would have been spared. If we ban this procedure, what will be next? Congress has no business telling a well-trained and intelligent physician what is or is not acceptable medical procedures.

This legislation does not allow an exception for the utilization of this procedure to spare the life or the health of the mother. Physicians

often have to make life or death decisions. While it is my hope that this procedure is performed during those infinitesimal instances in which it is absolutely necessary, we should not eliminate the possibility that it might be needed to save the life or preserve the health of the mother. Like you, we have all heard the different statistics on how often this procedure is used. But statistics do not mean a thing if that is your mother, your wife, your sister, or your daughter on the gurney and the choice is this procedure or the death of your loved one.

The decision to have or not have a child is a very difficult one. This is a decision that should remain among a woman, a man, and a doctor—not the Federal Government. It is my hope and desire that as individuals of the family of humanity, we will do all that we can to proactively provide the education and support to our Nation's women so that abortion is a choice that fewer and fewer women have to make.

The doctors of our Nation deserve to be able to fully implement their Hippocratic oath—"I will use treatment to help the sick according to my ability and judgment"—without governmental intervention. I urge my colleagues to support our Nation's doctors, the lives and health of women, and the Supreme Court, and ask for a "nay" vote on final passage of this legislation.

Mr. PACKARD. Mr. Speaker, today I rise to discuss a procedure that I find—and an overwhelming number of Americans find—absolutely abhorrent, partial birth abortion. It is brutal and inhumane. It is not necessary and should not be permitted.

Last year, when we brought a bill to the floor to ban the practice, abortion advocates falsely claimed the procedure was both rare and a necessary late term procedure. The President vetoed our bill based on this misrepresentation. Finally, the media got wind of the lie.

Ron Fitzsimmons, leader of the National Coalition of Abortion Providers, in a March 3, 1997, interview with the American Medical News, said that he "lied through [his] teeth" when he said the procedure was rarely used. He now admits that pro-life groups are accurate in saying that the procedure is more common.

To add insult to injury, Mr. Fitzsimmons also admitted that, in the vast majority of cases, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus that is 20 or more weeks along.

Americans overwhelmingly oppose this form of elective infanticide. It has no place in our society. This practice is indefensible, and I challenge my colleagues to give the President another chance to ban the procedure. The President can no longer hide behind pro-abortion falsehoods. He should admit he was wrong and show the moral courage Americans expect from their President.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss the Partial-Birth Abortion Ban, H.R. 1122 that was introduced yesterday and which we are voting on today. This measure is supposed to be a new improved version of Representative CANADY's bill, H.R. 929. However, it is more draconian, offensive and degrading to women. This newly introduced bill, like the one we were supposed to debate, still

tears apart the principle that women have reproductive rights which was set in *Roe versus Wade* (1973) and reaffirmed in *Planned Parenthood of Southeastern Pennsylvania versus Casey* (1992). H.R. 1122 also still uses the same vague, nonmedical terms as Representative CANADY's bill. However, H.R. 1122 does include two provisions that were not in Representative CANADY's bill, H.R. 929. First of all, a "partial-birth abortion," whatever that means, can not be performed to save the life of the mother even if her very life was endangered by the pregnancy itself. Secondly it allows would-be fathers who had abused or abandoned the mother to sue and collect monetary damages from the physician who performed the improperly defined medical procedure. I find this provision one of the hardest to comprehend—why allow a person that has abused a woman repeatedly to be able to gain monetarily if he gets her pregnant and something goes tragically awry to her fetus after viability?

If supporters of H.R. 1122 are concerned about abortions being performed after viability, they would support Representative HOYER and GREENWOOD's bill, H.R. 1032, which bans all abortions after viability except in cases when "the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman." But, as my colleagues well know, we can not even debate that bill today under this closed rule. This bill takes away a woman's right to choose. H.R. 1122 says to American women: Your health and fertility are not an issue. It demotes women to second class citizenry.

I strongly urge my colleagues to re-read the testimony given last year by women like Coreen Costello and Mary-Dorothy Line. These women wanted their babies. However, once they realized that their babies could not survive outside of the womb, they had to make a soul searching decision. That was a very difficult decision made by the women and their husbands, but because they chose to have an intact dilation and evacuation they saved their lives and preserved their ability to have more children.

In addition, proponents still do not understand that no matter what has been said about the number of abortions performed using the intact dilation and evacuation procedure before and after viability, the law of the land already grants individual States the right to ban abortion after fetal viability except when necessary to preserve a woman's life or health. Forty States and the District of Columbia, ban post-viability abortions. The U.S. Supreme Court has struck a balance between a woman's right to choose and the protection of potential life. I fully support a woman's right to choose as upheld by the U.S. Supreme Court.

I strongly urge my colleagues to vote against H.R. 1122.

Mr. POMEROY. Mr. Speaker, I rise in support of H.R. 1122, a bill to ban the late-term abortion practice known as partial birth abortion.

While I will vote in favor of this legislation, as I did last year, I regret that the bill is being considered under a closed rule that will not allow the House to debate and vote on amendments proposed by my colleagues on both sides of the aisle. That is why I voted

against the rule, and why I will vote in favor of motions that provide Members the opportunity to offer amendments to this legislation. In my view, the House ought to uphold a standard of democratic and open debate that allows alternative proposals to receive a fair hearing.

Second, as my colleagues know, the legislation before us is identical to the bill that was passed last year and vetoed by the President. In the interests of enacting legislation that will bring an end to this abhorrent procedure, I believe it advisable to support amendments that address the concerns stated by the President. Therefore, if the motion to recommit H.R. 1122 contains instructions to include an exception where the physical health of the mother is severely at risk, I will support the motion.

Mr. Speaker, in the final analysis, it is my position that the partial birth abortion is an inhumane and unnecessary procedure that should be outlawed. I believe that Congress ought to pass legislation that will gain the President's signature and achieve that end.

Mr. SKAGGS. Mr. Speaker, I wish we were debating the best way to reduce the number of late term abortions. That is a goal we all can share.

Instead, under the terms of debate imposed on this bill, we are able to consider only a text drafted to make a political statement and keep an issue alive rather than to solve a problem.

The question, that the advocates of this bill haven't, and can't answer, is this: Why should the Congress prohibit this particular medical procedure when a physician has determined: First, that a late term abortion is medically necessary to preserve the health of the mother and second, that this procedure is the one that is medically prudent?

The bill would substitute the political judgment of the Congress for the medical judgment of a woman's physician. The bill provides no exception for medical circumstances involving grave physical risks to the health of the mother, no matter what the circumstance nor how tragic the circumstance may be.

As we debate this issue, we need to remember how the Supreme Court has interpreted the Constitution. In *Roe versus Wade* the Court stated: "For the stage 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."

That decision is the law of the land. Its language is clear and unambiguous. States may not proscribe late term abortions that are medically necessary to preserve a mother's life or health. Nor may the Congress.

What *Roe versus Wade* does permit, however, is the Government's restriction on or prohibition of late term abortions that are not necessary to protect the mother's life or health. Unfortunately, this bill would do nothing to reduce the number of such late term abortions. That should be our common goal.

In considering this bill, the Congress is attempting to set itself up as a national board of medical examiners. The country and professional medical practice won't be well-served if we become the arbiter of which medical judgments should be respected and which medical procedures should be performed.

If there is a medical need for an abortion to protect a woman's health and if this particular procedure is determined by a woman's physician to be medically warranted under the circumstances, then the Congress should respect that judgment not criminalize it. We should not substitute our political judgment for professional medical judgment grounded in the particular circumstances of real cases.

This bill should be defeated.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 100, 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 MR. HOYER.

Mr. HOYER. Mr. Speaker, I offer a motion to recommit.

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

Mr. HOYER. Yes, Mr. Speaker, I am.

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

The Clerk read as follows:

Mr. HOYER moves to recommit the bill H.R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause and insert the following:

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.

POINT OF ORDER

Mr. CANADY of Florida. Mr. Speaker, I rise to a point of order that the motion to recommit is not germane to the bill.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CANADY of Florida. 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.

The SPEAKER pro tempore. Does the gentleman from Maryland [Mr. HOYER] wish to be heard on the point of order?

Mr. HOYER. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. 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.

□ 1500

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from Florida has made a point of order that the amendment proposed—

Mr. EDWARDS. 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 of Florida. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Florida.

The SPEAKER pro tempore. The gentlemen will suspend. The Chair will recognize Members to argue the point of order. Does the gentleman from Florida seek that recognition?

Mr. CANADY of Florida. Mr. Speaker, I seek the opportunity to respond to the question posed by the gentleman from Texas.

The SPEAKER pro tempore. The Chair will hear argument confined to the point of order. The gentleman may proceed, confined to the point of order.

Mr. CANADY of Florida. 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. 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. The Chair hopes to clarify this point in the Chair's ruling. The Chair is now prepared to rule.

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 the bill, the amendment also, by addressing any or all abortion procedures, broadens the prohibition in the bill.

One of the basic lines of precedent under clause 7 of rule 16, the germaneness rule, holds that a proposition addressing a specific subject may not be amended by a proposition more general in nature. As noted in section 798f of the House Rules and Manual, this principle applies even when both propositions address a common topic.

Thus, on March 23, 1960, the Chair held that an amendment to criminalize the obstruction of any court order was not germane to a bill to criminalize only the obstruction of court orders relating to the desegregation of public schools.

On the reasoning reflected in this line of precedent, the Chair holds that the amendment proposed in the motion to recommit is not germane to the bill. Accordingly, the point of order is sustained and the motion to recommit is not in order.

Mr. HOYER. Mr. Speaker, it is with great reluctance, because I believe very strongly that the Chair's rulings ought to be upheld, but in this instance, Mr. Speaker, I am compelled, because of the importance of the issue and the closed rule that prevented any amendments, and because I believe, Mr. Speaker, in your ruling you correctly indicated that the Hoyer and Greenwood bill broadens the scope of this bill and broadens the application to procedures beyond what the bill refers to, and for that reason held it not to be germane, I am compelled to appeal the ruling of the Chair.

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. First of all, the question is, Shall the decision of the Chair stand as the judgment of the House?

Now, the Chair will recognize the gentleman from Florida [Mr. CANADY].

MOTION TO TABLE OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 265, nays 165, not voting 2, as follows:

[Roll No. 63]

YEAS—265

Aderholt	Deal	Hulshof
Archer	DeLay	Hunter
Army	Deutsch	Hutchinson
Bachus	Diaz-Balart	Hyde
Baesler	Dickey	Inglis
Baker	Doolittle	Istook
Ballenger	Doyle	Jenkins
Barcia	Dreier	John
Barr	Duncan	Johnson, Sam
Barrett (NE)	Dunn	Jones
Bartlett	Ehlers	Kanjorski
Barton	Ehrlich	Kasich
Bass	Emerson	Kelly
Bateman	English	Kildee
Bereuter	Ensign	Kim
Bilbray	Everett	King (NY)
Billirakis	Ewing	Kingston
Bliley	Fawell	Klink
Blunt	Foley	Klug
Boehner	Forbes	Knollenberg
Bonilla	Fowler	Kolbe
Bono	Fox	Kucinich
Borski	Franks (NJ)	LaFalce
Brady	Frelinghuysen	LaHood
Bryant	Galleghy	Largent
Bunning	Ganske	Latham
Burr	Gekas	LaTourrette
Burton	Gibbons	Lazio
Buyer	Gilchrest	Leach
Callahan	Gillmor	Lewis (CA)
Calvert	Gilman	Lewis (KY)
Camp	Goode	Linder
Campbell	Goodlatte	Lipinski
Canady	Goodling	Livingston
Cannon	Gordon	LoBlundo
Castle	Goss	Lucas
Chabot	Graham	Manton
Chambliss	Granger	Manzullo
Chenoweth	Gutknecht	Mascara
Christensen	Hall (OH)	McCollum
Clement	Hall (TX)	McCreery
Coble	Hamilton	McDade
Coburn	Hansen	McHugh
Collins	Hastert	McInnis
Combest	Hastings (WA)	McIntosh
Cook	Hayworth	McIntyre
Cooksey	Hefley	McKeon
Costello	Herger	McNulty
Cox	Hill	Metcalf
Cramer	Hilleary	Mica
Crane	Hobson	Miller (FL)
Crapo	Hoekstra	Moakley
Cubin	Holden	Mollinari
Cunningham	Horn	Mollohan
Danner	Hostettler	Moran (KS)
Davis (VA)	Houghton	Murtha

Myrick	Riley
Neal	Roemer
Nethercutt	Rogan
Neumann	Rogers
Ney	Rohrabacher
Northup	Ros-Lehtinen
Norwood	Roukema
Nussle	Royce
Oberstar	Ryun
Obey	Salmon
Ortiz	Sanford
Packard	Saxton
Pappas	Scarborough
Parker	Schaefer, Dan
Paul	Schaffer, Bob
Paxon	Schiff
Pease	Sensenbrenner
Peterson (MN)	Sessions
Peterson (PA)	Shadegg
Petri	Shaw
Pickering	Shimkus
Pitts	Shuster
Pombo	Sisisky
Porter	Skeen
Portman	Skelton
Poshard	Smith (MI)
Pryce (OH)	Smith (NJ)
Quinn	Smith (OR)
Radanovich	Smith (TX)
Rahall	Smith, Linda
Ramstad	Snowbarger
Regula	Solomon
Riggs	Souder

NAYS—165

Abercrombie	Frost	Morella
Ackerman	Furse	Nadler
Allen	Gedensson	Olver
Andrews	Gephardt	Owens
Baldacci	Gonzalez	Pallone
Barrett (WI)	Green	Pascrell
Becerra	Greenwood	Pastor
Bentsen	Gutierrez	Payne
Berman	Harman	Pelosi
Berry	Hastings (FL)	Pickett
Bishop	Hefner	Pomeroy
Blagojevich	Hilliard	Price (NC)
Blumenauer	Hinchev	Rangel
Boehrlert	Hinojosa	Reyes
Bonior	Hookey	Rivers
Boswell	Hoyer	Rothman
Boucher	Jackson (IL)	Roybal-Allard
Boyd	Jackson-Lee	Rush
Brown (CA)	(TX)	Sabo
Brown (FL)	Jefferson	Sanchez
Brown (OH)	Johnson (CT)	Sanders
Capps	Johnson (WI)	Sandin
Cardin	Johnson, E. B.	Sawyer
Carson	Kennedy (MA)	Schumer
Clay	Kennedy (RI)	Scott
Clayton	Kennelly	Serrano
Clyburn	Kilpatrick	Shays
Condit	Kind (WI)	Sherman
Conyers	Kleczka	Skaggs
Coyne	Lampson	Slaughter
Cummings	Lantos	Smith, Adam
Davis (FL)	Levin	Snyder
Davis (IL)	Lewis (GA)	Spratt
DeFazio	Lofgren	Stabenow
DeGette	Lowey	Stark
Delahunt	Luther	Stokes
DeLauro	Maloney (CT)	Strickland
Dellums	Maloney (NY)	Tanner
Dicks	Markey	Tauscher
Dingell	Martinez	Thompson
Dixon	Matsui	Thurman
Doggett	McCarthy (MO)	Tierney
Dooley	McCarthy (NY)	Torres
Edwards	McDermott	Towns
Engel	McGovern	Velázquez
Eshoo	McHale	Vento
Etheridge	McKinney	Visclosky
Evans	Meehan	Waters
Farr	Meek	Watt (NC)
Fattah	Menendez	Waxman
Fazio	Millender	Wexler
Flitner	McDonald	Wise
Flake	Miller (CA)	Woolsey
Foglietta	Minge	Wynn
Ford	Mink	Yates
Frank (MA)	Moran (VA)	

NOT VOTING—2

Kaptur	Oxley
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□ 1525

Messrs. BASS, KINGSTON, and RAMSTAD, and Mrs. KELLY changed their vote from "nay" to "yea."

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1530

MOTION TO RECOMMIT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion to recommit. The SPEAKER pro tempore (Mr. MCINNIS). Is the gentleman opposed to the bill?

Mr. FRANK of Massachusetts. I am in its form, Mr. Speaker.

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

The Clerk read as follows:

Mr. FRANK of Massachusetts moves to recommit the bill H.R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 2, line 10, insert after the words "or injury" the following:

"...including a life endangering physical condition caused by or arising from the pregnancy itself, or to avert serious adverse longterm physical health consequences to the mother"

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes in support of his motion to recommit.

Mr. FRANK of Massachusetts. Mr. Speaker, after the Committee on Rules tried to keep this from being heard, I appreciate your helping make sure that it is.

This is an amendment that would in its most important form add one more exception. Remember we had the bill that does not prevent the abortions, as the gentleman from Florida acknowledged, but bans a particular procedure.

Mr. Speaker, the bill bans a specific procedure. The sponsors said in opposition to the amendment that we just voted on that was ruled nongermane when it came up before, well, we do not like health as an exception. I do. I wanted health as an exception. That was voted down, and I regret it. But now I am offering a narrower one that meets some of the arguments we heard.

Health broadly defined by the Supreme Court when there is no other reference, and it is just health when there is no modifier, the Supreme Court has said that includes mental health, et cetera, as I think it should. But in this case where we are talking about one procedure where we have already voted down health, I have a further amendment. This says, "You can have an exception if it is necessary to avert serious adverse long-term physical health consequences." This, Mr. Speaker, is what the House is about to vote on.

I ask my colleagues, "Are you prepared to say to a doctor if you believe

in your best medical judgment that it is necessary to avert serious physical long-term adverse health consequences, and the only way to avert them is to use this procedure, this amendment says to a doctor, because it follows the language of the bill, if it is necessary, not if it's in your subjective opinion, but if it's necessary, and you can show in a judicial proceeding that it was necessary to avert serious long-term adverse physical health consequences you can perform the procedure." And the majority is going to say no apparently.

Well, some say it is never possible. If my colleagues really believe that, then the amendment would do no harm. But is the House ready to tell every doctor in America that never under any circumstances can he or she use a medical judgment to say this procedure? Because again we are not talking about whether or not there can be an abortion. There can be an abortion. It may be on mental health grounds, it may be on physical health grounds. Then the question is what is the procedure. And we are asking for a vote that says if it is necessary so that a woman does not lose her fertility so that there is not permanent damage to her organs, if she is not in horrible pain for a prolonged period.

Is that not likely to happen? I do not know; along with almost everybody in the House, I do not know. And therefore I am not prepared to legislate it. I am prepared to say that the physicians can decide that.

How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Massachusetts has 2 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentleman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, in all my years in the House I have never been more disturbed by a vote, but yet what happened in the Committee on Rules last night and on the floor here today, my concerns have not been allayed. Mr. Speaker, let me talk about those concerns.

I do not think the State should interject itself before viability and that women should have the right to protect their life and their health as under Roe versus Wade. I am concerned about viability of pregnancies, and I know health has been broadly interpreted, but under Frank it will be interpreted as the serious, serious physical health of the mother.

I am concerned about this, and it is before us, this method. It is brutal, it is inhuman, and it should never be used. However, may I say that is not my decision. Under Roe versus Wade the law of the land aids the decision of the mother and the doctor.

Mr. Speaker, I am so concerned about this body today. We have let political

considerations and efforts do away with Roe versus Wade take over this and not let us resolve this situation.

Forty States, Mr. Speaker, have resolved this situation. We can resolve it by putting the serious health of the mother into this mix.

Mr. Speaker, we can do better.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me anticipate. Members on the other side have said, "Well, when you say health, the Supreme Court reads a broader version." Yes, I have that opinion right here. When it only said health, the Supreme Court interpreted a statute referring to health more broadly. The Supreme Court has never said that health always—that physical health does not just mean physical health. There is no argument for that, and the Supreme Court has never interpreted a statute on physical health. That is the key issue here.

I also add a language point that others have brought up making it clear that, if life is endangered by a condition arising from the pregnancy itself, that is also an exception. And that is not in the bill explicitly, and it ought to be, but this key point is before us now: "Do you believe as the chairman of the committee said, and the chairman of the committee in his intellectual integrity said if the choice is serious long-term physical health damage to the mother or the life of the fetus, apparently even a severely damaged fetus that could not live long, the woman's health must suffer."

I hope the House will not vote that way.

The SPEAKER pro tempore. Is the gentleman from Florida opposed to the motion to recommit?

Mr. CANADY of Florida. I am, Mr. Speaker.

The SPEAKER pro tempore. The chair recognizes the gentleman from Florida [Mr. CANADY] for 5 minutes in opposition to the motion to recommit.

Mr. CANADY of Florida. Mr. Speaker, regarding the life exception language contained in the gentleman's proposal, it is already covered in H.R. 1122. The language in the amendment simply restates what is obvious in the language in the bill. The life exception in H.R. 1122 states, and I will read it; it is on page 2 beginning on line 7:

This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by physical disorder, illness, or injury.

That very statement is made on the floor today that this bill does not provide an exception for the life of the mother. It is clearly right here in the bill. I have asked the Members to read it, look at it with their own eyes.

Regarding the health exception, partial-birth abortion is never necessary

for a mother's health or future fertility. Hundreds of obstetricians, gynecologists, and maternal fetal specialists, along with former Surgeon General C. Everett Koop, have come forward to unequivocally state that, quote, "Partial-birth abortion is never medically necessary to protect the mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both," close quote.

Furthermore, in an American Medical News article Dr. Warren Hern, a late-term abortionist, disputed the safety of the partial-birth abortion procedure. I want to quote directly from this article. Now, this is Dr. Hern, M.D., one of the leading experts on abortion procedures in this country. This is what he said:

I have very serious reservations about this procedure, said Dr. Hern, the author of *Abortion Practice*, the Nation's most widely used textbook on abortion standards and procedures. He specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the procedure in question he says this: "You really can't defend it. I'm not going to tell someone else that they should not do this procedure, but I'm not going to do it."

Now, Dr. Hern's concern centers around claims that the procedure in late-term pregnancy can be safest for the pregnant woman and that without this procedure women would have died, and this is what Dr. Hern says: "I would dispute any statement that this is the safest procedure to use," close quote. "Turning the fetus to a breech position is potentially dangerous." He added, "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, M.D., director of medical education in the department of obstetrics and gynecology at Mt. Sinai Hospital of Chicago added two more concerns. Cervical incompetence and subsequent pregnancy caused by 3 days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb. Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of his or her head to preserve the mother's health. Just consider what is involved in this procedure.

I would ask my colleagues to consider what is involved in this procedure. A living human child is partially delivered. With the child three-fourths out of the mother, with only the head remaining in the mother, the child is stabbed in the back of the head.

I hate describing this, but this is what goes on.

Explain to me how stabbing the child in the back of the head in this gruesome procedure protects the mother's

health. It is nonsense; it does not. It is not necessary. What we are seeing here is an effort by people who believe that abortion should be permitted under any circumstance at any time during pregnancy for any reason, an attempt to derail this bill, put in amendments that will create loopholes and will render the bill meaningless.

I urge my colleagues who are serious about addressing this procedure to oppose this motion to recommit and support the bill.

Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, we once again deal with deception. There is no serious adverse long-term physical health consequence to the mother that can be best treated by this procedure. It does not exist, it has never existed, it will never exist. It is a falsehood, it is an untruth. Partial-birth abortion, D&E on the live baby is done for the convenience of an abortionist. It is never done for any other reason. It is done for the convenience of an abortionist.

This is a deceptive way to confuse the issue. There is no truth that this allowance needs to be there, because it never exists. It is a falsehood. It is something that was set up so that we can create a false climate.

I will repeat. It never happens. It never is indicated.

□ 1545

The SPEAKER pro tempore (Mr. MCINNIS). 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

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 282, not voting 2, as follows:

[Roll No. 64]

AYES—149

Ackerman	Carson	Engel
Andrews	Castle	Eshoo
Baldacci	Clay	Etheridge
Barrett (WI)	Clayton	Evans
Becerra	Clyburn	Fattah
Bentsen	Conyers	Filner
Berman	Coyne	Flake
Bishop	Cummings	Ford
Blagojevich	Davis (FL)	Frank (MA)
Blumenauer	Davis (IL)	Frelinghuysen
Boehert	DeFazio	Frost
Bonior	Delahunt	Furse
Boucher	DeLauro	Gejdenson
Boyd	Dellums	Gephardt
Brown (CA)	Deutsch	Gilchrest
Brown (FL)	Dicks	Gilman
Brown (OH)	Dixon	Gonzalez
Campbell	Doggett	Green
Capps	Dooley	Greenwood
Cardin	Edwards	Hastings (FL)

Hilliard	McCarthy (MO)	Sabo
Hinchev	McCarthy (NY)	Sanchez
Hinojosa	McDermott	Sanders
Hooley	McGovern	Sandin
Horn	McKinney	Sawyer
Houghton	Meehan	Scott
Hoyer	Meek	Serrano
Jackson (IL)	Menendez	Shays
Jackson-Lee	Millender-	Sherman
(TX)	McDonald	Skaggs
Jefferson	Miller (CA)	Smith, Adam
Johnson (CT)	Minge	Snyder
Johnson (WI)	Moakley	Spratt
Johnson, E. B.	Moran (VA)	Stabenow
Kelly	Morella	Stark
Kennedy (MA)	Neal	Stokes
Kennedy (RI)	Obey	Strickland
Kennelly	Olver	Thompson
Kilpatrick	Owens	Thurman
Kind (WI)	Pallone	Tierney
Klecza	Pastor	Torres
Klug	Payne	Towns
Kolbe	Pomeroy	Vento
Lampson	Price (NC)	Vento
Lantos	Ramstad	Waters
Levin	Rangel	Watt (NC)
Lewis (GA)	Reyes	Wise
Luther	Rivers	Woolsey
Maloney (CT)	Rothman	Wynn
Markey	Roybal-Allard	Yates
Matsui	Rush	

NOES—282

Abercrombie	Diaz-Balart	Jenkins
Aderholt	Dickey	John
Allen	Dingell	Johnson, Sam
Archer	Doolittle	Jones
Army	Doyle	Kanjorski
Bachus	Dreler	Kasich
Baessler	Duncan	Kildee
Baker	Dunn	Kim
Ballenger	Ehlers	King (NY)
Barcia	Ehrlich	Kingston
Barr	Emerson	Klink
Barrett (NE)	English	Knollenberg
Bartlett	Ensign	Kucinich
Barton	Everett	LaFalce
Bass	Ewing	LaHood
Bateman	Farr	Largent
Bereuter	Fawell	Latham
Berry	Fazio	LaTourette
Bilbray	Foglietta	Lazio
Bilirakis	Foley	Leach
Bliley	Forbes	Lewis (CA)
Blunt	Fowler	Lewis (KY)
Boehner	Fox	Linder
Bonilla	Franks (NJ)	Lipinski
Bono	Gallely	Livingston
Borski	Ganske	LoBiondo
Boswell	Gekas	Lofgren
Brady	Gibbons	Lowey
Bryant	Gillmor	Lucas
Bunning	Gingrich	Maloney (NY)
Burr	Goode	Manton
Burton	Goodlatte	Manzullo
Buyer	Goodling	Martinez
Callahan	Gordon	Mascara
Calvert	Goss	McCollum
Camp	Graham	McCrery
Canady	Granger	McDade
Cannon	Gutierrez	McHale
Chabot	Gutknecht	McHugh
Chambless	Hall (OH)	McInnis
Chenoweth	Hall (TX)	McIntosh
Christensen	Hamilton	McIntyre
Clement	Hansen	McKeon
Coble	Harman	McNulty
Coburn	Hastert	Metcalfe
Collins	Hastings (WA)	Mica
Combest	Hayworth	Miller (FL)
Condit	Hefley	Mink
Cook	Hefner	Molinaro
Cooksey	Herger	Mollohan
Costello	Hill	Moran (KS)
Cox	Hilleary	Murtha
Cramer	Hobson	Myrick
Crane	Hoekstra	Nadler
Crapo	Holden	Nethercutt
Cubin	Hossettler	Neumann
Cunningham	Hulshof	Ney
Danner	Hunter	Northup
Davis (VA)	Hutchinson	Norwood
Deal	Hyde	Nussle
DeGette	Inglis	Oberstar
DeLay	Istook	Ortiz

Packard	Ryun	Sununu
Pappas	Salmon	Talent
Parker	Sanford	Tanner
Pascarell	Saxton	Tauscher
Paul	Scarborough	Tauzin
Paxon	Schaefer, Dan	Taylor (MS)
Pease	Schaffer, Bob	Taylor (NC)
Pelosi	Schiff	Thomas
Peterson (MN)	Schumer	Thornberry
Peterson (PA)	Sensenbrenner	Thune
Petri	Sessions	Tiahrt
Pickering	Shadegg	Traficant
Pickett	Shaw	Turner
Pitts	Shimkus	Upton
Pombo	Shuster	Velazquez
Porter	Sisisky	Visclosky
Portman	Skeen	Walsh
Poshard	Skelton	Wamp
Pryce (OH)	Slaughter	Watkins
Quinn	Smith (MI)	Watts (OK)
Radanovich	Smith (NJ)	Waxman
Rahall	Smith (OR)	Weldon (FL)
Regula	Smith (TX)	Weldon (PA)
Riggs	Smith, Linda	Weller
Riley	Snowbarger	Wexler
Roemer	Solomon	Weygand
Rogan	Rouder	White
Rogers	Spence	Whitfield
Rohrabacher	Stearns	Wicker
Ros-Lehtinen	Stenholm	Wolf
Roukema	Stump	Young (AK)
Royce	Stupak	Young (FL)

NOT VOTING—2

Kaptur Oxley

Mr. FOGLIETTA changed his vote from 'aye' to 'no.'

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore [Mr. MCINNIS]. The question is on the passage of the bill.

The question was taken.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 136, not voting 2, as follows:

[Roll No. 65]

AYES—295

Aderholt	Calvert	Duncan
Archer	Camp	Dunn
Army	Canady	Ehlers
Bachus	Cannon	Ehrlich
Baessler	Castle	Emerson
Baker	Chabot	English
Ballenger	Chambless	Ensign
Barcia	Chenoweth	Etheridge
Barr	Christensen	Everett
Barrett (NE)	Clement	Ewing
Barrett (WI)	Coble	Fawell
Bartlett	Coburn	Flake
Barton	Collins	Foglietta
Bass	Combest	Foley
Bateman	Condit	Forbes
Bereuter	Cook	Fowler
Berry	Cooksey	Fox
Bilbray	Costello	Franks (NJ)
Bilirakis	Cox	Frelinghuysen
Bliley	Cramer	Gallely
Blunt	Crane	Ganske
Boehner	Crapo	Gekas
Bonilla	Cubin	Gephardt
Bonior	Cunningham	Gibbons
Bono	Danner	Gilchrest
Borski	Davis (FL)	Gillmor
Boswell	Davis (VA)	Gingrich
Boyd	Deal	Goode
Brady	DeLay	Goodlatte
Bryant	Diaz-Balart	Goodling
Bunning	Dickey	Gordon
Burr	Dingell	Goss
Burton	Doolittle	Graham
Buyer	Doyle	Granger
Callahan	Dreier	Gutknecht

Hall (OH)	McCollum	Ryun
Hall (TX)	McCrery	Salmon
Hamilton	McDade	Sandlin
Hansen	McHale	Sanford
Hastert	McHugh	Saxton
Hastings (WA)	McInnis	Scarborough
Hayworth	McIntosh	Schaefer, Dan
Hefley	McIntyre	Schaffer, Bob
Hefner	McKeon	Schiff
Hergert	McNulty	Sensenbrenner
Hill	Metcalf	Sessions
Hilleary	Mica	Shadegg
Hinojosa	Miller (FL)	Shaw
Hobson	Minge	Shays
Hoekstra	Moakley	Shimkus
Holden	Mollinari	Shuster
Hostettler	Mollohan	Sisisky
Houghton	Moran (KS)	Skeen
Hulshof	Moran (VA)	Skelton
Hunter	Murtha	Smith (MI)
Hutchinson	Myrick	Smith (NJ)
Hyde	Neal	Smith (OR)
Inglis	Nethercutt	Smith (TX)
Istook	Neumann	Smith, Linda
Jefferson	Ney	Snowbarger
Jenkins	Northup	Solomon
John	Norwood	Souder
Johnson (WI)	Nussle	Spence
Johnson, Sam	Oberstar	Spratt
Jones	Obey	Stearns
Kanjorski	Ortiz	Stenholm
Kasich	Packard	Strickland
Kelly	Pappas	Stump
Kennedy (RI)	Parker	Stupak
Kildee	Pascarell	Sununu
Kim	Paul	Talent
Kind (WI)	Paxon	Tanner
King (NY)	Pease	Tauzin
Kingston	Peterson (MN)	Taylor (MS)
Kloczka	Peterson (PA)	Taylor (NC)
Klink	Petri	Thomas
Klug	Pickering	Thornberry
Knollenberg	Pitts	Thune
Kucinich	Pombo	Tiahrt
LaFalce	Pomeroy	Traficant
LaHood	Porter	Turner
Lampson	Portman	Upton
Largent	Poshard	Visclosky
Latham	Pryce (OH)	Walsh
LaTourette	Quinn	Wamp
Lazio	Radanovich	Watkins
Leach	Rahall	Watts (OK)
Lewis (CA)	Ramstad	Weldon (FL)
Lewis (KY)	Regula	Weldon (PA)
Linder	Reyes	Weller
Lipinski	Riggs	Weyand
Livingston	Riley	White
LoBlundo	Roemer	Whitfield
Lucas	Rogan	Wicker
Maloney (CT)	Rogers	Wolf
Manton	Rohrabacher	Young (AK)
Manzullo	Ros-Lehtinen	Young (FL)
Martinez	Roukema	
Mascara	Royce	

Menendez	Rothman	Stokes
Millender	Roybal-Allard	Tauscher
McDonald	Rush	Thompson
Miller (CA)	Sabo	Thurman
Mink	Sanchez	Tierney
Morella	Sanders	Torres
Nadler	Sawyer	Towns
Olver	Schumer	Velazquez
Owens	Scott	Vento
Pallone	Serrano	Waters
Pastor	Sherman	Watt (NC)
Payne	Skaggs	Waxman
Pelosi	Slaughter	Wexler
Pickett	Smith, Adam	Wise
Price (NC)	Snyder	Woolsey
Rangel	Stabenow	Wynn
Rivers	Stark	Yates

NOT VOTING—2

Kaptur Oxley  
□ 1618

Mr. BENTSEN 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.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES ON THE HOUSE OF REPRESENTATIVES IN THE ONE HUNDRED FIFTH CONGRESS

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 101 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 101

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress. The resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on House Oversight now printed in the resolution shall be considered as adopted. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervening motion or demand for division of the question except: (1) 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight; (2) the further amendment specified in the report of the Committee on Rules accompanying this resolution, if offered by a Member designated in the report, which shall be considered as read, shall be in order without intervention of any point of order, and shall be separately debatable for the time specified in the report equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit.

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY],

pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule makes in order House Resolution 91, authorizing funding for all but one of the committees of the House of Representatives for the 105th Congress under a modified closed rule.

It provides that the Committee on House Oversight amendment in the nature of a substitute now printed in the resolution shall be considered as adopted.

The rule further provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight.

The rule provides the further amendment specified in the report of the Committee on Rules, if offered by a Member designated in the report, shall be in order without intervention of any point of order and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. Finally the rule provides one motion to recommit.

Mr. Speaker, the process established by this rule for the consideration of House Resolution 91 is no different than the process established for previous committee funding resolutions.

Under clause 4(a) of rule XI, committee funding resolutions are privileged on the House floor and unamendable. A rule is unnecessary to bring up the resolution unless there is a need to waive points of order that could legitimately be sustained against the resolution. Such a waiver is needed to address what I am sure the other side of the aisle agrees is a technical violation of House rules.

Specifically clause 2(d)(2) of House rule X requires committees to vote to approve their oversight plans for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight by February 15 of the first session of each Congress.

The rule further prohibits consideration of a committee funding resolution if any committee has not submitted plans by February 15 or if the plans were not adopted in an open session with a quorum present.

As we know, certain committees were not able to organize before February 15 because the committee assignment process was not complete by that date. Therefore, these certain committees were unable to meet and vote to approve their oversight plans on time. However, I am pleased to report that every committee has submitted an approved oversight plan to both the Committee on House Oversight and the Committee on Government Reform and Oversight.

Mr. Speaker, House Resolution 91 is a responsible funding measure. I would

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Abercrombie	Delahunt	Hinchee
Ackerman	DeLauro	Hooley
Allen	Dellums	Horn
Andrews	Deutscher	Hoyer
Baldacci	Dicks	Jackson (IL)
Becerra	Dixon	Jackson-Lee
Bentsen	Dogett	(TX)
Berman	Dooley	Johnson (CT)
Bishop	Edwards	Johnson, E. B.
Blagojevich	Engel	Kennedy (MA)
Blumenauer	Eshoo	Kennedy
Boehert	Evans	Kilpatrick
Boucher	Farr	Kolbe
Brown (CA)	Fattah	Lantos
Brown (FL)	Fazio	Levin
Brown (OH)	Filner	Lewis (GA)
Campbell	Ford	Lofgren
Capps	Frank (MA)	Lowe
Cardin	Frost	Luther
Carson	Furse	Maloney (NY)
Clay	Gejdenson	Markey
Clayton	Gilman	Matsui
Clyburn	Gonzalez	McCarthy (MO)
Conyers	Green	McCarthy (NY)
Coyne	Greenwood	McDermott
Cummings	Gutierrez	McGovern
Davis (IL)	Harman	McKinney
DeFazio	Hastings (FL)	Meehan
DeGette	Hillard	Meek

like to commend the gentleman from California [Mr. THOMAS] and our colleagues on his committee for producing a balanced plan under what are obviously challenging circumstances. It is clear that the current level of resources available to House committees is insufficient to meet their oversight responsibilities.

H. Res. 91 addresses the needs of committees while maintaining the bipartisan commitment made by the House at the beginning of the 104th Congress to reduce permanent committee staffs by a third and provide more resources to the minority party. To ensure that these new resources do not on their own result in increased spending on the operations of Congress, the rule makes in order an amendment by Mr. THOMAS that requires any net increase in spending to be offset by reductions in expenditures for other legislative branch activities.

In addition, to ensure that any additional staffing resources that the committees may need during the course of the 105th Congress do not become permanent staff, House Resolution 91 provides \$7.9 million for a reserve fund to cover the cost of any unanticipated needs.

This fund is in compliance with clause 5(a) of rule XI which authorizes the Committee on House Oversight to include with its primary expense resolution for committees a reserve fund for unanticipated committee expenses. The actual allocation of any money from the fund is subject to approval by that committee.

Contrary to charges that have been made, and I suspect will be made by the minority, this is not a slush fund to be spent by the Committee on House Oversight as it sees fit. As explained in the section-by-section analysis of the resolution adopting House rules for the 105th Congress, the funds will only be used in, and I quote, extraordinary emergency or high priority circumstances. That is what the House rules actually say. And, quote, any proposals for its allocation will be carefully scrutinized and coordinated at the highest levels prior to a vote by the Committee on House Oversight. Other committee requests beyond their initial biennial budget authorization will still require a supplemental expense resolution to be approved by the House. That is what the House rules state.

Mr. Speaker, House Resolution 91 is a fiscally responsible committee funding resolution. It maintains the commitment of this Congress to lead by example when it comes to streamlining the Federal Government. It also maintains the commitment of the Republican majority to provide more committee resources to the minority than were provided to the minority when Republicans held that status in the House.

Therefore, Mr. Speaker, I urge adoption of this very fair and balanced rule

and this balanced approach to committee funding.

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

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman from California [Mr. DREIER] my colleague and very good friend, for yielding me the customary half hour.

□ 1630

Mr. MOAKLEY. Mr. Speaker, as the ranking member on the House Committee on Rules, I have it pretty good. My good friend, the gentleman from New York, JERRY SOLOMON, treats the minority as fairly as he can. He gives us one-third of the committee's salary, and he is just as fair to us as we were to him, and we really appreciate it.

The gentleman from California [Mr. Thomas], chairman of the Committee on House Oversight, has always been gracious to us and has seen to it that the Rules minority is treated fairly and also for that, Mr. Speaker, we are very grateful.

Unfortunately, Mr. Speaker, other committees are not quite as fair as the Committee on Rules. Given the American people's obvious dislike of partisan squabbling, given the promises of the collegiality retreat at Hershey, PA, I would expect some of my Republican colleagues would see the wisdom of bipartisanism. But, Mr. Speaker, the Republican members of the Committee on Government Reform and Oversight, in a lack of consideration for the needs and I believe rights of the Members of the minority party, are not giving Democrats anywhere near their share of the salary money.

Mr. Speaker, my colleagues on the Republican side are operating with the slimmest majority in history. Republicans outnumber Democrats 227 to 205. Mr. Speaker, that hardly justifies a 7 to 1 ratio of salary money on the Committee on Government Reform and Oversight, whose chairman is the gentleman from Indiana, [Mr. BURTON].

To make matters worse, to make sure that the American people completely lose their faith in the idea of cooperation in their Federal Government, my Republican colleagues are about to spend \$25 million investigating the Democratic Party and the Democratic White House.

Now, this is not to say that I think it is impossible that there have been occasions in which Democrats have engaged in questionable campaign fundraising. I think it is entirely possible that there have. But it is absolutely preposterous to suggest that there has not been one single such time on the Republican side, particularly given the recent stories about lobbyists in the news and the supposed use of congressional buildings for Republican fundraising activities.

Even my Republican colleagues on the Senate side admitted that they did

not hold some sort of monopoly on perfect campaigning. They agreed that to be fair they had better investigate everybody; that is, if the U.S. Government is really going into the investigation business. Because, if not, Mr. Speaker, if my Republican colleagues spend those millions of taxpayers' dollars trying to dig up dirt on Democrats, I doubt many people will be able to take it without a very large grain of salt. About the size of a pillar.

Frankly, I do not think we should spend much money or time investigating anyone. I think the reason we are here, the reason the American people voted to send us to Washington is to make their lives better, and I cannot think of a single person who will benefit from more mud-slinging here in Washington.

Rather than sifting through people's garbage, we should be passing campaign finance reform to clarify and also to strengthen the rules. We should be expanding Head Start to more needy children. We should be looking into ways to strengthen our Medicare and our Social Security programs. We should be helping our police officers make America's streets as safe as they possibly can be. We should be working as hard as we possibly can to make a college education a reality for every single American student. We should not be wasting our time on these overpriced repetitive investigations.

Mr. Speaker, at the rate we are going, every committee in the Congress is going to be issuing subpoenas. And on the issue of subpoenas, I am sorry to see that the chairman of the Committee on Government Reform and Oversight has issued over 30 subpoenas without his committee's approval.

Mr. Speaker, it does not take this former chairman of the House Committee on Rules to recognize these subpoenas are completely against the spirit of House rules. The subpoena power of Congress is a very sacred right given to us by the American people, and under no circumstance should it be used in such a partisan or a capricious way.

To make matters worse, in the beginning of this Congress my Republican colleagues changed the House rules and they created a committee slush fund. This \$7.9 million, I repeat it, this \$7.9 million, which is a Republican fund, is financed by American tax dollars and can be dipped into by any committee with a complaint. All they need to do is get approval from the Committee on House Oversight.

For the first time, the House never gets a chance to vote on the additional committee funding, and the American people's money will be squandered on yet another witch hunt.

Mr. Speaker, it is a shame that the Congress has come to this. Furthermore, Mr. Speaker, Members who vote for this rule should not be fooled into

thinking that the amendment to pay for the bill with promises of spending cuts will provide them any cover. A vote for this \$22 million spending increase will leave Members completely exposed, and rightly so, to accusations of voting to waste exorbitant amounts of taxpayer money.

Mr. Speaker, make no mistake about it, a vote for this rule and a vote for this bill is a vote to increase the amount of money Congress spends on itself by nearly \$22 million. Let me repeat that, Mr. Speaker. A vote for this bill is a vote to increase the amount of money Congress spends on itself by nearly \$22 million.

Mr. Speaker, I get a lot of letters and I get a lot of calls in my office from people asking the Congress to consider funding this or voting for that. They ask for all kinds of things, from saving Medicare to money for Irish orphans. But I can tell you, Mr. Speaker, that of all of my letters and e-mails that come into my office every day, not one single one of them has asked me to help vote for the \$22 million fund. Not one single constituent has asked me for this funding increase, and it is an irresponsible waste of taxpayers' money.

Mr. Speaker, I urge my colleagues to oppose this rule. If we are going to go into the business of investigations, if we are going to assume the mantle of the FEC or the Justice Department, we need to put on the same blindfolds that the statue of Justice wears and investigate every potential violation, and not just the alleged Democratic ones. If we are going to spend millions of tax dollars, then let us spend it on something that helps somebody. Let us send some kids to college. Let us find a cure for cancer.

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

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, NY, [Mr. SOLOMON], my friend and the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Claremont, CA, for yielding me this time.

Before I start off here, let me say it was nice to hear something nice said about the Committee on Rules in the beginning of my good friend the ranking member's testimony.

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

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I would just remind the gentleman that I also said something nice about the chairman.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I would say to the gentleman that that was very nice to hear, after the bashing we have been going through here for the last few hours.

Second, let me say to some of the Members that may be around here, however, I do not see them on the floor here, but I have been around here for about 19 years, and I guess there is not anybody more fiscally conservative than JERRY SOLOMON is, especially when I put my name on a bill like this and introduce \$800 billion in cuts. I say to the rest of my colleagues that if they want to cut this budget and they want to balance the budget, then they should come in here and take their pick. That is fiscal conservatism with guts. So I will say, come over here and vote for this bill.

Mr. Speaker, Members have two reasons to vote for it. One is because it is the right thing to do, and the other is because if they do not, I am going to tell them something right now: They will be back here tomorrow, they may be back here Monday, they may be back here Tuesday, because their staffs and their committee people do not get paid.

Members have an obligation to govern around here. And when I say there is no increase in this bill, they can believe it.

Mr. Speaker, before I speak in support of the resolution any further, I might point out that this measure is coming to the floor under a rule that gives the minority an opportunity for more input in the process than would normally happen in most cases.

Committee funding resolutions are typically privileged. They are unamendable on the House floor. The rule before us allows for the House to vote on an amendment to the resolution and allows a motion to recommit to further study the issue in the committee, if Members want to do that. That is their privilege. They would not have that privilege if it were brought here under a normal privileged resolution straight to the floor.

Mr. Speaker, the Committee on House Oversight has produced what I would consider, and I give the gentleman from California, BILL THOMAS, wherever he is here, great credit. This resolution is reasonable and it deserves the support of this House. It keeps our commitment to maintaining, and this is what some of the new Members should listen to because they were not here 2 years ago, this resolution keeps our commitment to maintaining a reduction in staff levels by one-third from the 103d Congress.

That is right. We cut one-third of every single staff in this body, and we reduced the spending by one-third of every committee in this body.

The total authorization in this resolution is also 20 percent below the levels in the 103d Congress, the last Congress controlled by the other party, which represents a \$45 million savings. That means we did not spend \$45 million more.

Mr. Speaker, the reductions that the Congress has made in streamlining

committees and the legislative branch budget overall should serve as a model for the rest of the Federal Government. That is why we slashed one-third in the last Congress.

We have made real cuts and we have saved real money in doing our part to try to set the example to shrink the size of the power of the Federal Government. That is what this is all about. That is what we are doing here today, we are maintaining that philosophy.

Mr. Speaker, the Committee on Rules performed its function in the House in the last Congress, living under the cuts we mandated. This was extremely difficult, given the frenetic pace of legislation in the last Congress. However, as partisan, and I will say to my good friend, the gentleman from Massachusetts [JOE MOAKLEY], and I will return the compliment, as partisan and pressure-filled as the Committee on Rules tends to be because of our institutional role, it is remarkable the degree to which Mr. MOAKLEY and I have worked together on our committee's budgets over the years.

Mr. Speaker, when I was the ranking member and he was the chairman, Mr. MOAKLEY was eminently fair as the chairman, and I have tried to return that favor and have had the same kind of ratios that we had under his leadership. We are a model in terms of our treatment of the minority.

The only increase that we ask for in our budget that is before us today is for a well-deserved COLA for our staff, who work many long hours into the night after the Congress has shut down and gone to bed. An example being last night, when we convened a Rules meeting late in the evening, and many of us stayed here until after midnight before we finally closed up shop and went home. They deserve that COLA. They deserve that little increase, cost-of-living increase.

Mr. Speaker, the other increases contained in the resolution, which are absolutely necessary, are guaranteed offsets. Again I will say to the Members back in their offices, these are guaranteed offsets through an amendment that will be offered today by chairman of the Committee on House Oversight, BILL THOMAS, sitting over here, or his designee. That amendment requires an offset, by reduction in expenses of other legislative branch activities, for expenses of committees in the 105th Congress that exceed the amount appropriated for the committees in the 104th Congress. That means there can be no increase in spending.

This amendment reflects the fiscally responsible policy of House Republicans, and that is that authorization or appropriation increases should be paid for, and we do that in this authorization bill.

Mr. Speaker, I could go on, but I simply want to urge every Member to come over here. I want them to vote

for this eminently fair rule, and I want them to vote for this resolution. We need to get it done.

Additionally, House Resolution 91 provides funds for the campaign finance investigation already underway in the Government Reform and Oversight Committee.

Mr. Speaker, the revelations of wrongdoing among administration officials and campaign staff, appearing on an almost daily basis, are among the most serious I have seen in my time in public life.

The allegations involving economic espionage and national security breaches are even more serious than mere campaign finance law violations which are, in themselves, serious enough to warrant criminal indictments. And the suggestion that American foreign policy may have been directed by the flow of laundered money is absolutely appalling.

Mr. Speaker, this committee funding resolution provides the necessary resources to investigate the burgeoning campaign finance scandal in the Clinton administration.

The amendment that will be offered later today also ensures that any committee expenses increased beyond the authorization in the last Congress will be paid for. The rule allows the House to vote on these important items today.

I urge strong support for the rule and the committee funding resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in opposition to this rule.

The Republican majority running this House likes to portray itself as the party of fiscal conservatism. However, I would like to know how they can justify this expenditure of up to \$12 million of the taxpayers' money for a fundraising investigation of the White House.

The other body has already budgeted itself less money than this House, and has broadened the scope of its investigation to include congressional fundraising, fundraising abuses of both Democrats and Republicans. I should also mention that every Republican in the other body voted for a broader scope and a smaller budget.

Republicans in the House, however, have decided that they need significantly more than their colleagues in the other body, but they are going to investigate less.

I do not think the blatant partisanship of the Republican leadership has been lost on anyone here. They are not looking for fairness, nor are they looking to have a balanced investigation into campaign wrongdoing. They are taking up to \$12 million of the taxpayers' money and wasting it on a political witch hunt.

If anybody is wondering why the House Republican leadership has decided not to broaden the scope of the committee's investigation into improper acts by congressional campaigns, one only needs to look at the top.

□ 1645

Indeed, if the scope of the committee was broadened to consider congressional campaigns, I suppose the first witness to be called would have to be the Republican committee chairman. Only yesterday the Nation learned that the Republican chairman of the Committee on Government Reform and Oversight was appealing to a foreign ambassador for campaign contributions. How can this gentleman hold an objective view and write a committee report on the alleged abuses of the White House? Anything that comes of the investigation headed up by the gentleman from Indiana will be tainted. The Republican leadership of this House will better serve the integrity of this institution if they remove the gentleman from Indiana from the chair and broaden the scope of the investigation.

Without these actions, the country will rightly consider this investigation a joke. I would point out, as others have already, that already in the Washington Post today it was suggested, rightly I think, that the chairman should step down from the investigation, and in the New York Times it was very emphatically pointed out that the scope of the investigation should be broadened to include congressional campaigns, both Democrat and Republican. I think that the public is crying out to action in that regard, and that is why we should vote down this rule and we should vote against the resolution.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Albuquerque, NM [Mr. SCHIFF].

Mr. SCHIFF. I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard a great deal from our colleagues on the other side of the aisle about fiscal responsibility, and they suggest that the amount of money being appropriated for an investigation is not fiscally appropriate. I respectfully suggest first that they never said that when they appropriated funds for investigations conducted on whatever subject while they were the majority.

Second, and I think more important, even if there were no setoff to the spending proposed here and, as Chairman SOLOMON said, there will be an amendment offered that will have setoffs, even if there were no setoffs, the total funding for committees proposed in this bill is \$178.3 million for the 105th Congress. The total appropriation for the 103d Congress, two Congresses ago, under our Democratic colleagues' majority was \$223 million. So that is getting close to a \$50 million difference between what the majority spent in the 103d Congress and what the majority proposes to spend in the 105th Congress for the purpose of committees.

It will be interesting for our Democratic colleagues to explain what they

were doing with all of the money that they spent in the 103d Congress that came to \$223 million. How are we able to function on \$178.3 million, even with an investigation? So I submit that we are being entirely fiscally responsible.

Second, the average appropriation for the Democratic minority staff is 29 percent in our bill. In previous Congresses, the average appropriated to Republican minorities was 21 percent. So we are giving the Democrats a larger percentage of the budget for committees than we were given when we were in the minority. If one looks at all these figures, I submit that everyone should support the rule and support the bill.

Mr. MOAKLEY. Mr. Speaker, before I yield, I would like to just correct a statement of the gentleman from New Mexico [Mr. SCHIFF]. There are no specific offsets in this bill. It is just general language.

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise in strong opposition to this rule. In walking over here to speak on this matter, I wondered what the gentleman from Georgia [Mr. GINGRICH] would have said when he was in the minority if a Democratic majority brought a committee funding bill to the floor under a closed rule, meaning no amendments allowed, a bill that provided a record funding level, \$12 million, for one committee and created a mysterious \$8 million reserve fund that was controlled by the majority; a bill that provides this funding, even though the money will be used exclusively to investigate the minority and the chairman will unilaterally issue subpoenas and release documents, even confidential information, as he sees fit. And that bill provided at most 25 percent of the committee's resources to the minority?

Mr. Speaker, NEWT GINGRICH would have said that it was an arrogant abuse of power, that debate was quashed, that the funding was an outrageous waste of money, taxpayers' dollars, he would have said it was an act of war against the minority, and he would have been right.

No matter what other wrongs we may have done when we were in the majority, we never went this far. Today, the Republican majority is crossing the line. They are trying to jam a funding bill through without any opportunity for an amendment, and they are authorizing an investigation that is limited to Democrats, limited to the White House, that is unwilling, at least at this point, to even examine what campaign finance abuses took place by the Congress of the United States. That cannot be interpreted as anything other than a coverup.

This bill would allow this investigation to be conducted under the rules that the chairman of the committee seeks to impose, which is he could act

unilaterally. He can issue subpoenas everywhere. He can compel information to be submitted to him, which is a very serious matter. It involves people spending money, hiring lawyers, getting the information together at expense to them and facing criminal penalties if they do not comply. And this investigation, as the chairman of the committee would envision it, would allow him to take that information and release it as he sees fit, even if it involved national security.

This is a concentration of power that has never been given to any chairman anywhere. And as far as the funding is concerned, the majority would take 75 percent, leaving the minority with less, around 25 percent at best.

This is blatantly partisan and egregiously unfair. It poisons what should be a bipartisan effort to investigate all fund-raising abuses and reform the system. It is wrong, and I appeal to my Republican colleagues to say no to this outrageous travesty.

There is an easy and obvious solution. Fund all the other committees except the Committee on Government Reform and Oversight. We have not even had a meeting of our committee to decide the rules under which this investigation will be conducted. We do not even know the scope yet except what the chairman would have us believe is the scope that he would want for this investigation. Fund the other committees, and allow us to not have a disruption of them, and then leave the investigation by the Committee on Government Reform and Oversight to be decided later. Defeat this rule.

Mr. DREIER. Mr. Speaker, I yield 3½ minutes to the gentleman from Winter Park, FL [Mr. MICA].

Mr. MICA. Mr. Speaker, I was elected to this body in 1992, and I have been waiting for this day. You cannot imagine in your wildest imagination, Mr. Speaker, the way our side was treated by the former predecessor of this committee, the Government Operations Committee. We now have the Government Reform and Oversight Committee.

I pulled these charts out of the attic, but look at these charts. You want to talk about fairness? In the 103d Congress, this is the investigative staff that they gave the minority. This chart was presented on this floor, and I came to this well and railed against what was done to us. How dare they come here today and say we are mistreating them when we offer such an incredible increase in percentage. In fact, we are running Government Operations, we are running the Postal and Civil Service Committee, the D.C. Committee, all combined, for about half of what they were spending.

What this is about, is fairness and equity. We gave them in our proposal 25 percent. It is higher than anything they ever gave us. So I have been wait-

ing for this day. I do not have enough time to go into all the grisly details, Mr. Speaker, but I will present every one of them when I get my full time when this rule is completed.

So do not come here and say this is unfair. In the 103d Congress, \$25 million for Government Operations, Civil Service and Post Office. What we are doing now, the 104th Congress, we spent \$13.5 million for the same task. This request is for \$20 million. It is still almost \$5 million less than what they expended.

Again, look at the distribution of what they did to us, and that is when they controlled the House, the Senate and the White House. There was no oversight. We see the results of it. The results of it is the scandal, the unprecedented scandal. I chair the House Subcommittee on Civil Service. I have 7 staffers that replaced 54 Civil Service staffers, 7 staffers. I have in my possession right now 1,000 documents, almost 10,000 pages, almost as much as we had in the Filegate matter.

Mr. Speaker, this is about a scandal that is unprecedented in the history of this Congress, and they are trying to blur the focus, they are trying to make it look like a partisan attack, they are trying to attack our chairman, they are trying to attack our Members and they are trying to say, most unfairly, that we are being unfair. Mr. Speaker, there could not be anything further from the truth.

Mr. MOAKLEY. Mr. Speaker, I yield 2¼ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. I thank the gentleman for yielding me this time.

Mr. Speaker, there has been so much talk about bipartisanship and so much self-congratulation around here that until just now I was of the opinion that momentum was building for a resolution for a joint session of Congress to convene and hear an address from Mr. Rogers. But I suppose that when we get down to substance, that the interest in bipartisanship and fairness is a little weaker than when it is just "I smile at you and you smile at me."

I believe that the alleged improprieties at the White House deserve a thorough investigation by this body. I think this should be adequately funded and adequately staffed. But why just the White House and not this House? Has this House been exempt from complaints about the distribution of tobacco money right here on the floor of the House, from complaints about the "farsighted" use of tax-exempt money to fund campaign efforts, from one complaint after another? Why is it that we look only to the White House and not to this House with reference to the growing problem of members of any Federal position having to chase money for the increasing cost of campaigns?

Well, certainly it is not because it is not a problem. If you turn only to to-

day's Roll Call, one finds a report of one lobbyist with Republican ties who said that Members routinely shake down lobbyists and foreign agents:

Are there shakedowns happening? Absolutely. Every minute of every day with very rare exceptions on both sides of the aisle, on both sides of the Capitol dome. It is a disgusting, despicable scene.

And so it is. I do not say it is all a Republican problem or all a Democratic problem, but that it is time to look not just at the White House but at this House, and if you vote for this resolution, what you are doing is voting to exempt this House from any investigation concerning financial improprieties in the course of campaigns. Why not look at the whole problem, not just to point fingers but to find solutions? That is what this matter should be about.

You would think with so many shakedowns someone would be concerned about shaking up the system and providing the American people a solution. I maintain we need more than Hershey kisses. We need the type of genuine bipartisanship the Senate finally engaged in to investigate all manner of improprieties in any part of the Federal system. Only then will the American people be adequately served.

□ 1700

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Smyrna, Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me.

Mr. Speaker, were it not such a lengthy document and were it not also residing in the office of every Member of this body, I would ask to have the House Rules and Manual accepted into the RECORD at this point because apparently, even though I have only been here a little over 2 years, I know just a tiny bit more about what those rules contain than many Members of the other side who are out here blasting the resolution before this body.

The fact of the matter is that the jurisdiction of the Committee on Government Reform and Oversight does not extend to Members of this body. Regardless of what the Senate may or may not do, we still have to abide not by what we see as press accounts, not by what the Senate does, but by the Rules of the House of Representatives of the United States of America, and those rules provide very clear jurisdiction for the Committee on Government Reform and Oversight, and it happens to be the executive branch of Government.

Despite the fact that we may wish on the other side that these rules said otherwise, despite the fact that Members on the other side who are so partisan they do not even understand what the rules are, may want the rules to say otherwise, they do not.

We have to abide by the rules, and the resolution before this body at this time does indeed reflect the rules of this House and it reflects the proper jurisdiction of each and every one of the committees, including the Committee on Government Reform and Oversight for which funds are proposed through this resolution.

Now we heard a little bit ago that, I believe it was the gentleman from New Jersey that seemed to feel that the scope of the investigation proposed to be conducted by the House Committee on Government Reform and Oversight was inconsequential. Well, it may be to the people of his State but it is not to the people of the United States of America. They are deeply disturbed by the mounting evidence of very, very serious possible violations of law ethics and wasting government conducted by this administration and by agencies of the U.S. Government executive branch, and it does indeed fall within the jurisdiction of the Committee on Government Reform and Oversight to conduct an investigation of those for the American people.

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

The statement of the gentleman is factually incorrect when it comes to the duties of the House Oversight jurisdiction, Government Reform rather. The argument is factually incorrect. The House gives House Oversight legislative jurisdiction over all Federal elections, both congressional and Presidential. Government Reform and Oversight has oversight responsibilities that are extraordinarily broad, so broad in fact that under House rules, Government Reform and Oversight may conduct investigations on any matter with regard to any committee's jurisdiction.

So what we have here is a situation where the Republicans on the Committee on Government Reform and Oversight are selectively investigating some of the matters that fall within the legislative jurisdiction of the House Oversight, but not others; the gentleman from Indiana [Mr. BURTON] saying, "Well I think we should go and take a look at the Presidential election. I know that's within the jurisdiction of the House Oversight Committee, and I can do that under the rules of the House." But when pressed to look at congressional elections, Chairman BURTON says, "Oh, no, I can't do that. That is within the jurisdiction of the House Oversight Committee."

Mr. Speaker, that is not right, that is not fair, and I can only conclude that this investigation is being conducted in a very partisan way.

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

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I checked with the House Parliamen-

tarian on this very issue, and he assured me that our committee does have jurisdiction, Government Reform and Oversight Committee, over all campaign finance issues. We need not be restricted only to the White House unless it is being done for partisan reasons.

Mr. MOAKLEY. I think the gentleman that spoke before the gentleman from California [Mr. WAXMAN] may have confused legislative and investigative oversight. It does have the investigative oversight over all committees.

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

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Long Beach, California [Mr. HORN], my very good friend.

Mr. HORN. Mr. Speaker, this is a very difficult situation. What we have, and it is the press that has done most of the work, the media, to this point, we have major national scandals, clear violations of the law, and the first emphasis, it would seem to me, would be to deal with those.

Now I am fascinated by my friends on the other side of the aisle. They are right, I think, on the jurisdictional point. We can go anywhere and investigate, anywhere an authorization committee can go. The question is what comes first?

What comes first is what bothered this Nation for the last 6 months because these were slowly, slowly unfolding during the election period, but mostly since the general election, and it seems to me we ought to concentrate our resources at this time on solving that problem. And I will tell my friend from California that as one that takes no PAC money, I would love nothing better than to be involved in an investigation of the fund-raising on both sides of the aisle. I do not think the gentleman wants that to happen, but I would be glad to get into that.

Mr. WAXMAN. Will the gentleman yield?

Mr. HORN. I yield to the gentleman for a question, but I have got a few other things I want to cover. A 10-second question.

Mr. WAXMAN. The Senate voted unanimously to investigate the Congress and the White House. I think we ought to do the same. There ought to be Democrats and Republicans. If we are only going to investigate the White House, it seems to me that the opens this up to the fact that we are covering up what goes on in the Congress.

Mr. HORN. Mr. Speaker, I would say to my colleague that if the Senate is already investigating that area, and I know it is and that was my second point, why are we spending resources to be diverted into the area?

I hear a lot from liberals and a lot from conservatives about, "Gee, we have to save money on committee." Now frankly they are dead wrong on

both sides because what we need to do is make sure that the prerogatives of the Congress of the United States can faithfully be carried out. To skimp on that budget is just dead wrong. Frankly, it means some people do not want the investigation to be carried out. We should want it to be completed.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, you know one of the problems we have here, there are a number of issues before us. First of all, if we fail to pass this resolution, it does not stop the legislative process. Frankly, when we came here in January we operated without a funding resolution. The Congress then organized and we are able to continue.

If we do not pass this rule today, we can come back here on the 8th or the 9th of April and pass a funding resolution that pays people for the work they have done, and there is no crisis in government if we do not pass this rule today.

One of the major issues as a Member of Congress, and we do not do this for Federal agencies as a general rule, is we do not create slush funds.

Now as my colleagues know, it seems the answer around here is, "If you put gates at the end of almost any term it becomes somehow criminalized." So I guess we have to call this Slushgate. We are bringing up here an amount of money that no Member of Congress in his right mind would vote for investigations—the October Surprise spent under \$2 million; I think a million four. We are taking the committee of the gentleman from Indiana [Mr. BURTON], and we are moving it from about 6½ million to around 12 million, and then we have got Slushgate. Then we got another 7.8 or \$9 million sitting there in a little pot that no Member of Congress on this floor is going to have a chance to vote on on the floor. They are going to do it back in the committee where there are no lights.

So we are taking almost \$8 million more, and again the focus is very narrow, but we are taking the committee that last year did three political investigations, and I know the country is better off for finding out what happened in the travel office and all the other things that we spend tens of millions of dollars investigating, but we are going to spend another 12 to \$20 million now.

What is the goal of our oversight? The goal of our oversight ought to be campaign reform. That is not the goal here. The goal here is to spend as much money as you can with as little opportunity for any real debate and looking at how we work.

We need to regain the confidence of the American people. We are not going to do that going after the White House or Congress. If my colleagues want to

rebuild the confidence in the American people, we have to pass campaign finance reform, and we have to bring a budget here for the Congress that does not have an \$8 million slush fund. We want to appropriate the funds as they are needed. Our colleagues have not got guts enough to come here and ask for 20 million bucks from the committee of the gentleman from Indiana [Mr. BURTON] so they are going to come here and say, "We're going 6 to 6½, we're going to bring that to 12, and then we got 8 million over here."

They got a slush fund on the floor of this House. It is no way to run this Congress. We ought to vote this rule down, we ought to come back here after the recess and try to pass a budget that will really address the issues we have to take care of as a Congress.

PARLIAMENTARY INQUIRY

Mr. DREIER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman will state his parliamentary inquiry.

Mr. DREIER. Mr. Speaker, I would simply like to inquire of the Chair what the ground rules are on personal references to Members of the House.

The SPEAKER pro tempore. Members should avoid personalities, derogatory personal references, to other Members of the House.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], the very distinguished chairman and, I believe, unfairly maligned chairman of the Committee on Government Reform and Oversight.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

As my colleagues know, the founder of our party, Abraham Lincoln, said one time, I hope I am quoting him correctly; he said, "If I do the wrong thing, a thousand angels screaming from the rooftops won't make it right, but if I do the right thing, history will prove I did the right thing."

Mr. Speaker, I hope that is what happens with my committee and my conducting of my committee's activities over the next few months.

I have been accused of some things that I think unfairly, but I expected that to happen because when we start investigating the executive branch of government that involves the President, we got to expect that they are going to be firing back, and I fully anticipated that. I did not think it would happen this soon, but nevertheless I expected it.

But let me just say to my colleagues I still commit to my Democrat friends that we are going to try to run this committee in as fair and as bipartisan a way as possible.

I told the gentleman from California [Mr. WAXMAN] on three different occasions when we had meetings that we would give him notice before we sent

out correspondence, he would have 24 hours notice before we sent out subpoenas, we would not release documents without his approval or give him 24 hours notice unless it was an emergency and we had to do it, and so far we have released no documents.

Today many people are talking about us releasing documents. We have released no documents. The White House has been doing that, and if Members do not believe me, ask the media. We are keeping our word, and our scope, the scope of our investigation, I want it to be relatively narrow so we can get this thing over with in a quick and a short period of time.

I want to investigate alleged illegal activities in the executive branch, illegal activities. Were we selling foreign influence overseas for campaign contributions?

This is something that is very important to the American people. Was our national security jeopardized because we were selling our national security for contributions? Were we selling business deals to foreigners for campaign contributions that might hurt the economy of the United States? These are things that we need to look into that are alleged illegal activities.

Now I did not say that we would not look into the illegal activities of Congressmen or Senators, or the DNC, the RNC, or the DCCC or NRCC. What I did say was, if we found illegal activities or what appeared to be illegal, we would turn them over to the committee of jurisdiction in the Congress.

The Committee on Standards of Official Conduct investigates Congressmen. We knew that when Speaker GINGRICH and Speaker Wright were investigated; that is where we went when there was an alleged ethical or illegal violation. That is what I intend to do; not sweep it under the rug if it is a Republican, but turn it over to the Committee on Standards of Official Conduct with the information we have.

The House administration or the Committee on House Oversight, if we find something going wrong with the RNC, or the DNC, we will give that illegal information, or that information looks like it is illegal, to that committee for proper work.

Let me just wrap up because we are running out of time. I want to pledge to Members that this will be a fair investigation. I will be as fair to the minority as I am the majority. But I want to tell my colleagues this:

As long as I can stand on my two legs, I am going to do my dead level best to get to the bottom of these scandals; make no mistake about it.

□ 1715

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TIERNEY].

Mr. TIERNEY. Mr. Speaker, I thank my colleague from Massachusetts for yielding me this time.

As a member of the Committee on Government Reform and Oversight, let me say that I think that all of the Members of that committee would wish that it were true that we had some indication that things were going to be done fairly and justly on that committee. I am here to tell you as a member that we have no indication that that is so.

It is very unique that we should have had a meeting called for last week to discuss these very issues about process, to discuss the very issues about funding, to discuss whether or not we would be investigating all of the irregularities in campaign finance reform, only to have that meeting postponed so that this issue could be brought to the floor and rushed through without any debate and without dealing with these matters.

The American public demands to know what went wrong with campaign financing at all levels, not just at the White House if anything went wrong there, but in Congress if something went wrong there and in the Senate if something went wrong there.

There is no clamoring, no clamoring at all that I know of in the public for us to duplicate the expenditure of funds on this investigation. Nobody that I know of out there is saying, let us spend \$6 million in the Senate and another \$6 million in the House, and oh, yes, please, if you can, put an \$8 million slush fund together so they can hold that in reserve. There is none of that out there in the public.

I think we should all take cognizance of the fact that we should have one thorough, complete, nonpartisan and fair investigation, get it done, have it done by a joint committee or by the Senate, because at least the Senate indicates that it wants to do it right. If we insist on having the Committee on Government Reform and Oversight of the House want to be partisan and want to be unfair, at the very least the appearance of being unfair and partisan, then we ought to back off, we ought to let the Senate do it and we ought to get on with the people's business. There are many things we could be doing in this Congress; providing a slush fund is not one of them.

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

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to join my colleagues and add my voice as a member of the Committee on Government Reform and Oversight, speaking out against the \$7.9 million slush fund that will not go to the House floor. It is really wrong. I also oppose the \$12 million that they are asking for for clearly a partisan investigation against the White House and the Democratic party.

The committee has yet to reveal any information or any details about how they intend to spend this slush fund or any of this money.

I would like to quote, please, Becky Cain, president of the League of Women Voters. She said about this, "The House investigation into campaign fundraising should include a thorough examination of both parties' Presidential and congressional practices, both improper and illegal. A limited scope will turn the investigation into a partisan charade."

Today's Washington Post editorial goes even further. It warns that this investigation runs the risk of becoming, and I quote, "its own cartoon, a joke and a deserved embarrassment."

The New York Times editorial recommended today that the House should follow the Watergate precedent and let the Senate conduct a single investigation.

I would like to submit into the RECORD the editorials in both the Washington Times and in the Washington Post against this investigation, and also the Roll Call editorial.

Instead of using this money for the slush fund for a partisan investigation of the House, we should be increasing funding for the bipartisan agency that is charged with regulating campaigns: The Federal Election Commission. The FEC has requested an increase of \$8.2 billion for fiscal year 1998 to deal with its increasing caseload. In the last 3 years the FEC's caseload has increased. I am opposed to the slush fund. We should be funding the FEC instead.

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

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, we have a job here and the job is to make a decision as to what the proper method to proceed is.

Now, we are going to go back and see our constituents over this next recess. The question as constituents meet us on the street, whether we are on this side of the aisle or the other, is can we explain to them an \$8 million slush fund. That is the real question here. Are we going to vote for a process, adding all of the other issues about fairness, about how the investigation ought to proceed? Should we not really be looking at campaign finance reform and not just more partisan battles?

Putting all of that aside, the question is, do we want to walk down the streets of our hometown and have them ask, should Congress have a slush fund? We do not do that for other agencies. If we think this investigation warrants \$8 million more, then put it in the committee of the gentleman from Indiana [Mr. BURTON]. My colleagues on the other side do not have guts enough to do that. Frankly, I do not think we should support that kind of process.

Let us vote this rule down, because we were not given any opportunities to amend it; let us vote the rule down, let us continue the regular order. We can either have an extension tonight by unanimous consent, our side is ready to do that, or we can stay here tomorrow and do it.

A lot of Members have plans. I think we can come back here on April 8 or 9 and deal with this properly. I do not think the American people want us to have an \$8 million slush fund in the budget. When we take a look at how we operate here and how we ought to operate here, we have never before put slush funds in. We have always come back to the Congress. We come back to the Congress, we say there is a need, we have a debate on the floor of the House, and when we complete that debate, we make a decision.

Not this time. This time we double the funding of the committee of the gentleman from Indiana [Mr. BURTON]; we come here, and on top of that doubling of funding we have the slush fund in the budget. Vote down this slush fund. Let us come back here and have campaign finance reform. Let us come back here, examine the way we work, not with a political motive, but a motive on how to rebuild confidence of the American people in our system.

We have to have real reform that limits spending, that limits the large amounts of money. That is what we have to do. But we are not going to achieve that in this game. This is a political game. I say to my colleagues, you are going to embarrass yourselves in this process.

Let us join together and vote this resolution down. Let us come back with a fair resolution, without a slush fund, with a proper activity legislatively that will give us the basis for coming together and passing campaign finance reform. That is what we ought to be doing. Join with us together, Democrats and Republicans, in rejecting this proposal which has a slush fund in it, and come back here with a bill that will make us proud to be Members of Congress.

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

#### CALL OF THE HOUSE

Mr. DREIER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 66]

#### ANSWERED "PRESENT"—421

Abercrombie	Baessler	Barrett (WI)	Bereuter	Ewing	Kucinich
Ackerman	Baker	Bartlett	Berry	Farr	LaFalce
Aderholt	Baldacci	Barton	Bilbray	Fattah	LaHood
Allen	Ballenger	Bass	Billrakis	Fawell	Lampson
Archer	Barcla	Bateman	Bishop	Fazio	Lantos
Armey	Barr	Becerra	Blagojevich	Filner	Largent
Bachus	Barrett (NE)	Bentsen	Bliley	Flake	Latham
			Blumenauer	Foglietta	LaTourette
			Blunt	Foley	Lazio
			Boehert	Forbes	Leach
			Boehner	Ford	Levin
			Bonilla	Fowler	Lewis (CA)
			Bonior	Fox	Lewis (GA)
			Bono	Franks (NJ)	Lewis (KY)
			Borski	Frelinghuysen	Linder
			Boswell	Frost	Lipinski
			Boucher	Furse	Livingston
			Boyd	Gallegly	LoBiondo
			Brady	Ganske	Lofgren
			Brown (CA)	Gejdenson	Lowe
			Brown (FL)	Gekas	Lucas
			Brown (OH)	Gephardt	Luther
			Bryant	Gibbons	Maloney (CT)
			Bunning	Gilchrest	Maloney (NY)
			Burr	Gillmor	Manton
			Burton	Gilman	Manzullo
			Buyer	Gonzalez	Markey
			Callahan	Goode	Martinez
			Calvert	Goodlatte	Mascara
			Camp	Goodling	Matsui
			Campbell	Gordon	McCarthy (MO)
			Canady	Goss	McCarthy (NY)
			Cannon	Graham	McCollum
			Capps	Granger	McCrery
			Cardin	Green	McDade
			Carson	Greenwood	McDermott
			Castle	Gutierrez	McGovern
			Chabot	Gutknecht	McHale
			Chambliss	Hall (OH)	McHugh
			Chenoweth	Hall (TX)	McInnis
			Christensen	Hamilton	McIntosh
			Clay	Hansen	McIntyre
			Clayton	Harman	McKeon
			Clement	Hastert	McKinney
			Clyburn	Hastings (FL)	McNulty
			Coble	Hastings (WA)	Meehan
			Coburn	Hayworth	Meek
			Collins	Hefley	Menendez
			Combest	Hefner	Metcalfe
			Condit	Hergert	Mica
			Conyers	Hill	Millender
			Cook	Hilleary	McDonald
			Cooksey	Hilliard	Miller (CA)
			Costello	Hinches	Miller (FL)
			Cox	Hinojosa	Minge
			Coyne	Hobson	Mink
			Cramer	Hoekstra	Moakley
			Crane	Holden	Mollinari
			Crapo	Hooley	Mollohan
			Cubin	Horn	Moran (KS)
			Cummings	Hostettler	Moran (VA)
			Cunningham	Houghton	Morella
			Danner	Hoyer	Murtha
			Davis (FL)	Hulshof	Myrick
			Davis (IL)	Hunter	Nadler
			Davis (VA)	Hutchinson	Neal
			Deal	Hyde	Nethercutt
			DeFazio	Inglis	Neumann
			DeGette	Jackson (IL)	Ney
			Delahunt	Jackson-Lee	Northup
			DeLauro	(TX)	Norwood
				Jefferson	Nussle
				Jenkins	Oberstar
				John	Obey
				Johnson (CT)	Oliver
				Johnson (WI)	Ortiz
				Johnson, E. B.	Owens
				Johnson, Sam	Packard
				Jones	Pallone
				Kanjorski	Pappas
				Kasich	Parker
				Kelly	Pascarell
				Kennedy (MA)	Pastor
				Kennedy (RI)	Paul
				Kennelly	Paxon
				Kildee	Payne
				Kilpatrick	Pease
				Kim	Pelosi
				Kind (WI)	Peterson (MN)
				King (NY)	Peterson (PA)
				Kingston	Petri
				Kiecicka	Pickering
				Klink	Pickett
				Klug	Pitts
				Knollenberg	Pombo
				Kolbe	Pomeroy

Porter	Scott	Taylor (NC)
Portman	Serrano	Thomas
Poshard	Sessions	Thompson
Pryce (OH)	Shadegg	Thornberry
Quinn	Shaw	Thune
Radanovich	Shays	Thurman
Rahall	Sherman	Tiahrt
Ramstad	Shimkus	Tierney
Rangel	Shuster	Torres
Regula	Sisisky	Towns
Reyes	Skaggs	Trafficant
Riggs	Skeen	Turner
Riley	Skelton	Upton
Rivers	Slaughter	Velázquez
Roemer	Smith (MI)	Vento
Rogan	Smith (NJ)	Visclosky
Rogers	Smith (OR)	Walsh
Rohrabacher	Smith (TX)	Wamp
Ros-Lehtinen	Smith, Adam	Waters
Rothman	Snowbarger	Watkins
Roukema	Snyder	Watt (NC)
Roybal-Allard	Solomon	Watts (OK)
Royce	Souder	Waxman
Rush	Spence	Weldon (FL)
Ryun	Spratt	Weldon (PA)
Sabo	Stabenow	Weller
Salmon	Stearns	Wexler
Sanchez	Stenholm	Weygand
Sanders	Stokes	White
Sandlin	Strickland	Whitfield
Sanford	Stump	Wicker
Sawyer	Stupak	Wise
Saxton	Sununu	Wolf
Scarborough	Talent	Woolsey
Schaefer, Dan	Tanner	Wynn
Schaffer, Bob	Tauscher	Yates
Schiff	Tauzin	Young (AK)
Schumer	Taylor (MS)	Young (FL)

□ 1757

The SPEAKER pro tempore [Mr. LATOURETTE]. On this rollcall, 421 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE ONE HUNDRED FIFTH CONGRESS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. MOAKLEY] be able to reclaim the 1 minute that he yielded back, and I ask unanimous consent that I be able to yield to him 2 minutes of the 5¼ minutes that I have remaining.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] has 3 minutes remaining, and the gentleman from California [Mr. DREIER] has 3¼ minutes remaining.

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

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. CONDIT].

□ 1800

Mr. CONDIT. Mr. Speaker, I stand today opposed to the rule.

Let me say that all of us in this body today are working frantically to try to do what we can to balance the budget

of this country. Both my Republican colleagues and my Democratic colleagues are working very hard to do that. Yet today we stand here considering expending \$15 million to do an investigation in the Committee on Government Reform and Oversight, \$15 million, when we are trying very hard to balance the budget of this country.

This is confusing to the American people. We are spending \$15 million, or requesting \$15 million, when in the Senate they are spending \$4 million. They are spending \$4 million to do a bigger and broader, more encompassing investigation than what we are considering here in the House. That does not make sense to the American people.

I came here in 1989. I do not think there has been 30 days since I have been here that we have not been investigating someone or something. I will tell my colleagues, the American people are sick and tired of that.

I think that we ought to have full disclosure. We ought to have investigations, but it makes no sense when the Senate or the other body has an investigation, asks questions, calls in witnesses, and then 2 weeks later we are doing the very same thing over here. That is a show. That is a show, and we are doing it over here to the tune of twice, three times as much money as the Senate is spending.

What we need to do is to change the process. We need to quit this. If we are going to have investigations, and we should, from time to time, we ought to clean the process up. We ought not to duplicate what the other body does. We ought not to spend money that we do not have to spend.

This is about the process. This is about doing what is right and what is fair. We did not even have a committee hearing about this issue. We did not discuss it a bit. That is not right. We can do better than that. That is not the way to do the House's business. We, at a minimum, should have discussed this in a committee hearing.

I want to tell my colleagues that out of the \$15 million we have \$8 million in a fund that we do not even know what is done with it. What are the American people going to say about that, when we are talking about reducing the costs of Medicare and Medicaid? This is wrong. This is not right and we ought to reject this rule today.

I say to my colleagues, if we want to do what we said we were going to do a couple of weeks ago, we ought to start today. We ought to start today by rejecting this rule.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to inform my colleagues that on July 16th of 1987 we established the Connecticut compromise, a bicameral legislature.

Someone who understands that is the very distinguished chairman of the Committee on House Oversight, my friend from Bakersfield, California [Mr. THOMAS].

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I have to admit I am genuinely confused. It is indeed a rare occasion when I come to the floor and I find out that not only is my friend from Massachusetts saying good things about me in terms of the way I run a committee and the way we split funds, but I read the minority views from my friend from Connecticut, signed by all the members of the committee, about how fair I am and the fact that the distribution of the funds was reasonable. And my colleagues really ought to read it, it is almost embarrassing how flattering they are about the way I run the committee, and then they immediately turn around and talk about this slush fund and they are worried about the slush fund and what is going to happen with it.

I am the same person who is chairman of the committee who is going to control the reserve fund. The reserve fund is just exactly that, reserve.

Now, these folks ought to know what a slush fund is. In the 103d Congress they had \$223 million to slush around. And what my colleagues need to know is that out of that \$223 million, more than half was spent outside public scrutiny. More than \$112 million was spent in the shadows, in closed door rooms.

What we did in the 104th Congress was put it all together, let sunshine in, and what you see is what you get. What we are asking for for this Congress is \$45 million less than they spent.

Now, how about a slush fund for \$45 million. Where was it? Soaked away in the committees. I just do not understand it, but we cannot have it both ways.

My friend from California, Mr. WAXMAN, he does understand it, his concern is that we said the funds are controlled by the majority. That is true, majority rules. That is called democracy.

He also said when we are in the majority we never went this far. That is a quote, and he is right. He is right. They never did go that far. He said, "We only have 25 percent of the resources." My friends, the 103d Congress, the minority, us at the time, had 14 percent of the resources in the Committee on Commerce. We had 15 percent of the resources in the Committee on House Oversight. We had 11 percent of the resources in the Committee on the Judiciary.

I tell my friend from California, he is right, they never went as far as we have.

My friend from Texas, Mr. DOGGETT, says we should not just point fingers, we ought to offer solutions. And then what he says is he wants more money to the Committee on Government Reform and Oversight for the gentleman from California, Mr. WAXMAN, because

Mr. WAXMAN has a letter from the Parliamentarian that says all they can do is investigate.

What is investigating? It is exposing. They cannot offer solutions. They cannot have it both ways. The committee that has the jurisdiction to pass the laws is the Committee on House Oversight. We have what we believe is appropriate. We will do the job.

Then I listened to a number of my friends in terms of how much money we are spending. My good friend from California, Mr. CONDIT, talks about how much money this is. In the 103d Congress they had \$223 million. We have passed welfare, we have passed reforming, we have ended patronage, and we have audits with a whole lot less money.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in opposition to the rule on House Resolution 91. In allocating a tremendous amount of money for an investigation of alleged fundraising abuses whose scope is restricted to the administration and the DNC, House Resolution 91 is overtly partisan and inequitable. It is amazing to me then, that the only amendment allowed under the rule, is the Thomas amendment. The rule allows the Thomas amendment, but denies important amendments which would have ensured that the investigation into alleged fundraising abuses, are conducted in as fair and non-partisan manner as possible. These amendments would have moved House Resolution 91 closer to the broader, more bipartisan Senate bill. Now this rule allows the spending of up to \$15 million wasteful dollars on a witch hunt.

The Thomas amendment is meaningless. Its purpose is to provide Members who are squeamish about voting for the very large funding increase provided by House Resolution 91, a cover. In so doing, it will facilitate passage of House Resolution 91. What proponents of the Thomas amendment would have us ignore, however, is the fact that this amendment is utterly unenforceable. It is simply a promise, a nonbinding promise. We have far more important actions that can be taken. This Congress can pass real campaign finance reform. I am for that but not a misguided attempt at partisan politics at its worst.

I urge my colleagues to oppose the rule, to oppose House Resolution 91, and to oppose the Thomas amendment. And real debate on campaign finance reform lets Republicans and Democrats work to clean our own house without this enormous expenditure for the Republican House Oversight Committee to play politics.

Mr. LANTOS. Mr. Speaker, a few years ago, as the chairman of the Subcommittee on Employment and Housing of the Government Operations Committee, I conducted an investigation of fraud, waste, abuse, and mismanagement of billions of Federal dollars at the Department of Housing and Urban Development during the Reagan administration. That investigation required almost 2 years to complete and involved the holding of some 30 public hearings.

That investigation was carried out with the regular subcommittee staff, which was aug-

mented for a portion of that time by two investigators from the General Accounting Office. I received no additional funding for my investigation. We conducted a serious and thorough investigation with no allocation of additional funds.

Today, we are considering a Committee Funding Resolution that will provide some \$12 to \$15 million for the investigation Chairman BURTON proposes to conduct in the Government Reform and Oversight Committee. This resolution includes a slush fund of an additional \$8 million for this same investigation. The Government reform investigation is being allocated two to three times the amount which the Senate committee under Senator THOMPSON has received. Not only is Chairman BURTON's investigation duplicating only a portion of that same Senate investigation, he is doing so at three times the cost.

Mr. Speaker, the committee funding resolution is a serious waste of taxpayer dollars. Many of my colleagues on the other side of the aisle have given us lengthy speeches about the necessity to reduce government waste and reduce the deficit. Here we have an opportunity to avoid waste, duplication, and encourage efficiency—but my colleagues on the other side of the aisle are simply voting to spend taxpayer moneys wastefully and unnecessarily.

The second concern that I would like to raise in connection with this legislation, Mr. Speaker, is the partisan nature of the Government Reform and Oversight Committee investigation that is being endorsed by supporting the committee funding resolution.

Mr. Speaker, an investigation that is bipartisan has credibility with the American people. An investigation that is partisan will be dismissed—as it should be—by the American people.

Again referring to the HUD investigation that I conducted earlier, our actions were totally bipartisan. Subpoenas were issued on the basis of the vote of the subcommittee—not by the unilateral action of the chairman—and every vote to issue a subpoena was unanimous. The direction and the details of that investigation were worked out with the active involvement and cooperation of my distinguished Republican colleague, CHRIS SHAYS of Connecticut. That investigation was taken seriously because it was bipartisan, that investigation had credibility with the American people because it was bipartisan.

This resolution today provides excessive funding for an investigation that is partisan and wasteful and outrageous. Mr. Speaker, a vote for this resolution will come back to haunt those of my colleagues who mistakenly vote for it.

Mr. DREIER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

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

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 213, not voting 10, as follows:

[Roll No. 67]

YEAS—210

Aderholt	Gallegly	Norwood
Archer	Ganske	Nussle
Armey	Gekas	Packard
Bachus	Gibbons	Pappas
Baker	Gilchrest	Parker
Ballenger	Gilman	Paul
Barr	Gingrich	Paxon
Barrett (NE)	Goodlatte	Pease
Bartlett	Goodling	Peterson (PA)
Barton	Goss	Petri
Bass	Grainger	Pickering
Bateman	Greenwood	Pitts
Bereuter	Gutknecht	Pombo
Bilbray	Hansen	Porter
Bilirakis	Hastert	Portman
Billey	Hastings (WA)	Pryce (OH)
Blunt	Hayworth	Quinn
Boehler	Hefley	Radanovich
Boehner	Herger	Ramstad
Bonilla	Hill	Regula
Bono	Hilleary	Riggs
Brady	Hobson	Riley
Bryant	Horn	Rogan
Bunning	Hostettler	Rogers
Burr	Houghton	Rohrabacher
Burton	Hulshof	Ros-Lehtinen
Buyer	Hunter	Roukema
Callahan	Hutchinson	Royce
Calvert	Hyde	Ryun
Camp	Istook	Saxton
Campbell	Jenkins	Schaefer, Dan
Canady	Johnson (CT)	Schaffer, Bob
Cannon	Johnson, Sam	Schiff
Castle	Jones	Sessions
Chambliss	Kelly	Shadegg
Chenoweth	Kim	Shaw
Christensen	King (NY)	Shays
Coble	Kingston	Shimkus
Collins	Klug	Shuster
Combest	Knollenberg	Skeen
Cook	Kolbe	Smith (MI)
Cooksey	LaHood	Smith (NJ)
Cox	Latham	Smith (OR)
Crane	LaTourette	Snowbarger
Crapo	Lazio	Solomon
Cubin	Leach	Spence
Cunningham	Lewis (CA)	Stearns
Davis (VA)	Lewis (KY)	Stump
Deal	Linder	Sununu
DeLay	Livingston	Talent
Diaz-Balart	LoBiondo	Tauzin
Dickey	Lucas	Taylor (NC)
Doolittle	Manzullo	Thomas
Dreier	McCollum	Thornberry
Duncan	McCrery	Thune
Dunn	McDade	Tiahrt
Ehlers	McHugh	Upton
Ehrlich	McInnis	Walsh
Emerson	McIntosh	Wamp
English	McKeon	Watkins
Ensign	Metcalf	Watts (OK)
Everett	Mica	Weldon (FL)
Ewing	Miller (FL)	Weldon (PA)
Fawell	Molinar	Weller
Foley	Moran (KS)	White
Forbes	Morella	Whitfield
Fowler	Myrick	Wicker
Fox	Nethercutt	Wolf
Franks (NJ)	Ney	Young (AK)
Frelinghuysen	Northup	Young (FL)

NAYS—213

Abercrombie	Boswell	Conyers
Ackerman	Boucher	Costello
Allen	Boyd	Coyne
Baesler	Brown (CA)	Cramer
Baldacci	Brown (FL)	Cummings
Barcia	Brown (OH)	Danner
Barrett (WI)	Capps	Davis (FL)
Becerra	Cardin	Davis (IL)
Bentsen	Carson	DeFazio
Berman	Chabot	DeGette
Berry	Clay	Delahunt
Bishop	Clayton	DeLauro
Blagojevich	Clement	Dellums
Blumenauer	Blumenthal	Deutsch
Bonior	Coburn	Dicks
Borski	Condit	Dingell

Dixon	LaFalce	Rangel
Doggett	Lampson	Reyes
Dooley	Lantos	Rivers
Doyle	Largent	Roemer
Edwards	Levin	Rothman
Engel	Lewis (GA)	Roybal-Allard
Eshoo	Lipinski	Rush
Etheridge	Lofgren	Sabo
Evans	Lowe	Salmon
Farr	Luther	Sanchez
Fattah	Maloney (CT)	Sanders
Fazio	Maloney (NY)	Sandlin
Filner	Manton	Sanford
Foglietta	Markey	Sawyer
Ford	Martinez	Scarborough
Frank (MA)	Mascara	Schumer
Frost	Matsui	Scott
Furse	McCarthy (MO)	Serrano
Gejdenson	McCarthy (NY)	Sherman
Gephardt	McDermott	Sisisky
Gonzalez	McGovern	Skaggs
Goode	McHale	Skelton
Gordon	McIntyre	Slaughter
Graham	McKinney	Smith, Adam
Green	McNulty	Snyder
Gutierrez	Meehan	Souder
Hall (OH)	Meek	Spratt
Hall (TX)	Menendez	Stabenow
Hamilton	Millender-	Stark
Harman	McDonald	Stenholm
Hastings (FL)	Miller (CA)	Stokes
Hefner	Minge	Strickland
Hilliard	Mink	Stupak
Hinche	Moakley	Tanner
Hinojosa	Mollohan	Tauscher
Hoekstra	Moran (VA)	Taylor (MS)
Holden	Murtha	Thompson
Hooley	Nadler	Thurman
Hoyer	Neal	Tierney
Inglis	Neumann	Torres
Jackson (IL)	Oberstar	Towns
Jackson-Lee	Obey	Trafficant
(TX)	Oliver	Turner
Jefferson	Ortiz	Velazquez
John	Owens	Vento
Johnson (WI)	Pallone	Visclosky
Johnson, E. B.	Pascarell	Waters
Kanjorski	Pastor	Watt (NC)
Kennedy (RI)	Payne	Waxman
Kennelly	Pelosi	Wexler
Kildee	Peterson (MN)	Weygand
Kilpatrick	Pickett	Wise
Kind (WI)	Pomeroy	Woolsey
Klecza	Poshard	Wynn
Klink	Price (NC)	Yates
Kucinich	Rahall	

NOT VOTING—10

Andrews	Kasich	Smith (TX)
Flake	Kennedy (MA)	Smith, Linda
Gillmor	Oxley	
Kaptur	Sensenbrenner	

□ 1822

So the resolution was not agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, as the body knows, the committee funding expires on March 31 during a period of time in which Congress is in recess. That being the case, it is necessary that we resolve this issue of committee funding before we leave.

Mr. Speaker, what I would like to suggest that the House do is every Member, of course, understanding that we are weighing the importance of completing this work against the natural, in many cases urgent, desire of Members to catch trains and airplanes,

that we might ask that the House recess for 15 minutes during which time I can inquire to the minority as to the possibility of working out a unanimous-consent request that would allow us to complete our evening's work tonight, and if so, we would be able to come back in 15 minutes, make an announcement, and proceed, or if necessary we would have to make an announcement about a session tomorrow.

RECESS

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 28 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2345

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCINNIS) at 11 o'clock and 45 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, RESOLUTION PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE 105TH CONGRESS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105-41) on the resolution (H. Res. 105) providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Mr. DREIER) to revise and ex-

tend their remarks and include extraneous material:)

Mr. HANSEN, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. CANNON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. STARK.

Mr. EDWARDS.

Ms. NORTON.

Ms. FURSE.

Mr. ALLEN.

Mr. BLAGOJEVICH.

Mr. MCNULTY.

Mr. FRANK of Massachusetts.

Mr. TORRES.

Ms. KAPTUR.

Ms. HARMAN.

Mr. ACKERMAN.

Mr. KLECZKA.

Mr. BLUMENAUER.

Mr. BORSKI.

Mrs. MALONEY of New York.

Mr. FALEOMAVAEGA.

Mr. MENENDEZ.

Mr. LANTOS.

Mr. CLEMENT.

Mr. BARCIA.

Mr. MORAN of Virginia.

Mrs. MEK of Florida.

Ms. MCCARTHY of Missouri.

Mr. BENTSEN.

Mr. STOKES.

Mr. OBERSTAR.

Ms. DELAURO.

Mr. HOYER.

Mr. KILDEE.

Mr. BROWN of California.

Mr. WAXMAN.

Mr. PICKETT.

Mr. MCDERMOTT.

Mr. SKELTON.

Mr. FAZIO of California.

Mr. FILNER.

Mrs. MINK of Hawaii.

Mr. BAESLER.

Mr. BERMAN.

Mr. HINCHEY.

Mr. SHERMAN.

Mr. POMEROY.

Mr. ABERCROMBIE.

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. CANADY of Florida.

Mr. COMBEST.

Mrs. KELLY.

Mr. HEFLEY.

Mr. THOMAS in three instances.

Mr. CAMPBELL.

Mr. PETRI.

Mr. LARGENT.

Mr. LEWIS of California in two instances.

Mr. HYDE.  
 Mr. WELDON of Pennsylvania in two instances.  
 Mr. FORBES.  
 Mr. DOOLITTLE.  
 Mr. OXLEY.  
 Ms. GRANGER.  
 Mr. WOLF.  
 Mr. PORTMAN.  
 Mr. SHAW.  
 Mr. MCCOLLUM.  
 Mr. CUNNINGHAM.  
 Mrs. MORELLA.  
 Mrs. JOHNSON of Connecticut.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 410. An act to extend the effective date of the Investment Advisers Supervision Coordination Act.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Friday, March 21, 1997, at 10 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1996 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD

pursuant to section 4(b) of Public Law 85-804:

OFFICE OF THE SECRETARY OF DEFENSE,  
 Washington, DC, March 11, 1997.

Hon. NEWT GINGRICH,  
 Speaker of the House of Representatives,  
 Washington, DC.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85-804, enclosed is the calendar year 1996 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 45 contractual actions were approved and that three were disapproved. Those approved include actions for which the Government's liability is contingent and cannot be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of \$50,000 or more. A list of contingent liability claims is also included where applicable. The Ballistic Missile Defense Organization, National Imagery and Mapping Agency, and the Defense Special Weapons Agency reported no actions, while the Departments of the Army, Navy, and Air Force, the Defense Logistics Agency, and the Defense Information Systems Agency, provided data regarding actions that were either approved or denied.

Sincerely,

D.O. COOKE,  
 Director.

Enclosure: As stated.

DEPARTMENT OF DEFENSE  
 EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (Public Law 85-804) Calendar Year 1996

FOREWORD

On October 7, 1992, the Deputy Secretary of Defense (DepSecDef) determined that the

national defense will be facilitated by the elimination of the requirement in existing Department of Defense (DoD) contracts for the reporting and recoupment of non-recurring costs in connection with the sales of military equipment. In accordance with that decision and pursuant to the authority of Public Law 85-804, the DepSecDef directed that DoD contracts heretofore entered into be amended or modified to remove these requirements with respect to sales on or after October 7, 1992, except as expressly required by statute.

In accordance with the DepSecDef's decision, on October 9, 1992, the Under Secretary of Defense for Acquisition and Technology directed the Assistant Secretaries of the Army, Navy, and Air Force, and the Directors of the Defense Agencies, to modify or amend contracts that contain a clause that requires the reporting or recoupment of non-recurring costs in connection with sales of defense articles or technology, through the addition of the following clause:

The requirement of a clause in this contract for the contractor to report and to pay a nonrecurring cost recoupment charge in connection with a sale of defense articles or technology is deleted with respect to sales or binding agreements to sell that are executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 21(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs.

This report reflects no costs with respect to the reporting or recoupment of non-recurring costs in connection with sales of defense articles or technology, as none have been identified for calendar year 1996.

EXTRAORDINARY CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE, CALENDAR YEAR 1996

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE—JANUARY–DECEMBER 1996

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
1. Department of Defense, total	45	37,149,785.00	37,149,785.00	3	15,928,654.00
a. Amendments without consideration	2	37,149,785.00	37,149,785.00	2	15,918,654.00
b. Formalization of informal commitment	0	0.00	0.00	1	10,000.00
c. Contingent liabilities	43	0.00	0.00	0	0.00
2. Army, total	4	37,149,785.00	37,149,785.00	2	15,918,654.00
a. Amendments without consideration	2	37,149,785.00	37,149,785.00	2	15,918,654.00
b. Contingent liabilities	2	0.00	0.00	0	0.00
3. Navy, total	38	0.00	0.00	0	0.00
Contingent liabilities	38	0.00	0.00	0	0.00
4. Air Force, total	2	0.00	0.00	0	0.00
Contingent liabilities	2	0.00	0.00	0	0.00
5. Defense Logistics Agency, total	1	0.00	0.00	0	0.00
Contingent liabilities	1	0.00	0.00	0	0.00
6. Ballistic Missile Defense Organization, total	0	0.00	0.00	0	0.00
7. Defense Information Systems Agency, total	0	0.00	0.00	1	10,000.00
Formalization of informal commitment	0	0.00	0.00	1	10,000.00
8. National Imagery and Mapping Agency, total	0	0.00	0.00	0	0.00
9. Defense Special Weapons Agency, total	0	0.00	0.00	0	0.00

<sup>1</sup> Indemnification Clause was added to the contracts; estimated or potential cost cannot be determined at this time.

<sup>2</sup> One of the indemnifications is for fiscal year 1997 annual airlift contracts and is included in this report. The Air Force has deemed the second indemnification to be "classified," not subject to this report's purview.

## SECTION B—DEPARTMENT SUMMARY

## DEPARTMENT OF THE ARMY

Contractor: Nuclear Metals, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: \$4,549,785.

Service and activity: U.S. Army Tank-Automotive and Armaments Command, Armament Research, Development, and Engineering Center; and U.S. Army Materiel Command.

Description of product or service: Low-level radioactive metal processing.

Background: Nuclear Metals, Inc., 2229 Main Street, Concord, Massachusetts (NMI or company), requested extraordinary relief under Public Law 85-804, as implemented in Part 50 of the Federal Acquisition Regulation (FAR). NMI's request was processed through the U.S. Army Tank-Automotive and Armaments Command, Armament Research, Development, and Engineering Center, Picatinny Arsenal, New Jersey, (Picatinny), and through the U.S. Army Materiel Command, Alexandria, Virginia (AMC), with both headquarters recommending that the Army Contract Adjustment Board (ACAB) or Board grant the requested relief.

After reviewing NMI's written request for extraordinary relief, additional matters submitted subsequent to NMI's initial application, and the recommendations of both Picatinny and AMC, the Board determined that extraordinary contractual relief was warranted under the unique circumstances of this request.

*Statement of Facts*

In 1958 NMI moved its low-level radioactive metal processing operations to Concord, Massachusetts, from the campus of the Massachusetts Institute of Technology, where NMI and predecessor entities had engaged for many years in a variety of nuclear research programs, to include work on the Manhattan Project. NMI established a licensed and permitted holding basin on its Concord site as a place where it could neutralize with lime the spent acid used in some of NMI's metal processing operations. This neutralization process precipitated uranium and copper into the holding basin in the form of hydrated oxides and hydroxides. Relatively small quantities of these deposits slowly accumulated in the basin until 1974.

NMI, a small business, began producing significant quantities of depleted uranium (DU) penetrators to support defense ammunition programs in 1974. With this increased production, which supported Army, Navy, Air Force, and Marine Corps requirements, the volume of uranium precipitates in the holding basin also began to grow rapidly. Although NMI's holding basin remained in compliance with applicable laws, the large volume of precipitates accumulating in the basin, the adoption of increasingly restrictive environmental laws at both the federal and state levels, and advancements in uranium recovery technologies prompted NMI in 1985 to adopt a closed-loop DU recovery process, eliminating further need for the holding basin. In 1986 NMI covered the holding basin with an impervious material to prevent water infiltration and the escape of airborne particles.

By the mid-1980s, both NMI and the Army had become concerned about the need to clean up the holding basin to meet tightening federal and Massachusetts environmental standards. The Army paid for complete and proper disposal of new wastes pro-

duced under its ongoing contracts during the 1980s and into the 1990s, but NMI and the Army could not agree on how the cleanup of old waste produced under completed contracts should be handled because most of these contracts were already closed out.<sup>1</sup> By 1993, only one contract under which waste in the basin had been produced remained open. However, the work under that cost-type contract, DAAK10-81-C-0323, had produced only about 2.7% of all holding basin deposits.<sup>2</sup> Consequently, because most of the waste in the basin was not produced under that single open contract, the cost of cleaning up the entire basin could not be allocated to contract DAAK10-81-C-0323.

During the early 1990's, the uncertain liability that the holding basin represented to NMI became a point of contention between NMI and the Nuclear Regulatory Commission (NRC). The NRC licenses NMI to handle the low-level radioactive materials used in NMI's industrial operations at its Concord site. One of the prerequisites for the issuance or renewal of an NRC license is the furnishing of financial assurances that the licensee will be able to bear the decontamination and decommissioning costs associated with eventual closure of its facilities. Specifically, 10 CFR, §40.36, requires a licensee to submit a decommissioning funding plan,<sup>3</sup> together with a cost estimate for the decommissioning effort and a description of the method the licensee will use to ensure that funds are available in an amount equal to that estimated cost.<sup>4</sup>

Additionally, an NRC licensee must provide the required financial assurances through a means acceptable to the NRC, such as through prepayment, a surety, insurance, or an external sinking fund coupled with a surety or insurance.<sup>5</sup> As environmental standards became more strict in the 1980s and early 1990s, the NRC began demanding more substantial financial assurances from NMI than it previously had required. NMI sought to meet these demands through commitments from various Army organizations that the Army would pay some or all of NMI's decontamination costs, but the Army refused to enter into such an open-ended commitment at a privately-owned site.

Concurrently, NMI's sales declined dramatically in the early 1990s due to decreased defense ammunition requirements and fewer Army contracts and subcontracts for DU penetrators. This decline in sales cut NMI's revenues by more than half in the early 1990s, leaving NMI with operating losses ex-

<sup>1</sup>The Army suggested that NMI bill basin cleanup costs against an appropriate overhead pool or corporate general and administrative accounts, but NMI declined to do so to avoid making its prices less competitive for ongoing work.

<sup>2</sup>Of the total amount of waste in the holding basin, NMI estimates that 96% is attributable to work done under defense contracts. The remaining 4% is attributable to commercial work and independent NMI research efforts.

<sup>3</sup>10 CFR, §40.36(a).

<sup>4</sup>10 CFR, §40.36(d).

<sup>5</sup>10 CFR, §50.36(e). NRC regulations also permit a federal, state, or municipal government licensee to meet the NRC's financial assurances requirement through a statement of intent to obtain funds for decontamination and decommissioning when necessary. 10 CFR, §40.36(e)(4). Although this provision is not strictly applicable to NMI's privately-owned site, the NRC has allowed private licensees in past cases to meet the financial assurance requirement through government commitments to clean up private sites when they are decommissioned. Because the responsibility for cleanup at NMI's site lies principally with NMI, however, and because the total cleanup liability at NMI's Concord site is uncertain, the Army has not provided NMI such an open-ended commitment.

ceeding \$10 million per year in both 1993 and 1994. NMI's weakened financial condition forced it to request a partial exemption from the NRC's financial assurance requirement in 1995.

As its DU sales declined dramatically in the early 1990s, NMI sought to diversify its product line of specialty metals. One of the new products that NMI introduced was Beralcast™, a patented beryllium-aluminum product that is both lighter and stronger than aluminum, and capable of being cast into complex shapes. One important new customer of this NMI product was the Lockheed Martin Electronics and Missiles Company (Lockheed Martin), which currently uses NMI Beralcast™ for 52 components in the electro-optics system that Lockheed Martin is developing for the Comanche helicopter program. According to the Army's Comanche Program Manager (PM Comanche), Beralcast™ was the only known material capable of meeting critical Comanche weight requirements without the Comanche program incurring additional costs in the range of \$300 million, and schedule delays of eighteen to twenty-four months. These additional costs and schedule delays would be needed for PM Comanche to accomplish the redesign of key components and/or research and develop alternate materials.

After a number of meetings and exchanges of correspondence between NMI, the Army, and the NRC in the early and mid-1990's, NMI received an official response to its request for a partial exemption from the NRC's financial assurance requirement on July 16, 1996. The NRC denied NMI's request, and directed NMI to provide the financial assurances mandated by 10 CFR §40.36, not later than September 16, 1996. After that date, NMI faced the potential shutdown of its Concord facility.

*Application for relief*

NMI initially submitted its request for relief on September 22, 1995, and later certified its request on March 15, 1996. NMI requested \$4,549,785 to pay the costs of removing low-level radioactive wastes from its holding basin and of restoring the site. NMI also requested the Army to furnish government-provided transportation and disposal of the extracted waste (estimated to cost \$2.1 million), for an estimated total cost to the Army of \$6.65 million.<sup>6</sup> NMI based its request on NMI's essentiality to the national defense as a producer of DU products and beryllium-aluminum castings;<sup>7</sup> and, the interest of fairness<sup>8</sup> because NMI did not include disposal costs for the waste in the holding basin in its prices under past Army contracts, which benefited the Army through lower prices.

In conjunction with reviewing NMI's application for relief, Picatinny asked the Defense Contract Audit Agency (DCAA) to audit NMI's Public Law 85-804 request. Among its other findings, DCAA concluded that a denial of NMI's application for extraordinary relief would result in a high probability of NMI's financial insolvency. Based on this conclusion and the recommendation of PM Comanche, both Picatinny and AMC recommended that the ACAB grant NMI the requested relief.

*Discussion*

NMI requested Public Law 85-804 relief under the provisions of FAR 50.302-1,

<sup>6</sup>Transportation and disposal of the waste by the Army was anticipated to be considerably less expensive than the cost to NMI of procuring these services at commercial rates and passing these costs on to the Army.

<sup>7</sup>FAR 50.302-1(a).

<sup>8</sup>FAR 50.302-1(b).

"Amendments Without Consideration." Paragraph (a) provides that:

"When an actual or threatened loss under a defense contract, however caused, will impair the productive ability of a contractor whose continued performance on any defense contract or whose continued operation as a source of supply is found to be essential to the national defense, the contract may be amended without consideration, but only to the extent necessary to avoid such impairment to the contractor's productive ability."

The circumstances of NMI's request for relief did not meet precisely the situation contemplated in the provision at FAR 50.302-1(a), because NMI was not asking for relief based on an actual or threatened loss under a particular defense contract. Instead, NMI faced an environmental liability related to its research, development, and production efforts under many different defense contracts, nearly all of which were completed and closed out. Although the rights and obligations of the parties under those contracts no longer existed (except under a single contract relevant to only a small portion of the deposits in the holding basin), and NMI was not at risk of a loss under a single contract as described in FAR 50.302-1(a), NMI nevertheless faced significant financial liability that threatened its ability to perform future defense contracts. It is the future viability of an essential defense contractor that FAR 50.302-1(a) seeks to protect, not merely the prevention of a loss to an essential contractor under a single contract.

The description in FAR 50.320-1(a) of when relief to a contractor deemed essential to the national defense may be appropriate is more narrowly drafted than required by Public Law 85-804. FAR 50.301 more broadly describes the circumstances under which an agency may grant relief to a contractor when it is essential to the national defense. FAR 50.301 states:

"Whether appropriate action will facilitate the national defense is a judgment to be made on the basis of all of the facts of the case. Although it is impossible to predict or enumerate all the types of cases in which action may be appropriate, examples are included in 50.302 below. Even if all of the factors in any of examples are present, other considerations may warrant denying a contractor's request for contract adjustment. The examples are not intended to exclude other cases in which the approving authority determines that the circumstances warrant action."

Thus, the fact that NMI's holding basin liability did not represent a possible loss under an existing contract did not preclude the ACAB from granting relief to preserve NMI's continued viability as an essential Army contractor.

After reviewing the facts and circumstances surrounding NMI's request for extraordinary relief, the Board was satisfied that NMI was a contractor essential to the national defense. The Comanche helicopter is critically important to the Army in facing its future missions. PM Comanche unequivocally stated that NMI's Beralcast™ products are vitally important to the Comanche program, and PM Comanche adequately described the significant and adverse cost and schedule consequences that the program would suffer if NMI were no longer available as a supplier. With no other material or supplier reasonably available to the Army to substitute for NMI's Beralcast™ in its Comanche applications, NMI was clearly a con-

tractor essential to the Army in performing its national defense missions.<sup>9</sup>

The Board was also satisfied that granting the relief sought in NMI's Public Law 85-804 request was essential to preserving NMI as a viable defense contractor. As a small business that had borne significant losses in each of the last three years,<sup>10</sup> NMI lacked the financial capability to undertake the cleanup of its holding basin while still meeting its other financial and environmental obligations.<sup>11</sup> Without the relief requested, a chain of events may have been initiated that likely would have resulted in a loss or suspension of NMI's NRC license, a loss of its lines of credit from its lenders, and, ultimately, insolvency and/or bankruptcy for the company. Because DCAA concluded in its audit report that failure to grant NMI's request for relief would result in a high probability that NMI would become insolvent, there by threatening NMI's continued availability as a supplier of essential defense products, the Board concluded that granting relief up to the amount NMI requested was appropriate under the circumstances of this application.

NMI also requested extraordinary contractual relief in the interest of fairness, based on its course of dealings with the Army over many years. NMI contended that the prices it charged the Army from 1958 to 1985 did not reflect the full cost of NMI's performance, because basis cleanup costs were not included in those prices, even through basin cleanup costs could properly have been billed against Army contracts during this period. NMI thus alleged that the Army benefited by this undercharging, and that the Army should, accordingly, now pay for the basin cleanup. NMI did not explain, however, how the Army induced NMI not to include basin cleanup costs in its prices.<sup>12</sup> Instead, the Army actually encouraged NMI to begin cleaning up the basin and to charge cleanup costs as overhead against ongoing work. NMI also contended that various contract clauses had committed the Army to pay cleanup costs at its site, and that Army representatives had expressed some degree of responsibility for basin cleanup costs in the past. The Board was not convinced, however, that any contract ever committed the Army to pay more than the allocable share of site cleanup costs under any particular contract, and the Board could not reconcile NMI's agreement to close out past contracts with its current assertion that the Army retained cleanup responsibility for work done under those contracts. Nevertheless, given the

<sup>9</sup> NMI also claimed in its application for extraordinary contractual relief that it produces other products that also makes it essential to the national defense. These products include tank armor, tank ammunition, other ammunition employing DU penetrators, and Beralcast™ Patriot missile components. The ACAB did not reach the question of whether NMI is a contractor essential to the national defense in its production of these other items because NMI's status as an essential supplier to PM Comanche made resolution of the question of its essentiality to these other programs unnecessary.

<sup>10</sup> NMI reported operating losses in its corporate annual report of \$10.5 million in 1993, nearly \$11 million in 1994, and nearly \$2 million in 1995.

<sup>11</sup> In addition to the holding basin, NMI must also assess its responsibility for other contamination at its Concord site and begin cleanup operations or reserve funds to clean up these areas at some future time, as required by law. These obligations, which NMI will recognize as operating expenses as they are incurred, presented NMI with significant financial challenges, even with the assistance NMI sought under Public Law 85-804.

<sup>12</sup> FAR 50.302-1(b) requires some government action to be associated with a contractor's loss for that loss to be the basis for extraordinary relief.

Board's determination that NMI was a contractor essential to the national defense, the Board did not need to resolve whether NMI was also entitled to relief in the interest of fairness. The Board considered this issue moot given its disposition of NMI's application for extraordinary relief.

The Board was cognizant during its consideration of NMI's application for relief under Public Law 85-804 that NMI faced a September 16, 1996, deadline with the NRC for the submission of satisfactory financial assurances. But for this regulatory dilemma that NMI faced with the NRC, in addition to NMI's weakened financial condition after three consecutive years of losses, the Board would have been inclined to allow resolution of the environmental problems at NMI's site through more traditional mechanisms. For instance, NMI could have billed cleanup costs against overhead or general and administrative accounts, or pursued contract or environmental litigation to definitively resolve the relative legal responsibilities of the parties under the terms of past contracts and applicable environmental laws. However, the Board found that these means of resolving the current dilemma were inadequate<sup>13</sup> to ensure that NMI remained a reliable supplier of essential defense products. Therefore, it was appropriate for the Board to act on NMI's request without the delay associated with the normal pursuit of traditional relief mechanisms.

#### Decision

By unanimous decision of the Board, an amendment without consideration was authorized under FAR 50.301 and FAR 50.302-1. The Board concluded that NMI's continued performance under its existing defense contracts, and NMI's continued availability as a source of critical supplies, was essential to the national defense within the intent of FAR 50.302-1. This relief was subject to the following conditions:

a. Picatinny was authorized and directed to enter into negotiations for a supplemental agreement with NMI, under an appropriate existing contract, agreeing that the Army would pay an amount not to exceed \$4,549,785, on a fixed-price, no-profit basis, for NMI to clean up the holding basin at its Concord facility. This amount was subject to downward negotiation only, with negotiations addressing, in addition to the matters below, the questioned costs identified in DCAA's audit report and other relevant pricing matters. Picatinny may only conclude this agreement after proper funding is obtained in accordance with paragraph b. below. In performing this effort, if NMI's costs for cleaning up the holding basin exceed the negotiated price of this supplemental agreement, NMI will treat the excess costs in accordance with paragraph d. below.

b. The funds committed to support this supplemental agreement will be appropriate defense ammunition funds. No funds will be obligated under this supplemental agreement until they are properly identified and certified as available. Picatinny will coordinate with higher headquarters to identify appropriate funds for this effort as expeditiously as possible.

c. The supplemental agreement also would obligate the Army to provide transportation and disposal of the waste removed from NMI's holding basin. The volume of waste

<sup>13</sup> The Board's ability to grant relief is limited by FAR 50.203(b)(2), which states that no Public Law 85-804 relief is available "[u]nless other legal authority within the agency concerned is deemed to be lacking or inadequate[.]"

that the Army was obligated to remove will be identified in the supplemental agreement, and the Army will have no further removal or disposal obligation after this volume is removed. Picatinny will coordinate with the Radioactive Waste Disposal Office at Rock Island to obtain the support needed to meet this commitment. Certified funds of the same type identified in paragraph b. above also would support this transportation and disposal effort.

d. As a condition of this supplemental agreement, NMI agreed to complete necessary environmental assessments at its site within a reasonable period, and to submit a site remediation plan approved by the NRC (or other governmental entity performing the NRC's current oversight role) to the contracting officer by a date to be designated in the supplemental agreement.

(1) Cleanup of areas not supporting current production at NMI's Concord site, in addition to the holding basin work addressed in paragraphs a., b., and c. above, and pursuant to the plan identified above, will proceed at a reasonable pace to ensure compliance with applicable environmental standards. These additional site assessment, planning, and cleanup costs will be billed by NMI against appropriate overhead and/or general and administrative pools as normal operating expenses, and not against the contract line item(s) established by this supplemental agreement for holding basin cleanup. Excess holding basin cleanup costs, if any, which exceed the amount negotiated pursuant to paragraph a. above, also will be charged in a manner consistent with the costs discussed in this paragraph against appropriate NMI overhead and/or general and administrative cost pools.

(2) In addition, normal waste processing and cleanup efforts associated with future work at NMI's Concord site to be performed under current and future contracts will be billed as appropriate against those contracts; such efforts are not affected by this supplemental agreement.

(3) NMI will provide for the long-term decontamination and decommissioning of facilities and equipment supporting current production in accordance with 10 CFR §40.36.

e. As a further condition of this supplemental agreement, NMI will execute a release in conjunction with this supplemental agreement waiving and holding the Army harmless from any contract or environmental claims related to existing contamination and waste at NMI's Concord site. This release may exempt from its coverage the Army's responsibility for eventual decontamination and disposal of government-furnished equipment that NMI maintains under its facilities contract with the U.S. Army Industrial Operations Command, Rock Island, Illinois. This release will not prohibit NMI's normal billing for its ongoing incurrence of assessment, cleanup, and decontamination costs in accordance with paragraph d.(2) above.

In addition to ensuring that the above conditions are met, Picatinny was authorized to incorporate into the implementing supplemental agreement with NMI such additional terms and conditions as Picatinny believed were reasonably necessary to protect the Army's interests.

This action authorized by this decision will facilitate the national defense consistent with the intent of Public Law 85-804.

Contractor: Uniroyal Chemical Company, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: \$32,600,000.

Service and activity: U.S. Army Armament, Munitions & Chemical Command.

Description of product or service: Post-retirement benefits.

Background: Uniroyal Chemical Company, Inc., sought an adjustment to its Contract No. DAAA0990-Z-0003 to provide funding for post-retirement benefits (PRBs) earned by Uniroyal employees who performed work at the Government-owned contractor-operated (GOCO) Joliet Army Ammunition Plant (JAAP), Illinois, under that cost reimbursement contract and its predecessor contracts. For the reasons set forth in this opinion, the Army Contract Adjustment Board granted Uniroyal's request in an amount not to exceed \$32.6 million, subject to certain conditions expressed below.

#### Statement of facts

Uniroyal began serving as the operating contractor for the Army Armament, Munitions and Chemical Command (AMCCOM) GOCO ammunition plant at Joliet, Illinois, during World War II and served in that capacity until December 1993 when plant operations were terminated as a part of post-Cold War Defense Department "downsizing." During those decades, Uniroyal workers at the plant manufactured explosives, chemicals, bombs, shells and other munitions needed by the Army and the other military services.

As part of the compensation package provided to attract and retain personnel for the potentially dangerous work at the ammunition plant, Uniroyal offered its JAAP workers medical and death benefit insurance coverage in addition to pension plans. By 1951 this compensation package included death benefits for qualified retirees, and by 1954 it included post-retirement medical benefits. These benefits were, and continue to be, comparable to those offered Uniroyal employees in similar commercial work. Under the terms of the Army's cost reimbursement contract with Uniroyal, Uniroyal was required to obtain approval by the Army of such benefit plans, and it did so.

Unlike pension plans, which the Employee Retirement Income and Security Act (ERISA) requires to be fully funded to cover the actuarially predicted liabilities of the company, the PRBs at issue were not required to be so funded, and for decades were not even required for accounting purposes to be recognized as a corporate liability. Rather, as was the normal practice in industry, that is, in accordance with generally accepted accounting principles, Uniroyal's PRB program was administered on a "Pay-As-You-Go" (PAYG) basis. Rather than accruing this liability during the employees' working years and obtaining reimbursement from the Army on that basis, Uniroyal's use of the PAYG methodology, with the Army's approval, meant that in each year only the payments of retirees' medical and death benefit costs experienced that year were reimbursed by the Army. No funds were set aside in advance to "pre-fund" a reserve account to cover this liability.

By postponement of the Government's obligation to pay for such PRBs until costs were actually incurred, the Government benefited from Uniroyal's methodology. During the Vietnam conflict years in particular, when the build-up of the workforce would have required setting aside tens of millions of dollars into a reserve for PRBs if pre-funding were the norm, Uniroyal's use of the standard PAYG practice freed up those million dollars for other essential defense purposes.

In 1977, as JAAP operations were reduced dramatically following the end of the Vietnam conflict, Uniroyal contemplated the possibility that its JAAP contract would terminate and not be renewed as it had been since 1951. The possibility of a contract termination presented a substantial financial liability issue to Uniroyal because at that time the pension benefit obligation was not fully funded and, because PRBs were handled on a PAYG basis, no funds had been set aside in a reserve for PRBs. Uniroyal's Director of Pension and Benefits asked the Uniroyal JAAP Plant Manager to confirm that the Army would provide funding to reimburse all accumulated pension and PRB costs attributable to its JAAP service in the event the contract were to terminate. The Plant Manager reported that Government personnel monitoring the contract had concurred with his understanding that, upon termination, determination of the amounts due and payable by the Government to Uniroyal would include projected costs to cover life and hospitalization insurance for Uniroyal's JAAP retirees.<sup>14</sup> Based upon this report, Uniroyal did not disclose in its financial statements as an unfunded liability of the corporation any cost attributable to the PRB obligations accumulated at JAAP, and Uniroyal continued its service at JAAP under the same PRB accounting and payment practices.

Although compliance with ERISA eventually led to accrual and funding of pension benefits, the PRB obligation for retiree health insurance and death benefits continued to be funded on a PAYG basis. Uniroyal continued performance at JAAP under several successor contracts. The current and preceding contracts contained a "carry-over" clause (Section A-2(3)) which provided that obligations and liabilities not finalized under earlier contracts would be treated as if incurred under the successor contract. For Government cost accounting purposes, Uniroyal treated its PRB obligations (that is, the PAYG expenditures) as insurance expenditures under Cost Accounting Standard (CAS) 416 rather than as a pension expenditure under CAS 412. There was no evidence that this accounting treatment of PRBs was not the norm or that it was ever questioned by Government contracting officials.

Over the years, the Government continued to reimburse Uniroyal for its PRB expenditures on a PAYG basis, and when Uniroyal's GOCO operation for the Army at Newport Army Ammunition Plant terminated in 1985, the Army agreed to subsume the extant PRB obligation for Uniroyal's Newport retirees under the JAAP contract and to continue to pay those costs on a PAYG basis under this contract. The Defense Contract Audit Agency (DCAA) subsequently expressed the opinion that the Government's liability for those costs had terminated when the Newport contract ceased. The Army then decided to hold funding of the Newport retirees' PRB costs in abeyance. Uniroyal filed a certified claim for the Newport PRBs, and the contracting officer eventually (after the current contract had been executed in 1992) settled that claim for approximately \$5.7 million, evidently without the concurrence of DCAA.

Accounting for PRBs on a PAYG basis continued to be the industry norm through the late 1980's, when rising health care costs

<sup>14</sup> See Uniroyal's Exhibit 10. Although the Government officials who reportedly concurred in Uniroyal's understanding at that time were not identified, the Army, in responding to the Petition for Relief under PUBLIC LAW 85-804, has not rebutted or denied that such assurances were provided to Uniroyal.

caused accountants increasing concern that companies' burgeoning PRB commitments to their employees were not being reflected as liabilities in their financial statements. In response to those concerns, in late 1990 the Financial Accounting Standards Board (a private organization whose rules establish generally accepted accounting principles followed by businesses to account for revenues, expenses, assets, and liabilities) promulgated Financial Accounting Standard (FAS) 106. FAS 106 effectively required businesses to start accounting for PRBs by accrual—during years that an employee renders the necessary service—of the expected cost of providing those benefits to the employee and the employee's covered dependents.

Transitioning from a PAYG method of accounting for PRBs to an accrual method presented businesses with the problem of how to account for the potentially enormous sums needed to cover the expected PRB costs for current employees and retirees that had not been recognized and funded over previous years under the PAYG system. FAS 106 gave businesses two options to address this "transition obligation." Per paragraph 110 and 111 of FAS 106 they could immediately recognize this entire obligation. Alternatively, per paragraph 112, they could "delay recognition" over the average remaining service period of active plan participants, except that (a) if the average remaining service period were less than 20 years, businesses could elect to amortize this obligation over 20 years, and (b) if all or almost all of the plan participants were inactive (retired), the employer was to use the average remaining life expectancy period of those retirees as the amortization period.

Upon issuance of FAS 106, had Uniroyal been free to immediately recognize this "transition obligation" for its work at JAAP over the decades on a cost reimbursement basis, the Army arguably would have been compelled to pay that sum under the predecessor to the current contract (although such a change might have been deemed a voluntary change in accounting practices not entitling Uniroyal to reimbursement for the resulting cost increase). However, this option was precluded by the issuance of a new cost principle in the Federal Acquisition Regulations (FAR), currently section 31.2056(o), to cover the allowability of PRBs.

Issued to deal with the change in accounting practices prescribed in FAS 106, the primary purpose of the new FAR cost principle was to mandate that businesses actually fund the PRB obligations which they would now be accruing on their books before they could bill the Government for those costs under cost reimbursement contracts. Due, however, to the Defense Department's concern over the potentially enormous fiscal impact for cost reimbursement contracts of "immediate recognition" of the PRB "transition obligation," FAR 31.205-6(o) was amended shortly after its promulgation in the summer of 1991 to provide that allowable PRB costs assigned to any contractor fiscal year for this transition obligation were limited to the amount derived from the "delayed recognition" methodology prescribed in paragraph 112 of FAS 106. On its face, FAR 31.205-6(o) does not provide for any acceleration of PRB transition obligation recognition, and consequent increased allowability, if a business or business segment totally terminates its operations.

Prior to issuance of FAS 106 and FAR 31.205-6(o), DCAA, as noted above, had questioned the propriety of the Army's agreement to continue to provide payment under

Uniroyal's JAAP contract of the PRBs for Uniroyal's former employees at Newport Army Ammunition Plant. In addition, Uniroyal was aware that there was a controversy over payment of PRBs for Remington Arms Company, Inc., retirees based on work at Lake City Army Ammunition Plant.<sup>15</sup> These controversies, coupled with recognition that cessation of JAAP operations was a realistic possibility as post-Cold War downsizing began, had caused Uniroyal increased concern, as the September 1990 expiration of the predecessor to the current contract was approaching and negotiation of the current contract was in progress, over how its PRB obligation would be handled. Execution of the current contract was delayed based on these concerns.

In September 1990, Uniroyal proposed funding this PRB costs at JAAP on an accrual basis, although DCAA had previously opined that a similar plan for Uniroyal's Newport employees would be deemed a voluntary change in accounting practices, the increased costs of which were not required to be reimbursed by the Government. In February 1991, the contracting officer emphasized that Uniroyal's proposed change in accounting practices would be deemed such a voluntary change, and in July 1991, the Government declined to enter into an agreement with Uniroyal to provide for accrual of PRB costs. After issuance of FAR 31.205-6(o), however, the Army and Uniroyal agreed that Uniroyal would begin accounting for PRBs on an accrual basis and would fund PRB costs attributable to both past and ongoing service at JAAP consistent with that FAR provision. A Memorandum of Agreement (MOA) to this effect was executed in January 1992, concurrently with execution of the current contract into which it was incorporated.

In negotiating the MOA, Uniroyal had sought assurances from AMCCOM regarding the future availability of the PRB funding vehicle provided by the JAAP contract. In the MOA, AMCCOM undertook that it would make its best efforts to obtain adequate funding for Uniroyal's JAAP contract, subject to the needs of the Government. AMCCOM also stated in the MOA that it had no intention of discontinuing its contracting with Uniroyal for the operation and maintenance of JAAP. The Army did not concede a contractual obligation to fund Uniroyal's outstanding PRB obligation in the event of cessation of Uniroyal's operations at JAAP, but AMCCOM—that is, the contracting officer who executed the MOA—indicated in the MOA that in such eventuality, AMCCOM would support favorably a Uniroyal request pursuant to Public Law 85-804 for funding the PRB costs attributable to Uniroyal's operation of JAAP.

Thus, as performance of the current contract began in early 1992, the Army began funding Uniroyal's accrual of its PRB obligation, including the large transition obligation previously not recognized on Uniroyal's books because it had been handled on a PAYG basis.<sup>16</sup> Within months, however, the

Army determined to deactivate JAAP, and by the end of 1993 Uniroyal's JAAP operation was terminated.<sup>17</sup> At this point, of course, Uniroyal's accumulated PRB obligation had not been fully funded, and this claim was brought in the subsequent year to seek amendment to the contract to cover that obligation.

#### Analysis

Public Law 85-804 authorizes the amendment or modification of federal contracts without regard to other provisions of law governing the administration of such contracts when such action would facilitate the national defense. Executive Order 10789 authorizes federal agencies to implement the act within the limits of appropriated funds and empowers agencies to amend or modify contracts "without consideration" (that is, to confer an additional benefit upon a contractor without the Government receiving some additional contractual benefit in return) when circumstances warrant.

FAR 50.302-1 delineates examples (not intended to be exclusive) of when such amendment without consideration is appropriate. When actual or threatened loss under a defense contract will impair the productive ability of a contractor whose services are deemed essential to the national defense, the contract may be amended to avoid such impairment. Alternatively, regardless of the essentiality of the contractor services to future defense needs, if a contractor would suffer a loss because of Government action in its contractual dealings with the contractor, the contract may be adjusted in the interest of fairness, even though the Government's action did not make it liable under the contract terms and the law applicable to the contract.

Per FAR 50.102, a threshold issue must be resolved before proceeding to address whether the circumstances in this case warrant the extraordinary relief sought: Public Law 85-804 may not be relied upon for relief when other adequate legal authority for the requested relief exists. In other words, if Uniroyal had an adequate basis for relief under the terms and conditions of its contract and the governing rules and regulations, pursuit of such a legal remedy rather than the equitable one sought here would be required. Although litigation by other contractors of entitlement to PRB coverage is presently ongoing in other forums, and resolutions of such litigation might alter the status quo as to legal entitlement, at present the Board was satisfied that Uniroyal had no adequate remedy under the contract terms for the following reasons.

In this cost reimbursement contract, FAR clause 52.216-7 provided that the contractor's entitlement to reimbursement was limited to those costs determined to be allowable in accordance with the cost principles of FAR Subpart 31.2 in effect on the date of the contract. The above discussed FAR provision 31.205-6(o), limiting the allowability of PRB transition obligation costs in any contractor fiscal year to the portion allocable to that year, using the delayed recognition methodology described in paragraphs 112 and 113 of FAS 106, was in effect when the current contract was executed. This provision did not provide for any alternate method of calculating allowable costs, such as allowing assignment of the entire transition obligation to one accounting period upon termination

<sup>15</sup>That controversy was resolved by this Board's decision of May 8, 1991, ACAB No. 1238, granting extraordinary contractual relief to Remington Arms Company to cover its PRB obligation after cessation of its operation of the Lake City plant, which occurred as the result of another company winning the competition for the contract to continue work at that plant.

<sup>16</sup>Pursuant to the provisions of FAR 31.205-6(o) and the MOA, the PRB funds were deposited into a trust, with the Government having a reversionary right to any sums left in the trust upon termination or expiration of Uniroyal's PRB obligations to the retired JAAP employees and their covered dependents.

<sup>17</sup>JAAP employees who were not eligible to retire at that time were terminated.

of a contract or upon a contractor's total cessation of operations.<sup>18</sup>

Although the contracting officers, over the course of Uniroyal's service at JAAP, had approved Uniroyal's pension and retirement plans in accordance with the provisions now found in clause H-26 of the contract, that clause provided that the contractor would be reimbursed for those costs only if such reimbursement was not contrary to the applicable cost principles set forth in the FAR. Similarly, clause H-24.1 of the contract provided that reimbursement to Uniroyal for fringe benefits, for disbursements it might be required by law to make during or after the contract term, and for other expenses, was subject to compliance with the cost principles in FAR part 31.<sup>19</sup> In sum, the Board was of the opinion that Uniroyal had no contractual right to the sum which forms the basis for this claim and that consideration of this claim under Public Law 85-804 was therefore appropriate.

Turning to the equities, the Board was satisfied that adequate grounds for relief under Public Law 85-804 had been established. The Board did not find that Uniroyal had demonstrated that denial of relief would impair a productive ability essential to the national defense. ACAB found, however, that denial of the relief requested would have the effect of Uniroyal's operating the JAAP for the Army for decades without recompense for these PRB obligations incurred in the performance of the GOCO work, obligations which exceed the cumulative fee earned by Uniroyal over those decades. The Board also found sufficient Government action over the course of the JAAP operation, upon which Uniroyal relied, which contributed to Uniroyal's having this large unfunded PRB obligation at the time operations terminated.

Admittedly, Uniroyal was not induced by the Army to account for and fund its PRB obligations on a PAYG basis; that was the industry norm when such benefits first began being offered to employees. Nonetheless, these liabilities were incurred under a series of cost reimbursement contracts to operate JAAP to manufacture essential munitions for the military, and the PRB obligations constitute a cost of manufacture that was simply being deferred to future time periods—with the Army's approval. The Army benefited by having available for other defense purposes the sums that would have been tied up in reserves had such liabilities been accrued and charged to the contracts during the working lives of the JAAP employees. Once accrual became the norm following the issuance of FAS 106, the Army would have fully funded these costs over ensuing years had JAAP operations continued long enough to complete amortization in accordance with FAR 31.205-6(o). Were Uniroyal's other business segments not in-

involved in Army contracts now obligated to undertake those costs, the Army would in effect receive a windfall by not having paid the full cost of Uniroyal's JAAP operations. It cannot be said that either party envisioned such an outcome when they entered into the agreement to have Uniroyal operate JAAP on a cost reimbursement basis.

Indeed, the Army, through its conduct, continually evidenced its intent to fund the PRB obligation, and Uniroyal relied upon this consistent Army position. As previously noted, the Army approved Uniroyal's pension and retirement plans, and there was no evidence over the decades when the plant's operations were at peak employment levels that it warned Uniroyal that its PAYG methodology might result in unrecoverable obligations. On the contrary, when in 1977 Uniroyal sought assurances in the face of post-Vietnam downsizing that its PRB obligations would ultimately be satisfied by the Government if operations terminated, Uniroyal evidently received such assurances from Government officials responsible for administering the contract and, consequently, continued to perform the JAAP work without seeking modification of the contract terms and with no change in its accounting practices. The "carry-over" provisions in the contracts (currently section A-2(3)) reinforced the impression that the Government would reimburse Uniroyal for all incurred, accrued, or contingent liabilities. The Army's agreement to cover Uniroyal's PRB obligations for its Newport Army Ammunition Plant retirees under the JAAP contract further reinforced Uniroyal's view that no additional steps had to be taken to assure that its retirees' PRBs would be reimbursed by the Government.<sup>20</sup> If there remained another similar Army operation to which the extant JAAP PRB obligation could now be applied, perhaps no extraordinary relief would be necessary. However, that was not the case, and considerations of fundamental fairness, ensuring that a defense contractor whose work was vital to the national defense receives adequate compensation for that work, made it in the interest of national defense to provide relief under the authority of Public Law 85-804.

Neither the issuance of FAS 106, changing the general accounting practices related to PRBs, nor the issuance of FAR 31.205-6(o), precluding Government contractors from obtaining immediate recognition and reimbursement for the large obligation resulting from transition to an accrual basis for accounting for PRBs, was anticipated by either of the parties to the JAAP operation when Uniroyal began performance and during most of the ensuing years when the bulk of the liability was being incurred. It was not until the late 1980's that the possibility of such changes became apparent. When those changes in acceptable practices and governing regulations occurred, AMCCOM, in executing the 1992 MOA with Uniroyal, expressly indicated to Uniroyal that it would support Uniroyal's equitable claim to recover for such costs in the event that operations terminated before full accrual could occur. That Command (now Industrial Operations Command) had in fact supported Uniroyal's claim, which bolstered the

Board's conclusion that relief was warranted under the circumstances involved.

In reaching the conclusion that relief was warranted, the Board was cognizant of the possibility that Uniroyal might not be obligated as a matter of law to continue to pay PRB costs to its JAAP retirees, although Uniroyal had provided an opinion of counsel that it would be so obligated. Counsel representing Uniroyal in the hearing before the Board frankly admitted that there was some unsettledness among the courts in the area. However, Uniroyal had manifested that it had no desire to put the benefits of its retirees in jeopardy, and the relief granted would ensure that that does not occur. The Army's equitable obligation, in the Board's view, was indirectly to the hundreds of employees who devoted their working lives to the potentially hazardous duty at JAAP in service of the national defense. The PRBs at issue were made part of Uniroyal's compensation package to attract and retain a workforce in an environment that exposed them not only to explosives but to contaminants bearing potential health risks. It was in the interest of the national defense that the health care and death benefits that such employees anticipated receiving in compensation for their service to the nation not be imperiled.

The Board therefore determined in principle to grant Uniroyal's request, and a discussion of the terms and conditions of the relief that should be afforded Uniroyal under the authority of this decision follows.

#### Remedy

Uniroyal originally requested relief in the amount of \$56 million. Since the submission of this claim, negotiations with the Government led to Uniroyal's agreement to alter the methodology and some of the assumptions used to estimate its JAAP PRB liability. Uniroyal had also agreed that the excess in its pension fund, estimated when negotiations last occurred to be approximately \$9 million, would be applied to satisfy its PRB obligation. At the time those negotiations were concluded, Uniroyal and the Government appeared to have agreed in principle that \$32.6 million would suffice to meet this PRB obligation. No formal agreement was reached at that time, and a substantial period has passed since negotiations occurred. Subject to the additional conditions specified below, the Board authorized amendment of the contract to provide relief in an amount not greater than that \$32.6 million figure, with direction that the parties enter into good faith negotiations to reevaluate the premises upon which that figure was reached and to adjust that figure downward in the event that such downward adjustment is warranted by changes in premises, indices or factors upon which that \$32.6 million figure was based. The contracting officer, in executing this amendment, must be satisfied that the sum is fair and reasonable, both to Uniroyal and the Government.

This relief was subject to the following additional conditions: Pursuant to FAR 31.205-6(o), and consistent with practices already established to provide for payments of accrued PRB liabilities since the issuance of that FAR provision and Uniroyal's 1992 MOA with the Government, the sum negotiated pursuant to this decision was to be deposited into a trust fund (or escrow account) established for the sole purpose of providing PRBs for the covered retirees. The funds deposited therein may be used for costs associated with administering Uniroyal's PRB program with respect to its JAAP retirees, including reimbursing Uniroyal for PRB claims of its JAAP retirees, the payment of reasonable

<sup>18</sup> Even if FAR 31.205-6(o) had not been issued prior to execution of the current contract, the Army's position is, as it was in the Remington Arms case, that Uniroyal's accounting practice (which was not alleged to be different from the industry norm) of treating PRB costs as insurance costs under Cost Accounting Standard 416, rather than as pension costs which are covered under CAS 412 and 413, precludes an adjustment allowing allocation of the unaccrued liabilities to the contract upon plan termination as would be the case under CAS 413.

<sup>19</sup> For the purpose of resolving this threshold issue of legal entitlement, we accept the view of the Army Materiel Command Command Counsel's office that clause H-24.2, which purports to allow the contracting officer to approve reimbursement of other costs and expenses, without mentioning the cost principles, cannot reasonably be construed to give the contracting officer license to approve reimbursement of costs contrary to the cost principles.

<sup>20</sup> When, in 1980, perhaps seeing the writing on the wall as to the impending FAS 106 change in acceptable accounting practices regarding PRBs, Uniroyal broached the subject of changing its accounting practices to an accrual basis, the Government led Uniroyal to believe that such voluntary change in its practice might not allow reimbursement for any resulting increased costs.

trustee or escrow agent compensation, other reasonable and proper fees necessary to ensure effective and productive management and administration of the account, and any taxes to which the account may be subject. The contracting officer may specify such other terms as deemed appropriate regarding investment and management of the fund to ensure that the retirees' interests as well as those of the Government are adequately protected, including affirmation of the Government's right to examine and audit the account and records of all transactions conducted in its administration. The Government was given a reversionary interest in any sum (undistributed principal and income) remaining in the account upon completion of payment to the last beneficiary of the trust or upon termination of the trust for any reason. The aforementioned surplus in Uniroyal's pension fund was to be contributed to this PRB trust. The Government will have no liability for any shortfalls in the account. Uniroyal will release the Government from liability for any and all claims arising from or related to the PRB liability for which this trust was established.

This award of relief was expressly conditioned on the availability of funds, either from (a) expired funds which remain available to fund this contract adjustment, (b) other currently available Defense ammunition funds, (c) if necessary, approval by Congress (through its authorizing and appropriating committees) of a reprogramming or transfer request to make available the necessary funds out of other existing appropriations, or (d) if necessary, supplemental appropriations. The Contracting Officer was directed to act expeditiously to negotiate the contract modification necessary to implement this decision and, with the assistance of higher headquarters, to secure adequate appropriated funds to cover the relief authorized herein.

#### Conclusion

Subject to the above conditions, the Board has found that it was in the interest of national defense to award to Uniroyal a sum not to exceed \$32.6 million to reimburse Uniroyal for its obligation to provide post-retirement benefits to the more than 800 affected retirees who worked in the Army's critical munitions production mission at Joliet Army Ammunition Plant over the decades since World War II. Such relief was consistent with the expectations of all the parties that Uniroyal would be fully compensated in accordance with the bargain it entered into with the Army to perform the work at JAAP on a cost reimbursement basis.

If the ultimate negotiated amount of the proposed contract modification implementing this decision exceeds \$25 million, the modification cannot be executed by the parties until the Senate Committee on Armed Services and the House Committee on National Security and the Senate and House Appropriations Committees are notified of the proposed obligation and 60 days of continuous session of Congress have passed after transmittal of such notification.

*Contractor:* Precision Machining, Inc.

*Type of action:* Amendment Without Consideration.

*Actual or estimated potential cost:* \$9,392,870.

*Service and activity:* Department of the Army, Aviation and Troop Command.

*Description of product or service:* Ribbon Bridges.

*Background:* Precision Machining, Inc., (PMI) submitted a request for amendment without consideration on contract number

DAAK01-93-C-0075, Ribbon Bridge, and a request for relief under Public Law 85-804, dated August 11, 1995. Based on the Aviation and Troop Command (ATCOM) Contract Adjustment Board (ACAB) meeting on June 27, 1996, and in accordance with the authority delegated to the Department of the Army, Headquarters, ATCOM, Acquisition Center, Field Support Branch, it was decided that PMI was not essential to the Government in performance of the Ribbon Bridge contract.

This decision was based on the availability of other sources and the non-urgent need for Ribbon Bridges. It was true that PMI had the only contract for the Ribbon Bridge at that time, however, the item had a competitive level III drawing package the Government could resolicit for the remaining 20 Ramp Bays needed by the Marine Corps. As the Army had downsized, extra Interior Bays were transferred from the Army to the Marines, reducing the need for bays from PMI.

#### Statement of Facts

In its request under Public Law 85-804, PMI cited several instances of Government action which allegedly caused losses to PMI. Each allegation is addressed below.

PMI alleged the Government delayed inventory availability prior to award and alleged a long delay in making award. However, PMI agreed to the contract by its signature dated July 24, 1993, which the Contracting Officer executed July 29, 1993. There was no basis for compensation since PMI freely signed the contract.

PMI alleged delay and impact incorporating the termination inventory of the prior contractor into the production because some of it was not useable. PMI had inspected that inventory and it made the choice to use it. The basic contract did not include the termination inventory. PMI knew they would have to inspect the inventory to determine what could be used. The property listed in Modification P00009 was the useable property that PMI screened as acceptable and for which they paid by a reduction in contract price.

PMI had failed to set forth specific supporting information of delays in processing of Engineering Change Proposals/Requests for Waivers/Requests for Deviations (ECPs/RFWs/RFDs). Therefore, ACAB could not track which ones PMI believed the Government caused to be delayed and how that delay impacted the claimed loss. Many of the ECPs were delayed because PMI failed to furnish a legible document for microfilming and necessary data was consistently omitted or incorrect data was entered on the form.

The Government did not agree that the specifications were outdated, inadequate, inaccurate, or defective. There were five previous producers of this item. If there were inadequacies, inaccuracies, and defects, they would have been discovered previously. As far as being outdated, the specifications had been in use for some time, but not that much had changed in welding, painting, etc. Without specifics on which specifications were so outdated that they caused delays, this could not be addressed in detail.

The Government's lack of decisive action on the First Article Test Report (FATR) approval was caused by PMI failing to comply with contractual requirements for procedures to be approved before production began. The FAs should not have been built, let alone tested, before these approvals were received. The Government could not continue to ignore that fact when the FAs were presented for acceptance.

The Government attempted to obtain more details on the allegations in the August 11,

1995, request by letter from the Contracting Officer dated October 16, 1995. Instead of responding with the facts requested by the Contracting Officer, PMI continued with vague comments about how many people worked on the inventory, how ECPs from the previous contract impacted the effort, and that the parts were inspected for form, fit, and function at that time. This was not in agreement with information provided earlier. PMI had only one person counting at the Post Award and told the Government the parts were inspected as they were pulled for production. Additionally, PMI had seen the inventory before it was shipped. There should not have been anything unexpected.

PMI's October 18, 1995, letter also failed to explain how the waivers delayed full production. The statement was made in the attachment to the letter that one open waiver would delay acceptance. However, one of the waivers was shown as 700 days old. PMI did not have to wait until September 26, 1995, for acceptance of bridges. The question remained unanswered.

PMI was asked for details supporting the loss claimed. PMI had not been able to do that either for themselves or for the DCAA to calculate it for them. There were no records from the original bid. PMI could not provide any details on the 25 percent efficiency factor and \$1,000,000.00 loss on the inventory, except to say it was an estimate. The documentation provided to support transporter problems did not contain hours, only copies of inspection reports. PMI corrected the sequence of events on the Taber purchase order to show the order was placed two years after the inventory was received.

It was hard to understand how PMI was able to produce the bays they did if the drawings were "illegible and virtually unusable." It would have been difficult for the Government representative to inspect and accept those bays. The Government level III drawings were not production drawings; each contractor must decide how they will produce the items and develop the necessary in-house drawings.

There were no ECPs that changed the drawing package while Ketron had the contract, therefore, none could be provided. PMI should have prepared an ECP for the change to Parker-Hannafin as soon as they knew the situation existed. That was the only example PMI provided for the delay in this area.

PMI revised their allegation to say the bays were conditionally accepted, not that the bays were not accepted at all. Conditional acceptance allowed the invoices to be paid. The failure of the PMI-02 to be approved was due to the failure on PMI's part to provide adequate information for the Government to make a decision.

Federal Acquisition Regulation (FAR) 17.202 does not address the five year recommended limit; FAR 17.204 states approval before use is required. This part of the FAR does not apply to a procurement. Also, the award was a bilateral agreement PMI was willing to make. The options were exercised fourteen months after award.

PMI stated they did not understand what was meant by supporting the costs they incurred for each delay mentioned in their request for relief. PMI gave the impression to the auditor they were hoping the DCAA audit would do that for them. However, since the auditor could find no records for the original award and few records for the current contract, he was also unable to provide support for the areas of delay.

#### Conclusion

Based on the above, it was decided that none of the Government acts identified by

PMI have harmed them and, therefore, the request for recompense was denied. Also, PMI's request to reform the contract, revise the delivery schedule, or convert the contract to a cost plus fixed fee contract was denied.

Contractor: Precision Machining, Inc.  
Type of action: Amendment Without Consideration.

Actual or estimated potential cost: \$6,525,784.

Service and activity: U.S. Army Missile Command.

Description of product or service: HELLFIRE storage and shipping containers.

Background: Precision Machining, Inc., (PMI) submitted a request for relief under Public Law 85-804 for amendment without consideration in connection with contract number DAAH01-90-C-0253 with the U.S. Army Missile Command (MICOM) for HELLFIRE storage and shipping containers. The Principal Assistant Responsible for Contracting (PARC) at MICOM was delegated the authority to deny or refer requests for contract price adjustment without consideration.

Upon receipt of PMI's request by the Contracting Officer, it was forwarded to a Command Contract Adjustment Board (CAB) for review and recommendation. This Board, which was comprised for senior Command officials, served in an advisory capacity. The Board completed a detailed investigation of PMI's request and made its recommendation to the PARC for action. The official response of MICOM to PMI's request follows.

#### Statement of Facts

PMI's essentiality request under the provisions of FAR 50.302-1(a) was addressed in a memorandum from the Office of the U.S. Army Deputy Chief of Staff for Operations and Plans (ODCSOPS). This memorandum, dated February 1, 1996, which was directed to the attention of the Army's Air to Ground Missile Systems Project Office at Redstone Arsenal, Alabama, hereinafter referred to as the Project Office, noted that HELLFIRE II missile deliveries were currently being delayed due to PMI's inability to produce missile containers. It concluded that, given the number of HELLFIRE II missiles that were currently available for deployment, a delay in delivery of 500 to 700 additional missiles until July 1996, when containers from a new container supplier were scheduled for delivery, was non-critical/essential. The 500 to 700 number was computed by the Project Office after taking into consideration PMI's production capacity and the fact that approximately one-third of the missiles scheduled for delivery under PMI's contract were for the U.S. Navy.

#### Decision

Based on the above and in accord with the authority delegated by the PARC, it was decided that the facts surrounding PMI's essentiality request do not support the relief requested. Accordingly, PMI's request on that basis was denied.

#### Statement of Facts

PMI's request under the provisions of FAR 50.302-1(b) cited several instances of Government action which they characterized as unfair which were alleged to have produced losses to PMI. These were addressed as follows:

The first was an allegation that contract specifications for a container component identified as a shock mount contained excessive testing requirements. The investigation of the CAB disclosed that both the Project Office and PMI had agreed that the testing

requirements were necessary to avoid the possibility of a vendor stockpiling shock mounts that would fail.

The second allegation was that components of the container, identified as the latch and the stud assembly, were sole source and that delays by the sole source vendors had increased costs and caused delays. The investigation by the CAB determined that delays involving the vendors identified had occurred but that the sources were "suggested sources" rather than "sole sources." Further, that some of the delays were caused by the poor financial condition of PMI. Finally, that approval of additional sources was a contractor responsibility.

The third allegation was that components of the container, identified as the shock mount, the latch assembly, the stud assembly, and the ammunition box handle, contained insufficient information for alternate source development, leaving the vendors identified as "sole source" by default. The investigation by the CAB disclosed that the drawings in question were specification control drawings which made it clear that suggested sources included in the drawings were not guaranteed to be presently available as a source.

The fourth allegation was that the Project Office had been reluctant to issue drawing changes with a resulting delay in issuance of Engineering Change Proposals, Requests for Deviations, and Requests for Waivers. The investigation by the CAB disclosed that while there were delays in the areas noted, those delays were caused by the failure of PMI to properly document the need for proposed changes, deviations, or waivers.

The next allegation was that Government design changes created delays and increased costs. Two instances were cited. In one of these, the change in question was settled by bilateral contract modification wherein PMI agreed to a specific increase in the price of the contract in settlement of the change. The second situation involved a case where PMI was allowed to ship containers in place until room could be made for them at the contract destination (another Government contractor). PMI was promptly paid for the items and confirmed it had plenty of room and would hold them on site at PMI as an accommodation for the other contractor.

The next allegation was that the Government provided faulty GFM. The investigation of the CAB disclosed that the material involved was not GFM, but material owned by a former Government producer which PMI bought from the Government "as is."

The final allegation was that the Army violated the provisions of FAR 17.204(e) in connection with the contract. The investigation of the CAB disclosed that the facts of the case did not support any such conclusion in that while the option exercise period of the last option was extended, no quantities were added. Furthermore, if the facts were viewed in the most favorable light for PMI, only slightly more than four percent of the items bought under the contract could possibly be involved.

#### Decision

Based on the above, it was the decision of the PARC that none of the Government acts that PMI identified were unfair. Accordingly, the request on this basis was also denied.

Contractor: Westinghouse Electric Corporation.

Type of action: Contingent Liability.

Actual or estimated potential cost: The amount the Contractor will be indemnified cannot be determined at this time, but will

depend upon the occurrence of an incident related to the performance of the contract.

Service and activity: Department of the Army, Anniston Chemical Demilitarization Facility (ANCDF).

Description of product or service: Construction, systemization, operations, maintenance, and decommissioning of ANCDF.

Background: In accordance with Federal Acquisition Regulation (FAR) 50.403-1, Westinghouse Electric Corporation requested that, pursuant to authority provided in Public Law 85-804, the Army include an indemnification clause in its contract DAAA09-96-C-0018 for the construction, systemization, operations, maintenance, and decommissioning of the Anniston Chemical Demilitarization Facility (ANCDF).

#### Statement of Facts

Under this contract, Westinghouse is responsible for all facets of the process to destroy the lethal chemical agents and munitions stockpiled at the Anniston Army Depot. Upon review of the functions and responsibilities that Westinghouse has, the Secretary of the Army found that execution of such would subject the contractor to certain unusually hazardous risks as defined below.

The Secretary of the Army considered the availability, cost, and terms of private insurance to cover these risks, as well as the viability of self-insurance, and concluded that adequate insurance to cover the unusually hazardous risks was not reasonably available.

It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause since the liability of the Government, if any, would depend upon the occurrence of an incident related to the performance of the contract.

The Secretary of the Army found that the use of an indemnification clause in this contract would facilitate the national defense.

#### Decision

In view of the foregoing and pursuant to the authority vested in the Secretary of the Army by Public Law 85-804 (50 U.S.C. 1431-1436) and Executive Order 10789, as amended, inclusion of the indemnification clause prescribed in FAR 52.250-1, with its Alternate 1, in the contract for ANCDF was authorized, provided the clause defines the unusually hazardous risks and includes the limitations on coverage precisely as described in the definition below. The Secretary of the Army further authorized the inclusion in subcontracts (at any tier) under this contract, provided the pass-through indemnification was limited to the defined unusually hazardous risks and provided that the Contracting Officer approves each pass-through indemnification in writing.

The contractual document executed pursuant to the authorization shall comply with the requirements of FAR Subparts 50.4 and 28.3, as implemented by Department of Defense and the Department of the Army.

#### Definition of unusually hazardous risks

The risks of:

(1) sudden or slow release of, and exposure to, lethal chemical agents during the disposal of stockpiles of chemical munitions, mines, and other forms of weapons-related containerization and during facility decommissioning and closure;

(2) explosion, detonation, or combustion of explosives, propellants, or incendiary materials during the course of disposal of stockpiles of chemical munitions, mines, or other forms of weapons-related containerization;

(3) contamination present at or related from the installation prior to the contractor's construction or operation of the chemical demilitarization facility CDF, whether known or unknown by the Government or contractor at such time;

(4) contamination resulting from the activities of third parties when the contractor has no control over such activities or parties; and

(5) contamination resulting from the placement of components and materials from de-commissioning and placement of wastes and residues from demilitarization, destruction, or closure in accordance with the contract and all applicable laws and regulations.

Provided that the indemnification clause shall in no way indemnify the contractor against local, state, or federal civil or criminal fines or penalties levied by local, state, or federal tribunals, nor shall this clause indemnify the contractor against the costs of defending, settling, or otherwise participating in such civil or criminal actions brought in local, state, or federal tribunals.

The term "lethal chemical agents," for the purposes of this clause, means the chemicals as listed in the table on record and their naturally occurring breakdown products, but does not include residues and wastes produced from the demilitarization process except to the extent that these residues and wastes contain, or are deemed by a court or agency of competent jurisdiction to contain, chemicals as listed in the table on record.

The term "disposal" for the purposes of this clause, includes the reconfiguration, destruction, or demilitarization and interim storage and movement of chemical munitions, mines, and other forms of weapons-related containerization, decontamination of equipment and facilities, and the transportation and placement of wastes and residues from destruction or demilitarization.

The term "damage to property" in this clause shall include the costs of monitoring, investigation, removal, response, and remediation for property (to include groundwater) due to the risks above once certification of closure in accordance with the closure plan has been accepted by the State or the Environmental Protection Agency, and contract performance has been completed and accepted by the Army.

Contractor: Raytheon Engineers and Constructors, Inc.

Type of action: Contingent Liability.  
Actual or estimated potential cost: The amount the Contractors will be indemnified cannot be determined at this time, but will depend upon the occurrence of an incident related to the performance of the contract.

Service and activity: Department of the Army.

Description of product or service: Construction, operations, maintenance, and closure of the Johnston Atoll Chemical Agent Disposal System (JACADS) facility.

Background: In accordance with Federal Acquisition Regulation (FAR) 50.403-1, Raytheon Engineers and Constructors, Inc., requested that, pursuant to authority provided in Public Law 85-804, the Army include an indemnification clause in its contract DAAA09-96-C-0081 for the construction, operations, maintenance, and closure of the Johnston Atoll Chemical Agent Disposal System (JACADS) facility.

Under this contract, Raytheon is responsible for all facets of the process to destroy the lethal chemical agents and munitions stockpiled at the JACADS facility. Upon review of the functions and responsibilities that Raytheon has, it was found that execu-

tion of such will subject the contractor to certain unusually hazardous risks which are defined below.

*Statement of Facts*

The Secretary of the Army considered the availability, cost, and terms of private insurance to cover these risks, as well as the viability of self-insurance, and concluded that adequate insurance to cover the unusually hazardous risks was not reasonably available.

It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause since the liability of the Government, if any, would depend upon the occurrence of an incident related to the performance of the contract.

The Secretary of the Army found that the use of an indemnification clause in this contract would facilitate the national defense.

*Decision*

In view of the foregoing and pursuant to the authority vested in the Secretary of the Army by Public Law 85-804 (50 U.S.C. 1431-1436) and Executive Order 10789, as amended, inclusion of the indemnification clause prescribed in FAR 52.250-1, with its Alternate 1, in the contract for the JACADS facility was authorized, provided the clause defines the unusually hazardous risks and includes the limitations on coverage precisely as described in the definition below.

The contractual document executed pursuant to this authorization shall comply with the requirements of FAR Subparts 50.4 and 28.3 as implemented by the Department of Defense and the Department of the Army.

*Definition of unusually hazardous risks*

The risks of:

(1) sudden or slow release of, and exposure to, lethal chemical agents during the disposal of stockpiles of chemical munitions, mines, and other forms of weapons-related containerization and during facility decommissioning and closure;

(2) explosion, detonation, or combustion of explosives, propellants, or incendiary materials during the course of disposal of stockpiles of chemical munitions, mines, or other forms of weapons-related containerization;

(3) contamination present at or released from the installation prior to the contractor's construction or operation of the chemical demilitarization facility CDF, whether known or unknown by the Government or contractor at such time;

(4) contamination resulting from the activities of third parties when the contractor has no control over such activities or parties; and

(5) contamination resulting from the placement of components and materials from de-commissioning and placement of wastes and residues from demilitarization, destruction, or closure in accordance with the contract and all applicable laws and regulations.

Provided that the indemnification clause shall in no way indemnify the contractor against local, state, or federal civil or criminal fines or penalties levied by local, state, or federal tribunals, nor shall this clause indemnify the contractor against the costs of defending, settling, or otherwise participating in such civil or criminal actions brought in local, state, or federal tribunals.

The term "lethal chemical agents," for the purposes of this clause, means the chemicals as listed in the table on record and their naturally occurring breakdown products, but does not include residues and wastes produced from the demilitarization process except to the extent that these residues and

wastes contain, or are deemed by a court or agency of competent jurisdiction to contain, chemicals as listed in the table on record.

The term "disposal," for the purposes of this clause, includes the reconfiguration, destruction, or demilitarization and interim storage and movement of chemical munitions, mines, and other forms of weapons-related containerization, decontamination of equipment and facilities, and the transportation and placement of wastes and residues from destruction or demilitarization.

The term "damage to property" in this clause shall include the costs of monitoring, investigation, removal, response, and remediation for property (to include groundwater) due to the risks above once certification of closure in accordance with the closure plan has been accepted by the State or the Environmental Protection Agency, and contract performance has been completed and accepted by the Army.

*Contingent Liabilities*

Provisions to indemnify contractor's against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in these contracts. The potential cost of the liabilities cannot be estimated since the liability to the Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

<i>Contractors</i>	<i>Number</i>
Raytheon Engineers & Constructors, Inc .....	1
Westinghouse Electric Corporation ...	1
<b>Total .....</b>	<b>2</b>

DEPARTMENT OF THE NAVY

*Contingent Liabilities*

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts. The potential cost of the liabilities could not be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause. Items procured were generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

<i>Contractors</i>	<i>Number</i>
Lockheed Martin Missiles & Space ....	3
Vitro Corporation .....	1
Interstate Electronics Corporation ...	1
Lockheed Martin Defense Systems ....	7
Rockwell International Corporation ..	1
Electric Boat Corporation .....	7
Loral Defense Systems—East .....	1
Raytheon Company .....	1
Rockwell Corporation, Autonetics Strategic Systems Division .....	1
Northrop Grumman Marine Systems ..	3
Alliant Techsystems, Inc./Thiokol ....	1
Honeywell, Inc .....	1
Lockheed Martin Tactical Systems, Inc .....	2
The Charles Stark Draper Lab, Inc. ...	1
Kearfott Guidance & Navigation Corporation .....	1

<i>Contractors</i>	<i>Number</i>
Newport News Shipbuilding and Drydock Company .....	6
Total .....	38

CONTINGENT LIABILITIES SUMMARY TABLE

Contractor	Service and activity	Description of product service
Lockheed Martin Missiles & Space.	Department of the Navy, Strategic Systems Programs .....	FY 1996 Training Support.
Vitro Corporation	Department of the Navy, Strategic Systems Programs .....	Trident Re-entry Systems Applications Program.
	Department of the Navy, Strategic Systems Programs .....	FY 1997 Trident II (D5) Missile Production, related hardware and services.
Interstate Electronics Corporation	Department of the Navy, Strategic Systems Programs .....	Engineering technical services in support of the U.S. Trident I and Trident II Weapon Systems Integration.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs .....	Test Instrumentation Engineering, Logistics Services, and Field Services.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs .....	FY 1997 Trident Training Support Services.
	Department of the Navy, Strategic Systems Programs .....	Fire Control Training Engineering Services.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs .....	U.S. FBM/SWS and U.K. Polaris and U.K. Trident II Systems.
	Department of the Navy, Strategic Systems Programs .....	Verification of Failures on MK-5 Inertial Measurement Units.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs .....	Replenishment spares, repair, SPALTS, overhaul and EOC parts, tools, test equipment and operational support services for Trident I (including C4 B/F) & Trident II FC systems and support equipment.
	Department of the Navy, Strategic Systems Programs .....	Basic Ordering Agreement for repair, modification, SPALTS and repair parts for Trident I/II guidance IMUS, MCAS, and Guidance Ancillary Support Equipment.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs .....	Basic Ordering Agreement for support of Trident I and Trident II Fire Control Systems, Guidance Support Equipment and related support equipment.
Rockwell International Corporation.	Department of the Navy, Strategic Systems Programs .....	FY 1997 Technical Assistance Program
Electric Boat Corporation	Department of the Navy, Strategic Systems Programs .....	FY 1997 COTS Hardware/Software.
Electric Boat Corporation	Department of the Navy, Strategic Systems Programs .....	COTS Implementation Analysis.
	Department of the Navy, Strategic Systems Programs .....	Technical Support for Ship Systems and Subsystems Support U.S. SSBN Weapon Systems during Submarine DASO's.
Loral Defense Systems—East	Department of the Navy, Naval Sea Systems Command .....	Reactor Plant Planning Yard Services for Nuclear Power Submarines, Moored Training Ships and Guided Missile Cruisers.
	Department of the Navy, Naval Sea Systems Command .....	NSN IPPF 1996.
Raytheon Company	Department of the Navy, Naval Sea Systems Command .....	SSN 23 Construction.
Rockwell Corporation, Autotronics Strategic Systems Division	Department of the Navy, Strategic Systems Programs .....	Basic Ordering Agreement for Design Studies for SSN 688 Program Office.
Northrop Grumman Marine Systems.	Department of the Navy, Strategic Systems Programs .....	Modification/Repair of Items on U.S. Trident Weapons Subsystems.
Alliant Techsystems, Inc./Thiokol Honeywell, Inc.	Department of the Navy, Strategic Systems Programs .....	FY 1996 Captive Line.
	Department of the Navy, Strategic Systems Programs .....	FY 1996 Inertial Equipment Modification and Repair.
Lockheed Martin Tactical Systems, Inc.	Department of the Navy, Strategic Systems Programs .....	FY 1996 Expendable Hardware Procurement.
The Charles Stark Draper Lab., Inc.	Department of the Navy, Strategic Systems Programs .....	Technical Services to support the SWS Launcher Training Systems Maintenance and Operational Support, and to related formal and informal training materials acquisition and support, in the U.S. and the U.K.
	Department of the Navy, Strategic Systems Programs .....	FY 1997 Launcher Backfit Program and Technical Engineering Services.
Kearfott Guidance and Navigation Corporation.	Department of the Navy, Strategic Systems Programs .....	Disposal of C3 Second Stage Rocket Motors at the Utah Test and Training Range.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Strategic Systems Programs .....	Repair and Recertification of Size 10 PGAS for the MK-6 Guidance System.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Strategic Systems Programs .....	FY 1997 Technical Services and Logistics Program (FY 1997 base year and FY 1998 option year).
	Department of the Navy, Strategic Systems Programs .....	FY 1997 base year and FY 1998 option year Trident I (C4) and II (D5) Navigation Subsystem technical services and support.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Strategic Systems Programs .....	Technical Engineering Services and support.
	Department of the Navy, Strategic Systems Programs .....	Failure verification, repair and recertification of MITA-5 Gyros in support of the Trident II MK-6 Guidance System.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Naval Sea Systems Command .....	Reactor Plant Planning Yard Services for Nuclear Power Submarines.
	Department of the Navy, Naval Sea Systems Command .....	Reactor Plant Planning Yard Services for CVN-65.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Naval Sea Systems Command .....	Advance Planning and Material Procurement for U.S.S. Enterprise (CVN 65) FY 1997 Extended Selected Restricted Availability (ESRA).
	Department of the Navy, Naval Sea Systems Command .....	Engineering, Technical and Logistics Services in Support of Aircraft Carrier Programs.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Naval Sea Systems Command .....	Basic Ordering Agreement to Support Depot Level Maintenance of CVN 65.
	Department of the Navy, Naval Sea Systems Command .....	Basic Ordering Agreement for Design Studies for SSN 688 Program Office.

DEPARTMENT OF THE AIR FORCE

*Contractor:* Various.  
*Type of action:* Contingent Liability.  
*Actual or estimated potential costs:* The amount the Contractors will be indemnified by the Government cannot be predicted, but could entail millions of dollars.  
*Service and activity:* Civil Reserve Air Fleet (CRAF).  
*Description of product or service:* FY 1997 Annual Airlift Contracts.  
*Reference:* Definitions of unusually hazardous risks applicable to CRAF FY 1996.  
*Background:* Thirty-one contractors requested indemnification under Public Law 85-804 for the unusually hazardous risks (as defined) involved in providing airlift services for CRAF missions (as defined). In addition, Headquarters, Air Mobility Command (AMC), requested indemnification for subsequently identified contractors and the sub-contractors who conducted or supported the conduct of CRAF missions. The contractors for which indemnification was requested were those awarded contracts on August 14, 1996, as a result of solicitation F11626-96-R0002. The 31 contractors who requested indemnification are listed below:

CONTRACTORS TO BE INDEMNIFIED AND PROPOSED CONTRACT NUMBER

Air Transport International (ATN), F11626-96-D0013.  
 Alaska Airlines (ASA), F11626-96-D0015.  
 American International Airways (CKS), F11626-96-D0014.

American Trans Air (ATA), F11626-96-D0013.  
 Atlas Air (GTI), F11626-96-D0017.  
 Burlington Air Express (BAX), F11626-96-D0013.  
 Carnival Airlines (CAA), F11626-96-D0014.  
 Continental Airlines (COA), F11626-96-D0018.  
 Delta Air Lines (DAL), F11626-96-D0019.  
 DHL Airways (DHL), F11626-96-D0020.  
 Emery Worldwide (EWW), F11626-96-D0012.  
 Evergreen International (EIA), F11626-96-D0012.  
 Federal Express (FDX), F11626-96-D0013.  
 Fine Airlines (FBF), F11626-96-D0021.  
 Miami Air (MYW), F11626-96-D0012.  
 North American Airlines (NAO), F11626-96-D0022.  
 Northwest Airlines (NWA), F11626-96-D0012.  
 OMNI Air (OAE), F11626-96-D0023.  
 Polar Air Cargo (PAC), F11626-96-D0013.  
 Rich International (RIA), F11626-96-D0012.  
 Southern Air Transport (SAT), F11626-96-D0012.  
 Sun Country Airlines (SCX), F11626-96-D0014.  
 Tower Air (TWR), F11626-96-D0014.  
 Trans Continental Airlines (TCA), F11626-96-D0014.  
 Trans World Airlines (TWA), F11626-96-D0024.  
 United Airlines (UAL), F11626-96-D0025.  
 Inted Parcel Service (UPS), F11626-96-D0026.  
 US Air (USA), F11626-96-D0012.

US Air Shuttle (USS), F11626-96-D0027.  
 World Airways (WOA), F11626-96-D0012.  
 Zantop International (ZIA), F11626-96-D0028.

Note: The same contract number may appear for more than one company because in some cases the companies provided services under a joint venture arrangement.

Desert Shield/Storm and Restore Hope showed that air carriers providing airlift services during contingencies and war require indemnification. Insurance policy war risk exclusions, or exclusions due to activation of CRAF, left many carriers uninsured—exposing them to unacceptable levels of risk. Waiting until a contingency occurs to process an indemnification request could result in delaying critical airlift missions. Contractors need to understand up front that risks will be covered by indemnification and how the coverage will be put in place once a contingency is declared.

Statement of Facts

The specific risks to be indemnified are identified in the applicable definitions. No actual cost to the Government was anticipated as a result of the actions that were to be accomplished under this approval. However, if the air carriers were to suffer losses or incur damages as a result of the occurrence of a defined risk, and if those losses or damages, exclusive of losses or damages that were within the air carriers' insurance deductible limits, were not compensated by the contractors' insurance, the contractors

would be indemnified by the Government. The amount of indemnification could not be predicted, but could entail millions of dollars.

All of the 31 contractors were approved DoD carriers and, therefore, considered to have adequate, existing, and ongoing safety programs. Moreover, HQ AMC has specific procedures for determining that a contractor is complying with government safety requirements. Also, the contracting officer had determined that the contractors maintain liability insurance in amounts considered to be prudent in the ordinary course of business within the industry. Specifically, each contractor had certified that its coverage satisfied the minimum level of liability insurance required by the Government. Finally, all contractors were required to obtain war hazard insurance available under 49 U.S.C. Chapter 443 for hull and liability war risk. Additional contractors and subcontractors that conduct or support the conduct of CRAF missions may be indemnified only if they request indemnification, accept the same definition of unusually hazardous risks as identified, and meet the same safety and insurance requirements as the 31 contractors who sought indemnification in this action.

Without indemnification, airlift operations to support contingencies or wars might be jeopardized to the detriment of the national defense, due to the non-availability to the air carriers of adequate commercial insurance covering risks of an unusually hazardous nature arising out of airlift services for CRAF missions. Aviation insurance is available under 49 U.S.C. Chapter 443 for air carriers, but this aviation insurance, together with available commercial insurance, does not cover all risks which might arise during CRAF missions. Accordingly, it was found that incorporating the indemnification clause in current and future contracts for airlift services for CRAF missions would facilitate the national defense.

#### Decision

Under authority of Public Law 85-804, the request was approved on October 2, 1996, to indemnify the 31 air carriers listed above and other yet to be identified air carriers providing airlift services in support of CRAF missions for the unusually hazardous risks as defined. Approval was also granted to contracting officers to indemnify subcontractors that request indemnification, with respect to those risks as defined. Indemnification under this authorization shall be effected by including the clause in FAR 52.250-1, entitled "Indemnification Under Public Law 85-804 (Apr 1984)," in the contracts for these services. This approval is contingent upon the air carriers complying with all applicable government safety requirements and maintaining insurance coverage as detailed above. The HQ AMC Commander will inform the Secretary of the Air Force immediately upon each implementation of the indemnification clause.

*Definition of unusually hazardous risks applicable to CRAF FY 1996 annual airlift contracts*

#### 1. Definitions:

a. "Civil Reserve Air Fleet (CRAF) Mission" means the provision of airlift services under this contract (1) ordered pursuant to authority available because of the activation of CRAF, or (2) directed by Commander, Air Mobility Command (AMC/CC), or his successor for missions substantially similar to, or in lieu of, those ordered pursuant to formal CRAF activation.

b. "Airlift Services" means all services (passenger, cargo, or medical evacuation),

and anything the contractor is required to do in order to conduct or position the aircraft, personnel, supplies, and equipment for a flight and return. Airlift Services include Senior Lodger and other ground related services supporting CRAF missions. Airlift Services do not include any services involving any persons or things which, at the time of the event, act, or omission giving rise to a claim, are directly supporting commercial business operations unrelated to a CRAF mission objective.

c. "War risks" means risks of:

(1) War (including war between the Great Powers), invasion, acts of foreign enemies, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection, martial law, military or usurped power, or attempt at usurpation of power;

(2) Any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion, or other like reaction or radioactive force or matter;

(3) Strikes, riots, civil commotions, or labor disturbances related to occurrences under subparagraph (1) above;

(4) Any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes, and whether the loss or damage resulting therefrom is accidental or intentional, except for ransom or extortion demands;

(5) Any malicious act or act of sabotage, vandalism, or other act intended to cause loss or damage;

(6) Confiscation, nationalization, seizure, restraint, detention, appropriation, requisition for title or use by, or under the order of, any Government (whether civil or military or de facto), public, or local authority;

(7) Hijacking or any unlawful seizure or wrongful exercise of control of the aircraft or crew (including any attempt at such seizure or control) made by any person or persons on board the aircraft or otherwise, acting without the consent of the insured; or

(8) The discharge or detonation of a weapon or hazardous material while on the aircraft as cargo or in the personal baggage of any passenger.

2. For the purpose of the contract clause entitled "Indemnification Under Public Law 85-804 (APR 1984)," it is agreed that all war risks resulting from the provision of airlift services for a CRAF mission, in accordance with the contract, are unusually hazardous risks, and shall be indemnified to the extent that such risks are not covered by insurance procured under Chapter 443 of Title 49, United States Code, as amended or other insurance, because such insurance has been canceled, has applicable exclusions, or has been determined by the government to be prohibitive in cost. The government's liability to indemnify the contractor shall not exceed that amount for which the contractor commercially insures under its established policies of insurance.

3. Indemnification is provided for personal injury and death claims resulting from the transportation of medical evacuation patients, whether or not the claim is related to war risks.

4. Indemnification of risks involving the operation of aircraft, as discussed above, is limited to claims or losses arising out of events, acts, or omissions involving the operation of an aircraft for airlift services for a CRAF mission, from the time that aircraft is withdrawn from the contractors regular operations (commercial, DoD, or other activity unrelated to airlift services for a CRAF mission), until it is returned for regular operations. Indemnification with regard to other

contractor personnel or property utilized or services rendered in support of CRAF missions is limited to claims or losses arising out of events, acts, or omissions occurring during the time the first prepositioning of personnel, supplies, and equipment to support the first aircraft of the contractor used for airlift services for a CRAF mission is commenced, until the timely removal of such personnel, supplies, and equipment after the last such aircraft is returned for regular operations.

5. Indemnification is contingent upon the contractor maintaining, if available, non-premium insurance under Chapter 443 of Title 49, United States Code, as amended, and normal commercial insurance, as required, by this contract or other competent authority. Indemnification for losses covered by a contractor self-insurance program shall only be on such terms as incorporated in this contract by the contracting officer in advance of such a loss.

#### Contingent Liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as describe in the indemnification clause.

Contractor	Number
Civil Reserve Air Fleet (CRAF) FY 1997 Annual Airlift Contracts .....	1

Total ..... 1

<sup>1</sup>One additional indemnification was approved; however, the Air Force has deemed it to be "classified," not subject to this report's purview.

#### DEFENSE LOGISTICS AGENCY

Contractor: Roche Products Limited.

Type of Action: Contingent Liability.

Actual or estimated potential cost: Estimated or potential cost cannot be determined at this time.

Service and activity: Defense Personnel Support Center, Defense Logistics Agency

Description of product or service: Pyridostigmine Bromide Tablets (PBT)  
Background: Roche Products Limited submitted a request that the clause entitled "Indemnification Under Public Law 85-804," FAR 52.250-1, be included in Contract SPO2000-95-D-0005.

On September 13, 1995, the Defense Personnel Support Center (DPSC), a field activity of the Defense Logistics Agency (DLA), awarded indefinite quantity contract SPO2000-95-D-0005 to Roche for Pyridostigmine Bromide Tablets, 30mg (PBT), NSN 6505-01-178-7903. PBT is used as a nerve agent pre-treatment to enhance the efficacy of post-exposure antidote therapy. Under the terms of the contract, delivery was contingent upon approval of indemnification.

#### Statement of Facts

This indemnification action would facilitate the national defense since the availability of PBT was critical to the protection and welfare of military personnel in combat situations where the threat of nerve agents existed. In addition, Roche is the sole manufacturer of this item: Duphar B.V. no longer manufactures nerve agent antidotes for the Department of Defense. Due to allegations that PBT played a role in Gulf War veterans' illnesses, Roche refused to deliver PBT without an indemnification provision.

Acquisition of the PBT involves an unusually hazardous risk that could impose liability upon the contractor in excess of financial protection reasonably available. Since allegations have been made that PBT, or PBT in combination with other agents, e.g., insecticides, have caused Gulf War veterans' illnesses, Roche, as manufacturer, was threatened by unknown liability for which insurance coverage was not available. It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause because the liability of the Government, if any, would depend upon the occurrence of an incident described in the indemnification clause.

The Contracting officer believed the approval of the Indemnification Request would be in the best interests of the Government. Accordingly, it was agreed that the following would be incorporated in the contract, if indemnification was approved:

"The Contractor requests inclusion of Indemnification Clause FAR 52.250-1 in Contract SPO200-95-D-0005 for the supply of pyridostigmine bromide in a 30 milligram dose ("the Product"). Indemnification was requested because the Contractor identified an unusually hazardous risk associated with supply and use of the Product. Specifically, there is an unusually hazardous risk since the Contractor is acting purely as a contract manufacturer and has no knowledge of the Product's safety or efficacy for the Government's purpose or any purpose whatsoever. The contractor considered this risk magnified since the Product will be relied upon for military combat use as a pretreatment against nerve-agent intoxication, although there is no actual clinical experience with pyridostigmine bromide as an effective pretreatment antidote to actual chemical weapons attack. Given the critical nature of the Product's use, individual may be injured or killed. Those individuals or their estates may seek to hold the contractor responsible for the injuries or death, thus exposing the contractor to unlimited liability. In addition, there have been allegations that pyridostigmine bromide, either alone or in combination with other agents, in a possible causative factor in Gulf War veterans' illnesses. The Contractor regards any risk (known or unknown, and arising anywhere in the world) associated with the procurement, use or distribution of the Product as unusually hazardous. In light of the foregoing, the parties have agreed to the following definition of the risk:

- (1) Claims as to lack of efficacy of the Product; and
- (2) Claims as to adverse short-term or long-term reactions as a result of human use of the Product, alone or in combination with other agents, including, but not limited to, temporary or permanent disability, birth defects, or death."

*Decision*

It was determined that authorization of the inclusion of the FAR Indemnification Clause in DPSC contract SPO200-95-D-005 with Roche Products Limited will facilitate the national defense. Pursuant to the authority vested in the Under Secretary of Defense (Acquisition and Technology) by Public Law 85-804 and Executive Order 10709, the inclusion of clause 52.250-1 in the instant contract for the risks identified above was authorized.

*Contingent Liabilities*

Provisions to indemnify Contractor against liabilities due to claims which may result from the hazardous risk associated

with the supply and use of pyridostigmine bromide, or other risks, as defined, not covered by the Contractor's insurance program were included; the potential cost of the liability cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause.

<i>Contractor</i>	<i>Number</i>
Roche Products Limited .....	1
Total .....	1

DEFENSE INFORMATION SYSTEMS AGENCY

Contractor: Total Procurement Services, Inc.

Type of action: Formalization of Informal Commitment.

Actual or estimated potential cost: \$10,000.

Service and activity: Defense Information Systems Agency, Defense Commercial Communications Office.

Description of product or service: Processing of noncompliant transactions.

Background: The Defense Information Technology Contracting Organization (DITCO) notified Total Procurement Services, Inc. (TPS) by letter dated September 24, 1996, that the Defense Information Systems Agency (DISA) would no longer process TPS's noncompliant transactions. DITCO and the operational personnel in the electronic commerce initiative had been working with TPS since at least July 1996, but non-compliance continued.

TPS responded to that notice in a letter dated September 24, 1996. TPS's letter raised a number of issues but essentially contended that the noncompliance was on the part of the Network Entry Point (NEP) at Ogden, principally in the areas of script writing and segment delimiters and terminators. TPS further claimed \$10,000 under authority of Public Law 85-804 for TPS's cost to support the 2003 Implementation Convention (IC) over a ten month period.

*Decision*

DISA did not agree that the Government was at fault in the problems TPS experienced. DISA did not see evidence of Government-caused problems. As TPS was aware, the Government conducted an extensive Independent Validation and Verification (IV&V) review of Ogden NEP operations in relation to TPS. The Government took great pains and incurred great expense to ensure that this IV&V of the Ogden NEP was conducted independently and with no bias toward the Ogden operation or against TPS. This review, conducted by expert personnel not associated with the Ogden NEP, concluded that NEP processing and communications were not responsible for frequent data anomalies reported and observed in unprocessed data retrieved from TPS since August 26, 1996. Furthermore, the IV&V found no indication that TPS's data problems reported before August 26, 1996, were caused by NEP processing or the NEP-TPS file exchange.

On November 1, 1996, the EC/EDI system migrated from the NEP environment to the Electronic Commerce Processing Node (ECPN) environment. This new system will provide far greater accuracy in identifying and rejecting incoming transactions that do not comply with processing standards. The system is not designed to allow for human intervention.

Insofar as TPS's claim was concerned, no loss was shown. The Navy's migration to the 3050 IC was delayed. If the migration had been on schedule, however, DISA presumed that TPS would have been supporting 3050

IC. Implicit in TPS's continued support of the 2003 IC was a desire to continue processing Navy business for TPS's trading partners. Thus, either the 2003 or the 3050 IC would have been supported.

It should be noted that the authority conferred by Public Law 85-804 is for use in extraordinary situations where the productive ability of a contractor or its continued operation as a source of supply is essential to national defense. Even if a loss occurred, which it did not, that is not a sufficient basis for exercising the authority. Furthermore, the statute may not be relied on when other adequate legal authority exists within the Agency to address the claim. The old VAN License Agreement incorporated the Disputes clause which represents an adequate legal authority to resolve this claim. TPS's claim of September 24, 1996, was denied.

Contingent Liabilities: None.

Contractor: None.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2347. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Pesticide Tolerance for Emergency Exemptions [OPP-300461; FRL-5595-3] (RIN: 2070-AC78) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2348. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerance for Emergency Exemptions [OPP-300460; FRL-5594-2] (RIN: 2070-AB78) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2349. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Avermectin B1 and Its Delta-8,9-Isomer; Pesticide Tolerance [OPP-300465; FRL-5597-7] (RIN: 2070-AB78) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2350. A letter from the Director, Office of Management and Budget, transmitting a report that appropriation to the National Transportation Safety Board [NTSB] for "Salaries and Expenses" for the fiscal year 1997 has been apportioned on a basis which indicates the necessity for a supplemental appropriation, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

2351. A letter from the Assistant Secretary for Command, Control, Communications, and Intelligence, Department of Defense, transmitting the section 381 report (expanded as required by section 830 of the National Defense Authorization Act for fiscal year 1997), pursuant to 10 U.S.C. 113 note; to the Committee on National Security.

2352. A letter from the Director, Administration and Management, Department of Defense, transmitting the calendar year 1996 report entitled "Extraordinary Contractual Actions to Facilitate the National Defense" (report printed in the RECORD), pursuant to 50 U.S.C. 1434; to the Committee on National Security.

2353. A letter from the Assistant Secretary for Force Management Policy, Department of Defense, transmitting the Department's report on the status of the DOD actions to implement a demonstration project for uniform funding of morale, welfare and recreation activities, pursuant to Public Law 104-106, section 335(e)(1) (110 Stat. 262); to the Committee on National Security.

2354. A letter from the Adjutant General, the Veterans of Foreign Wars of the United States, transmitting proceedings of the 97th National Convention of the Veterans of Foreign Wars of the United States, held in Louisville, KY, August 17-23, 1996, pursuant to 36 U.S.C. 118 and 44 U.S.C. 1332 (H. Doc. No. 105-60); to the Committee on National Security and ordered to be printed.

2355. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a draft of proposed legislation to amend the Export-Import Bank Act of 1945, as amended; to the Committee on Banking and Financial Services.

2356. A letter from the Chairman, Federal Trade Commission, transmitting the 19th annual report to Congress on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking and Financial Services.

2357. A letter from the Secretary of Education, transmitting a draft of proposed legislation entitled the "Partnership to Rebuild America's Schools Act of 1997"; to the Committee on Education and the Workforce.

2358. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Government Securities Sales Practices [Regulations H and K, Docket No. R-0921] received March 12, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2359. A letter from the General Counsel, Department of Transportation, transmitting the Department's "Major" final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection [Docket No. 74-14; Notice 114] (RIN: 2127-AG59) received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2360. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Interim Approval of Operating Permits Program; State of Connecticut [AD-FRL-5702-5] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2361. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District [CA 184-0031a, FRL-5709-3] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2362. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions to Knox County Regulations for Violations and General Requirements [TN-165-01-9633a; FRL-5709-8] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2363. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and

Promulgation of Implementation Plan for New Mexico; General Conformity Rules [NM 22-1-7103a; FRL-5709-6] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2364. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of State Implementation Plans; Connecticut; PM10 Prevention of Significant Deterioration Increments; and Approval of a Second 1-Year Extension of PM10 Attainment Date for New Haven [CT27-1-7200a; FRL-5667-4] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2365. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Standards For Business Practices of Interstate Natural Gas Pipelines [Docket No. RM96-1-004; Order No. 587-C] received March 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2366. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 92F-0313] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2367. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 94F-0257] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2368. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 96F-0070] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2369. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings; Adjuvants, Production Aids, and Sanitizers [Docket No. 91F-0356] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2370. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 96F-0053] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2371. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 94F-0398] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2372. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 88F-0426] received March 13, 1997, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2373. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 94F-0022] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2374. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 92F-0357] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2375. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 88F-0339] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2376. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 91F-0289] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2377. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 93F-0167] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2378. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F-0332] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2379. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 84F-0330] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2380. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F-0402] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2381. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F-0331] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2382. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 96F-0031] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2383. A letter from the Director, Regulations Policy Management Staff, Office of



Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals; Hydrophobic Silica [Docket No. 95G-0039] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2412. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Nutrient Content Claims and Health Claims; Restaurant Foods; Correction [Docket No. 93N-0153] (RIN: 0910-AA19) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2413. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Nutrient Content Claim for "Extra"; Correction [Docket No. 94P-0216] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2414. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted in Feed and Drinking Water of Animals; Formaldehyde [Docket No. 90F-0297] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2415. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Standards: Amendment of Standards of Identity for Enriched Grain Products to Require Addition of Folic Acid; Clarification [Docket No. 91N-100S] (RIN: 0910-AA19) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2416. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revocation of Certain Regulations Affecting Food [Docket No. 95N-310F] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2417. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Irradiation in the Production, Processing, and Handling of Food [Docket No. 94F-0125] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2418. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—List of Color Additives for Coloring Contact Lenses; 1,4-Bis[(2-hydroxyethyl) amino]-9,10-anthracenedione bis(2-propenoic) ester copolymers [Docket No. 91C-0189] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2419. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Anticaries Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment; Partial Delay of Effective Date [Docket No. 80N-0042] (RIN: 0910-AA01) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2420. A letter from the Director, Regulations Policy Management Staff, Office of

Policy, Food and Drug Administration, transmitting the Administration's final rule—Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products; Correction [Docket No. 95N-0411] (RIN: 0910-AA71) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2421. A letter from the Legislative and regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the final rule—Government Securities Sales Practices [Docket No. 97-05] (RIN: 1557-AB52) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2422. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 02-97 for Coordination Registration [CR] in the Over-The-Horizon Radars Project Arrangement [PA], pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2423. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Indonesia (Transmittal No. DTC-36-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2424. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC-7-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2425. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2426. A letter from the Chief Administrative Officer, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 1996, through September 30, 1996, as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a (H. Doc. No. 105-59); to the Committee on House Oversight and ordered to be printed.

2427. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a draft of proposed legislation to provide for the division, use and distribution of judgment funds to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians pursuant to Docket numbered 18-R before the Indian Claims Commission; to the Committee on Resources.

2428. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a draft of proposed legislation to provide for the division, use and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to Dockets Numbered 18-E, 58, and 364 before the Indian Claims Commission; to the Committee on Resources.

2429. A letter from the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Coastal Services Center Coastal Management Fellowship [Docket No. 970121009-7009-01] (RIN: 0648-ZA27) received March 18, 1997, pursuant

to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2430. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 1997 Scup Specifications [Docket No. 961129337-7040-02; I.D. 112096A] (RIN: 0648-xx75) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2431. A letter from the Secretary of Commerce, transmitting a report on northeast multispecies harvest capacity and impact of New England harvest capacity reduction, pursuant to Public Law 104-297, section 402 (110 Stat. 3618); to the Committee on Resources.

2432. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Civil Monetary Penalty Inflation Adjustment Rule [FRL-5711-7] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2433. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the Department's final rule—Danger Zones and Restricted Areas, National Guard Training Center, Sea Girt, New Jersey (Corps of Engineers, Department of the Army) [33 CFR Part 334] received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2434. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328-100 Series Airplanes Equipped with Burns Aerospace Corporation Passenger Seats (Federal Aviation Administration) [Docket No. 96-NM-117-AD; Amdt. 39-9964; AD 97-06-07] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2435. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC-7 Series Airplanes (Federal Aviation Administration) [Docket No. 95-NM-158-AD; Amdt. 39-9965; AD 97-06-08] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2436. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) 35 Series Airplanes (Federal Aviation Administration) [Docket No. 96-CE-44-AD; Amdt. 39-9968; AD 97-06-11] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2437. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-67-AD; Amdt. 39-9966; AD 97-06-09] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2438. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146

and Avro 146-RJ Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-26-AD; Amdt. 39-9969; AD 97-06-12] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2439. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B-1 and 214ST Helicopters (Federal Aviation Administration) [Docket No. 94-SW-24-AD; Amdt. 39-9959; AD 97-06-02] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2440. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI) Model 214ST Helicopters (Federal Aviation Administration) [Docket No. 94-SW-25-AD; Amdt. 39-9960; AD 97-06-03] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2441. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) 90, 99, 100, 200, and 1900 Series Airplanes (Federal Aviation Administration) [Docket No. 96-CE-11-AD; Amdt. 39-9963; AD 97-06-06] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2442. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes (Federal Aviation Administration) [Docket No. 92-CE-25-AD; Amdt. 39-9962; AD 97-06-05] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2443. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757-200 Series Airplanes (Federal Aviation Administration) [Docket No. 97-NM-23-AD; Amdt. 39-9961; AD 97-06-04] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2444. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) Model 76 Airplanes (Federal Aviation Administration) [Docket No. 94-CE-34-AD; Amdt. 39-9967; AD 97-06-10] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2445. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Ephraim, WI, Ephraim-Fish Creek Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-24] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2446. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Hot Springs, SD, Hot Springs Municipal Airport (Federal Aviation

Administration) [Airspace Docket No. 96-AGL-27] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2447. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Gregory, SD, Gregory Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-28] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2448. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Lemmon, SD, Lemmon Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-29] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2449. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Shawano, WI, Shawano Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-30] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2450. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Oakes, ND, Oakes Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-31] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2451. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Gallup, NM (Federal Aviation Administration) [Airspace Docket No. 96-ASW-20] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2452. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Wahoo, NE (Federal Aviation Administration) [Airspace Docket No. 97-ACE-4] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2453. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Alliance, NE (Federal Aviation Administration) [Docket No. 96-ACE-22] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2454. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Sidney, NE (Federal Aviation Administration) [Docket No. 96-CE-24] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2455. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Change in Using Agency for Restricted Area R-2513,

Hunter-Liggett, CA (Federal Aviation Administration) [Airspace Docket No. 97-AWP-1] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2456. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Operating Requirements: Domestic, Flag, Supplemental, Commuter, and On-Demand Operations: Editorial and Other Changes (Federal Aviation Administration) [Docket No. 28154; Amdt. Nos. 21-74, 25-90, 91-253, 119-3, 121-262, 125-28, 135-66] (RIN: 2120-AG26) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2457. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Sensitive Security Information (Federal Aviation Administration) [Docket No. 27965; Amdt. Nos. 107-10, 108-15, 109-3, 129-26, and 191-4] (RIN: 2120-AF49) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2458. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies (Federal Aviation Administration) [Docket No. 28860; Amendment No. 187-7] (RIN: 2120-AG17) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2459. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Guidelines for Implementing the Hardship Grants Program for Rural Communities Section 102(d) of the Clean Water Amendments of the 1995 Omnibus Appropriations and Rescission Act [FRL-5711-8] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2460. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a letter regarding the joint DOD and NASA plan for coordinating and eliminating unnecessary duplication in the operations and planned improvements of rocket engine test facilities, pursuant to Public Law 104-201, Section 211 (110 Stat. 2453); jointly, to the Committees on National Security and Science.

2461. A letter from the Chair, Christopher Columbus Fellowship Foundation, transmitting annual report of the Christopher Columbus Fellowship Foundation for fiscal year 1996, pursuant to Public Law 102-281, Section 429(b) (106 Stat. 145); jointly, to the Committees on Banking and Financial Services and Science.

2462. A letter from the Architect of the Capitol, transmitting a letter indicating that an energy efficient lighting retrofit program has been developed and a contract awarded to ERI Services of Pittsburgh, PA, to implement the retrofitting of existing fluorescent fixtures with energy efficient lamps and ballasts; jointly, to the Committees on Commerce and Transportation and Infrastructure. March 20, 1997.

2463. A letter from the Secretary of Commerce, transmitting the Department's report regarding bluefin tuna for 1995-96, pursuant to 16 U.S.C. 971i; jointly, to the Committees on International Relations and Resources.

2464. A letter from the Administrator, Panama Canal Commission, transmitting a draft

of proposed legislation to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on National Security, Government Reform and Oversight, and the Judiciary.

2465. A letter from the Executive Director, Assassination Records Review Board, transmitting a copy of the Assassination Records Review Board fiscal year 1996 report, pursuant to Public Law 102-526, section 9(f)(2) (106 Stat. 3456); jointly, to the Committees on the Judiciary, Rules, House Oversight, and Government Reform and Oversight.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 111. A bill to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school (Rept. 105-34). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 394. A bill to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, MI. (Rept. 105-35). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 785. A bill to designate the J. Phil Campbell, Senior Natural Resource Conservation Center (Rept. 105-36). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Rept. 105-37). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 757. A bill to develop the economy of American Samoa; with an amendment (Rept. 105-38). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 400. A bill to amend title 35, United States Code, with respect to patents, and for other purposes; with an amendment (Rept. 105-39). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. H.R. 240. A bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; with an amendment (Rept. 105-40 Pt. 1). Ordered to be printed.

Mr. DREIER: Committee on Rules. House Resolution 105. Resolution providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress (Rept. 105-41). Referred to the House Calendar.

#### TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 240. Referral to the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure extended for a period ending not later than April 4, 1997.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THUNE:

H.R. 1137. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards; to the Committee on Agriculture.

By Mr. HUNTER (for himself, Mr. CUNNINGHAM, Mr. BARTLETT of Maryland, Mr. BONO, and Mr. SOLOMON):

H.R. 1138. A bill to prohibit the conveyance, directly or indirectly, of property at Naval Station, Long Beach, CA, to a commercial shipping company owned or controlled by a foreign country; to the Committee on National Security.

By Mr. TAUZIN:

H.R. 1139. A bill to amend the National Voter Registration Act of 1993 to require individuals applying to register to vote in elections for Federal office to produce actual proof of citizenship and to permit States to require individuals to produce a photographic identification in order to vote in an election for Federal office; to the Committee on House Oversight.

By Mr. GEPHARDT (for himself, Ms. PELOSI, Mr. BONIOR, Mr. SOLOMON, Mr. MILLER of California, Mr. SMITH of New Jersey, Ms. KAPTUR, Mr. LEVIN, Mr. OBEY, Mr. GEJDENSON, Mr. CARDIN, Mr. EVANS, Mr. ROHRABACHER, Ms. NORTON, Mr. DEFAZIO, Mr. WOLF, Mr. BORSKI, Mr. BROWN of Ohio, Mr. HUNTER, Mr. GUTIERREZ, Mr. LANTOS, Mr. STEARNS, Mr. FRANK of Massachusetts, Mr. SANDERS, Mr. HINCHEY, Mr. PAYNE, Mrs. MEEK of Florida, Mr. TORRES, Mr. LIPINSKI, Mr. STARK, Mrs. THURMAN, Mr. WATTS of Oklahoma, Ms. RIVERS, Mr. KLING, Mr. SCARBOROUGH, Mr. TIERNEY, Mr. KUCINICH, and Mr. PETERSON of Pennsylvania):

H.R. 1140. A bill to require prior congressional approval before the United States supports the admission of the People's Republic of China into the World Trade Organization, and to provide for the withdrawal of the United States from the World Trade Organization if China is accepted into the WTO without the support of the United States; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO:

H.R. 1141. A bill to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft and to restrict the fares charged by air

carriers for air transportation provided to children under 3 years of age; to the Committee on Transportation and Infrastructure.

By Mrs. MALONEY of New Jersey (for herself, Mr. RAMSTAD, Ms. NORTON, and Mr. SMITH of New Jersey):

H.R. 1142. A bill to amend title I of the Employee Retirement Income Securities Act of 1974 and the Internal Revenue Code of 1986 to permit the creation or assignment of rights to employee pension benefits if necessary to satisfy a judgment against a plan participant or beneficiary for physically, sexually, or emotionally abusing a child; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VENTO:

H.R. 1144. A bill to amend the Stewart B. McKinney Homeless Assistance Act to revise and extend programs providing urgently needed assistance for the homeless, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. TALENT (for himself, Mrs. LINDA SMITH of Washington, Mr. PORTMAN, Mrs. EMERSON, Mr. PAPPAS, Mr. ENGLISH of Pennsylvania, Mr. EHRLICH, Mrs. MORELLA, Mr. HILL, Mr. CHABOT, Mr. MANZULLO, Mrs. KELLY, Mr. BARTLETT of Maryland, Mr. JONES, and Mr. MCINTOSH):

H.R. 1145. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 1146. A bill to provide for complete withdrawal of the United States from the United Nations; to the Committee on International Relations.

H.R. 1147. A bill to repeal the prohibitions relating to semiautomatic firearms and large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mr. BATEMAN (for himself and Mr. ABERCROMBIE) (both by request):

H.R. 1148. A bill to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on National Security.

By Mr. BILIRAKIS:

H.R. 1149. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. MATSUI, Mr. CRANE, Mr. THOMAS, Mr. STARK, Mr. HOUGHTON, Mr. HERGER, Mr. LEVIN, Mr. MCCREERY, Mr. CARDIN, Mr. ENSIGN, Mr. CAMP, Mr. COLLINS, Mr. ENGLISH of Pennsylvania, Mr. WELLER, and Ms. DUNN of Washington):

H.R. 1150. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Ways and Means.

By Mr. LATOURETTE (for himself, Mr. KANJORSKI, Mr. SOLOMON, Mr. BROWN of California, Mr. LEWIS of California, Ms. KAPTUR, Mr. MCDADE, Mr. DINGELL, Mr. BURTON of Indiana, Ms. RIVERS, Mr. LIVINGSTON, Ms. ROYBAL-ALLARD, Mr. QUINN, Mr. YATES, Mr. WAMP, Mr. SANDERS, Mr. HINCHEY, and Mr. CARDIN):

H.R. 1151. A bill to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions; to the Committee on Banking and Financial Services.

By Ms. CHRISTIAN-GREEN (for herself, Mr. MILLER of California, Mr. FALEOMAVAEGA, and Mr. UNDERWOOD):

H.R. 1152. A bill to amend the Revise Organic Act of the Virgin Islands, and for other purposes; to the Committee on Resources.

By Mr. CUNNINGHAM (for himself, Mr. LEWIS of California, Mr. HUNTER, Mr. WELDON of Pennsylvania, Mr. SHAYS, Mr. GILLMOR, Mr. GREENWOOD, Ms. PRYCE of Ohio, Mr. FILNER, Mr. BILBRAY, Mr. ENGLISH of Pennsylvania, Mr. FOLEY, Mr. FOX of Pennsylvania, Ms. LOFGREN, Mr. NORWOOD, Mr. WICKER, Mr. COOK, and Mr. GIBBONS.):

H.R. 1153. A bill to amend the Internal Revenue Code of 1986 to enhance the incentive for contributions of computer technology and equipment for elementary or secondary school purposes; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 1154. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Resources.

By Mr. FAZIO of California (for himself, Mr. DOOLEY of California, and Mr. CONDIT):

H.R. 1155. A bill to exempt certain maintenance, repair, and improvement of flood control facilities in California from the Endangered Species Act of 1973 during the flood emergency period; to the Committee on Resources.

By Mr. FRELINGHUYSEN (for himself, Mr. PAXON, Ms. MOLINARI, Mr. FRANKS of New Jersey, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. ENGLISH of Pennsylvania, Mr. PAPPAS, Mr. HOUGHTON, Mrs. KELLY, Mr. SOLOMON, Mr. QUINN, Mrs. ROUKEMA, and Mr. MENENDEZ):

H.R. 1156. A bill to provide for greater equity in the allocation by the Secretary of Veterans Affairs of amounts appropriated for medical care programs of the Department of Veterans Affairs for the next 2 fiscal years and for other purposes related to the needs of veterans medical care; to the Committee on Veterans' Affairs.

By Mr. FRELINGHUYSEN:

H.R. 1157. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide that the U.S. Army Corps of Engineers perform contract oversight of fund financed remedial actions under that act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be substantially determined by the Speaker, in each case for consideration of such provisions as fall with-

in the jurisdiction of the committee concerned.

H.R. 1158. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to restrict the liability under that act of local educational agencies; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. FURSE (for herself, Ms. STABENOW, Mr. ALLEN, Ms. CHRISTIAN-GREEN, Ms. WOOLSEY, Mr. DEFAZIO, Ms. RIVERS, and Mr. MARKEY):

H.R. 1159. A bill to amend the Public Health Service Act to assure the availability of health insurance coverage for children in the individual market in a manner similar to guaranteed availability of individual health insurance coverage for certain previously covered individuals under the Health Insurance Portability and Accountability Act of 1996; to the Committee on Commerce.

By Mr. GONZALEZ:

H.R. 1160. A bill to promote accountability and the public interest in the operation of the Federal Reserve System, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN (for herself, Mr. GILMAN, Mr. SOLOMON, Mr. HOLDEN, Mr. HORN, Mr. KING of New York, Mr. McNULTY, and Mr. RAMSTAD):

H.R. 1161. A bill to mandate the display of the POW/MIA flag on various occasions and in various locations; to the Committee on Government Reform and Oversight.

By Mr. HEFLEY (for himself, Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, Mr. BOB SCHAEFFER, Mr. HUNTER, Mr. TAYLOR of North Carolina, Mr. SKEEN, Mr. CALVERT, Mr. BARTLETT of Maryland, Mr. NORWOOD, and Mr. PAUL):

H.R. 1162. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and the Workforce.

By Mr. HEFLEY (for himself and Mr. MCINNIS):

H.R. 1163. A bill to amend title 10, United States Code, to transfer jurisdiction over Naval Oil Shale Reserves Numbered 1 and 3 to the Secretary of the Interior and to authorize the leasing of such reserves for oil and gas exploration and production; to the Committee on National Security, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER (for himself, Mr. BARRITT of Nebraska, Mr. HOUGHTON, Mr. WATKINS, Mr. CAMP, Mr. FROST, Mr. LATHAM, Mr. MINGE, Mr. KINGSTON, Mr. MCHUGH, Mr. GILCREST, Mr. WALSH, and Mr. NETHERCUTT):

H.R. 1164. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property

used to control environmental pollution and for soil and water conservation expenditures; to the Committee on Ways and Means.

By Mr. HINCHEY (for himself, Mr. ACKERMAN, Mr. DELAHUNT, Mr. DELUMS, Mr. EVANS, Mr. HOLDEN, Mr. MASCARA, Mr. OLVER, Ms. RIVERS, and Mr. THOMPSON):

H.R. 1165. A bill to require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, to protect employees of Medicare providers who report concerns about the safety and quality of services provided by Medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of Medicare providers; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOYER (for himself, Mrs. MORELLA, Mr. BOEHLERT, Mr. FILNER, Mr. WYNN, Mr. FAZIO of California, Mr. HUNTER, Mr. LANTOS, Mr. LEWIS of California, Mr. DAVIS of Virginia, Mr. EHRLICH, Mr. SMITH of New Jersey, Mr. MATSUI, Mr. CUNNINGHAM, Mr. LEACH, and Mr. GILMAN):

H.R. 1166. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. INGLIS of South Carolina:

H.R. 1167. A bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

By Mr. ISTOOK (for himself, Mr. VIS-CLOSKY, Mr. GRAHAM, Mr. COBLE, Mr. SNOWBARGER, Mr. MCINTOSH, Mr. WATKINS, Mr. SOLOMON, Mr. WHITFIELD, Mr. BARCIA of Michigan, Mr. LATHAM, Mr. COBURN, Mr. LUCAS of Oklahoma, Mr. WATTS of Oklahoma, and Mr. MORAN of Kansas):

H.R. 1168. A bill to encourage competition and tax fairness and to protect the tax base of State and local governments; to the Committee on Resources.

By Mrs. JOHNSON of Connecticut (for herself, Mr. MATSUI, Mr. HOUGHTON, Mr. CRANE, Mr. HERGER, Mr. MCCRERY, Mrs. KENNELLY of Connecticut, Mr. ENGLISH of Pennsylvania, Mr. NEAL of Massachusetts, Mr. ENSIGN, Mr. CHRISTENSEN, Mr. WATKINS, Mr. COYNE, Mr. HULSHOF, Mrs. THURMAN, Mr. MCDERMOTT, Mr. EHRLICH, Ms. ESHOO, Mr. WAXMAN, Mr. DINGELL, Mr. DELAHUNT, Mr. FRANK of Massachusetts, Ms. ROYBAL-ALLARD, Mr. CHABOT, and Mr. TOWNS):

H.R. 1169. A bill to amend the Internal Revenue Code of 1986 to permanently extend the orphan drug credit; to the Committee on Ways and Means.

By Mr. BONO (for himself, Mr. HYDE, Mr. COBLE, Mr. SMITH of Texas, Mr. GEKAS, Mr. MCCOLLUM, Mr. CANADY of Florida, Mr. SENSENBRENNER, Mr. GALLEGLY, Mr. GOODLATTE, Mr. BARR of Georgia, Mr. BRYANT, Mr. SCHIFF, Mr. CHABOT, Mr. SOLOMON, Mr. DREIER, Mr. CALVERT, Mr. ROHR-ABACHER, Mr. HORN, Mr. BILBRAY, Mr. RIGGS, Mr. MCKEON, Mr. ROYCE, Mr. HERGER, Mr. HUNTER, Mr. LEWIS of California, Mr. KIM, Mr. EHRlich, Mr. COBURN, Mr. CUNNINGHAM, Mr. GRAHAM, Mr. HOSTETTLER, Mr. BARTLETT of Maryland, and Mr. MCINTOSH):

H.R. 1170. A bill to provide that an application for an injunction restraining the enforcement, operation, or execution of a State law adopted by referendum may not be granted on the ground of the unconstitutionality of such law unless the application is heard and determined by a 3-judge court; to the Committee on the Judiciary.

By Mr. KASICH (for himself, Mr. CONDIT, Mr. ROYCE, Mr. ANDREWS, Mr. KLUG, Mr. MILLER of Florida, and Mr. CHABOT):

H.R. 1171. A bill to provide for the elimination of 12 Federal subsidy programs and projects; to the Committee on Agriculture, and in addition to the Committees on Resources, Commerce, Science, International Relations, Transportation and Infrastructure, Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KASICH (for himself, Mr. SPENCE, Mr. CONDIT, Mr. HILLEARY, Mr. JONES, Mr. BUYER, Mr. FRANK of Massachusetts, Mr. PARKER, and Mr. HEFLEY):

H.R. 1172. A bill to prohibit the use of funds appropriated to the Department of Defense or any other Federal department or agency from being used for the deployment on the ground of United States Armed Forces in the territory of the Republic of Bosnia and Herzegovina after September 30, 1997, and for other purposes; to the Committee on International Relations, and in addition to the Committees on National Security, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KILDEE (for himself, Mr. NEY, Mr. CLEMENT, Mr. DUNCAN, Mr. FOLEY, and Mr. KLECZKA):

H.R. 1173. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Education and the Workforce.

By Mr. KOLBE (for himself, Mr. TORRES, Mr. PORTER, Mr. ROGERS, Mr. LIPINSKI, Mr. KLUG, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. WYNN, Mr. LAFALCE, and Mr. METCALF):

H.R. 1174. A bill to provide for the minting and circulation of \$1 coins, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. LEWIS of California (for himself, Mr. FAZIO of California, Mr. BONO, and Ms. ROYBAL-ALLARD):

H.R. 1175. A bill to authorize the granting of money to control methamphetamine; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mr. SHAYS, Mr. HYDE, Mrs. MALONEY of New York, Ms. PELOSI, Mr. MEEHAN, Mr. TRAFICANT, Mr. CLAY, Mr. TORRES, Mr. MORAN of Virginia, Mr. GOSS, Mr. FILNER, Mr. MANTON, Mr. MARTINEZ, Ms. WOOLSEY, Mr. PORTER, Ms. SLAUGHTER, Mr. DEUTSCH, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. GEJDENSON, Mr. MARKEY, Mr. FARR of California, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. FOGLIETTA, Ms. NORTON, Mrs. MINK of Hawaii, Mrs. KENNELLY of Connecticut, Mr. LEWIS of Georgia, Mrs. MORELLA, Mr. GALLEGLY, Mr. MATSUI, Mr. GILMAN, Mr. BERMAN, Mr. OLVER, Mr. LEVIN, Mr. DEFAZIO, Mr. SKAGGS, Mr. SCHIFF, Mr. SMITH of New Jersey, and Mr. LANTOS):

H.R. 1176. A bill to end the use of steel jaw leghold traps on animals in the United States; to the Committee on Commerce, and in addition to the Committees on Ways and Means, International Relations, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York:

H.R. 1177. A bill to require the head of each Federal agency to ensure that computer systems of the agency are capable of performing their functions after December 31, 1999; to the Committee on Government Reform and Oversight.

H.R. 1178. A bill to amend title 13, United States Code, to make clear that sampling may be used in order to improve the accuracy of the decennial censuses of population, and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mr. DELLUMS, and Mr. SHAYS):

H.R. 1179. A bill to authorize appropriations for the Federal Election Commission for fiscal year 1998; to the Committee on House Oversight.

By Mr. MCDADE:

H.R. 1180. A bill to amend the Communications Act of 1934 to require Internet access providers to provide screening software to permit parents to control Internet access by their children; to the Committee on Commerce.

By Mr. MEEHAN (for himself, Mr. MANTON, Mr. NEAL of Massachusetts, Mr. GILMAN, Mr. WALSH, Mr. MORAN of Virginia, Mrs. KELLY, and Mr. SHAYS):

H.R. 1181. A bill to authorize the President to enter into a trade agreement concerning Northern Ireland and certain border counties of the Republic of Ireland, and for other purposes; to the Committee on Ways and Means.

By Mr. MENENDEZ (for himself, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, and Mr. BURTON of Indiana):

H.R. 1182. A bill to withhold United States assistance for programs or projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on International Relations.

By Mr. METCALF:

H.R. 1183. A bill to extend the deadline under the Federal Power Act for the construction of the Swamp Creek and Ruth Creek hydroelectric projects located in the State of Washington, and for other purposes; to the Committee on Commerce.

H.R. 1184. A bill to extend the deadline under the Federal Power Act for the construction of the Bear Creek hydroelectric

project in the State of Washington, and for other purposes; to the Committee on Commerce.

By Mr. MINGE (for himself, Mr. PETERSON of Minnesota, and Mr. GUTKNECHT):

H.R. 1185. A bill to ensure that land enrolled in the land conservation program of the State of Minnesota known as Reinvest in Minnesota remains eligible for enrollment in the conservation reserve upon the expiration of the Reinvest in Minnesota contract; to the Committee on Agriculture.

By Mrs. MINK of Hawaii:

H.R. 1186. A bill to provide authorities to, and impose requirements on, the Secretary of Defense in order to facilitate State enforcement of State tax, employment, and licensing laws against Federal construction contractors; to the Committee on National Security.

H.R. 1187. A bill to provide for the regulation of the airspace over National Park System lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NADLER (for himself, Mr. BERMAN, Mr. WAXMAN, Ms. NORTON, Mr. SANDERS, Mr. DELLUMS, Mr. HINCHEY, Mr. EVANS, and Mr. PALLONE):

H.R. 1188. A bill to amend the Federal Water Pollution Control Act to eliminate certain discharges of chlorine compounds into the navigable waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NUSSLE (for himself, Mr. POSHARD, Mrs. EMERSON, Mr. BONILLA, Mr. BEREUTER, Mr. DEFAZIO, Mr. HILLIARD, Mr. KIND of Wisconsin, Mrs. JOHNSON of Connecticut, Mr. MINGE, Mr. POMEROY, Mr. MORAN of Kansas, Mr. STENHOLM, Mr. PETERSON of Pennsylvania, Mr. BARRETT of Nebraska, Mr. BOUCHER, Mr. CLYBURN, Mr. COSTELLO, Mr. CRAPO, Mr. GANSKE, Mr. HILL, Mr. LATHAM, Mr. LEACH, Mr. OBERSTAR, Mr. RAHALL, Mr. PETRI, Mr. THORNBERRY, Mr. WALSH, Mr. WATTS of Oklahoma, and Mr. PETERSON of Minnesota):

H.R. 1189. A bill to amend the Social Security Act and the Public Health Service Act with respect to the health of residents of rural areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY:

H.R. 1190. A bill to require the Secretary of Agriculture to consider the feasibility of basing the basic formula price for milk under Federal milk marketing orders on the costs of production for dairy farmers and the benefits to farmers and consumers of such a pricing approach; to the Committee on Agriculture.

By Mr. OWENS:

H.R. 1191. A bill to provide patients with information and rights to promote better health care; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently

determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAXON:

H.R. 1192. A bill to amend the Social Security Act to require the Secretary of Health and Human Services to approve or deny an application for a waiver for certain demonstration projects under title IV or XI of the Social Security Act in a timely manner; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 1193. A bill to amend the Internal Revenue Code of 1986 to allow indexing of capital assets for purposes of determining gain or loss and to allow an exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

By Mr. DAN SCHAEFER of Colorado (for himself and Mr. NORWOOD):

H.R. 1194. A bill to amend the Federal Water Pollution Control Act relating to Federal facilities pollution control; to the Committee on Transportation and Infrastructure.

By Mr. DAN SCHAEFER of Colorado:

H.R. 1195. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to ensure full Federal compliance with that act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS (for himself, Mr. MCINNIS, and Ms. DEGETTE):

H.R. 1196. A bill to amend the Colorado Wilderness Act of 1993 to extend the interim protection of the Spanish Peaks planning area in the San Isabel National Forest, CO; to the Committee on Resources.

By Mr. SMITH of Oregon:

H.R. 1197. A bill to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes; to the Committee on the Judiciary.

H.R. 1198. A bill to direct the Secretary of the Interior to convey certain land to the city of Grants Pass, OR; to the Committee on Resources.

By Mr. SOUDER:

H.R. 1199. A bill to protect residents and localities from irresponsibly sited hazardous waste facilities; to the Committee on Commerce.

By Mr. McDERMOTT (for himself, Mr. CONYERS, Ms. CHRISTIAN-GREEN, Mr. DELLUMS, Mr. EVANS, Mr. FATTAH, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. HINCHEY, Ms. JACKSON-LEE, Mr. LEWIS of Georgia, Mr. MARTINEZ, Mr. NADLER, Mr. OLVER, Mr. PAYNE, Ms. PELOSI, Mr. RUSH, Mr. SCOTT, Mr. SANDERS, Mr. SERRANO, Mr. TOWNS, Mr. WATTS of Oklahoma, Mr. WAXMAN, Ms. WOOLSEY, and Mr. YATES):

H.R. 1200. A bill to provide for health care for every American and to control the cost and enhance the quality of the health care system; to the Committee on Commerce, and in addition to the Committees on Ways and Means, Government Reform and Oversight,

and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 1201. A bill to amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of California (for himself, Mr. SHAYS, Mr. GEJDENSON, Mr. MANTON, Mr. GILCHREST, Mr. WYNN, Ms. WOOLSEY, Mr. FARR of California, Mr. BORSKI, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mr. BERMAN, Mr. STARK, Mr. FILNER, Ms. SLAUGHTER, Mr. LEACH, Mrs. MORELLA, Mr. LANTOS, Mr. MILLER of California, Mr. DEFazio, Ms. RIVERS, Mr. CLAY, Ms. PELOSI, Mr. MARKEY, Mr. MEEHAN, Mr. FOGLETTA, Mr. CONYERS, Mr. PORTER, Ms. NORTON, Mr. NEAL of Massachusetts, Mr. DOYLE, Mr. KLUG, Mrs. KENNELLY of Connecticut, Mr. SKAGGS, Mr. CASTLE, Ms. KAPTUR, Mr. DAVIS of Illinois, Ms. LOFREN, and Mr. RANGEL):

H.R. 1202. A bill to amend title 18, United States Code, to prohibit interstate-connected conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 1203. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that funds provided under such act are not used to promote the teaching or use of regional or group dialects; to the Committee on Education and the Workforce.

By Mr. THOMAS (for himself, Mr. ENGLISH of Pennsylvania, Mr. STARK, and Mr. WICKER):

H.R. 1204. A bill to amend the Internal Revenue Code of 1986 to provide that the sale of a life estate or a remainder interest in a principal residence qualifies for the one-time exclusion of gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. THOMAS (for himself and Mr. CRANE):

H.R. 1205. A bill to amend the Internal Revenue Code of 1986 to retreat distributions from publicly traded partnerships as qualifying income of regulated investment companies; to the Committee on Ways and Means.

By Mr. VISCLOSKEY:

H.R. 1206. A bill to require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites to protect human health and the environment and promote economic development; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATKINS:

H.R. 1207. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers

with a 50-percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, and for other purposes; to the Committee on Ways and Means.

H.R. 1208. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. GEPHARDT, and Mr. MILLER of California):

H.R. 1209. A bill to provide for the defense of the environment, and for other purposes; to the Committee on Rules, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. PACKARD, and Mr. DELAY):

H.R. 1210. A bill to provide an equitable process for strengthening the passenger rail service network of Amtrak through the timely closure and realignment of routes with low economic performance; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself, Mr. BECERRA, Mr. TORRES, Mr. MARTINEZ, Mr. PASTOR, Mr. BROWN of California, Mr. SERRANO, Ms. WOOLSEY, Mr. McDERMOTT, Ms. LOFGREN, Mrs. MINK of Hawaii, Ms. ROYBAL-ALLARD, Mr. BERMAN, Mr. UNDERWOOD, Ms. PELOSI, Ms. VELAZQUEZ, Mr. GREEN, Mr. GONZALEZ, Mr. ROMERO-BARCELÓ, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Ms. SANCHEZ, Mr. HINOJOSA, Mr. REYES, Mr. MENENDEZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. JACKSON, Mr. DELLUMS, Mr. FATTAH, Ms. MILLENDER-McDONALD, Ms. CHRISTIAN-GREEN, Ms. FURSE, Mr. GUTIERREZ, Mr. OWENS, Mr. RANGEL, Ms. NORTON, Mr. ORTIZ, Mr. STARK, Mr. SANDERS, and Mr. DAVIS of Illinois):

H.J. Res. 65. Joint resolution to commemorate the birthday of Cesar E. Chavez; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. SHAYS, Mr. FRANK of Massachusetts, Mrs. JOHNSON of Connecticut, Mr. LANTOS, Mr. FILNER, Mr. FROST, Mr. DELAHUNT, Ms. ESHOO, Mrs. MEEK of Florida, Mr. STARK, Mr. BROWN of California, Mr. FATTAH, Mrs. KENNELLY of Connecticut, Mr. KIND of Wisconsin, Mr. CLAY, Ms. NORTON, Mr. McDERMOTT, Ms. LOFGREN, Ms. SLAUGHTER, Mr. SABO, Ms. STABENOW, Mr. BERMAN, Mr. ACKERMAN, Mr. NADLER, Mr. YATES, Mr. OLVER, Mr. MARKEY, Ms. JACKSON-LEE, Mr. GONZALEZ, Mr. BOUCHER, Ms. KILPATRICK, Mr. DEFazio, Mr. RUSH, Mr. EVANS, Ms. DELAURO, Mr. LEWIS of Georgia, Mr. ANDREWS, Mr. DAVIS of Illinois, Ms. FURSE, Mr. CLYBURN, Mr. LEVIN, Ms. CHRISTIAN-GREEN, and Mrs. CLAYTON):

H.J. Res. 66. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. WICKER (for himself, Mr. NORWOOD, Mr. HALL of Texas, Mr. HEFLEY, Mr. CANNON, Mr. BONILLA, Mr. PARKER, Mr. COMBEST, Mr. CHAMBLISS, Mr. HAYWORTH, Mr. EVERETT, Mr. SESSIONS, Mr. COLLINS, Mr. BACHUS, Mrs. MYRICK, Mr. BURR of North Carolina, Mr. BALLENGER, Mr. MCINTOSH, Mr. PICKERING, Mr. DICKEY, Mr. GOODLING, Mr. STUMP, Mr. ADERHOLT, Mr. SUNUNU, Mr. POMBO, Mr. HERGER, Mr. ISTOOK, Mr. COBLE, Mr. JONES, and Mr. LIVINGSTON):

H.J. Res. 67. Joint resolution disapproving the rule of the Occupational Safety and Health Administration relating to occupational exposure to methylene chloride; to the Committee on Education and the Workforce.

By Mr. BONILLA (for himself, Mr. ORTIZ, Mr. SKEEN, Mr. BALDACCI, and Mr. REYES):

H. Con. Res. 51. Concurrent resolution expressing the sense of the Congress that there should be parity among the countries that are parties to the North American Free-Trade Agreement [NAFTA] with respect to the personal allowance for duty-free merchandise purchased abroad by returning residents; to the Committee on Ways and Means.

By Mr. QUINN (for himself, Mr. LATOURETTE, Mr. FOGLETTA, Mr. RAHALL, Mr. LUCAS of Oklahoma, Mr. FLAKE, Mr. LIPINSKI, Mr. KLING, Mr. DOYLE, Mr. KLECZKA, Ms. DANNER, Mr. VENTO, and Mr. KUCINICH):

H. Con. Res. 52. Concurrent resolution urging that the railroad industry, including rail labor, management and retiree organizations, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity; to the Committee on Transportation and Infrastructure.

By Mr. SOLOMON:

H. Con. Res. 53. Concurrent resolution encouraging and expediting the integration of Romania at the earliest stage into the North Atlantic Treaty Organization [NATO]; to the Committee on International Relations.

By Mr. THOMAS:

H. Res. 102. Resolution providing amounts from the applicable accounts of the House of Representatives for continuing expenses of certain standing and select committees of the House from April 1, 1997, through May 2, 1997, and for other purposes; to the Committee on House Oversight.

By Mr. BEREUTER (for himself and Mr. SPENCE):

H. Res. 103. Resolution expressing the sense of the House of Representatives that the United States should maintain approximately 100,000 U.S. military personnel in the Asia and Pacific region until such time as there is a peaceful and permanent resolution to the major security and political conflicts in the region; to the Committee on International Relations.

By Mr. ENGEL (for himself and Ms. MOLINARI):

H. Res. 104. Resolution concerning the crises in Albania; to the Committee on International Relations.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. VENTO:

H.R. 1143. A bill for the relief of Mary M. Mertz; to the Committee on the Judiciary.

By Mr. MCCOLLUM:

H.R. 1211. A bill for the relief of Global Exploration and Development Corp., Kerr-McGee Corp. and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. FARR of California, Mr. MANZULLO, Mr. BILBRAY, Ms. SANCHEZ, Mr. MCNULTY, Mr. SISISKY, Mr. LEACH, Mr. KING of New York, Mr. SKEEN, Mr. BOB SCHAFFER, Mrs. CHENOWETH, Mr. EVERETT, Mr. SPENCE, Mr. BILIRAKIS, Mr. BALDACCI, Mr. DOOLITTLE, Mr. FORD, Mr. FOLEY, Ms. CHRISTIAN-GREEN, Mr. BAESLER, Mr. ISTOOK, Mr. MANTON, Mr. CLAY, Mr. HILL, Mr. WELDON of Florida, and Mr. CAMP.

H.R. 14: Mr. WICKER, Mr. COX of California, Mr. PACKARD, Mr. POMBO, Mr. LINDER, Mr. HOBSON, Mr. WHITE, Mr. EVERETT, Mr. MCINNIS, Mr. PARKER, Mr. HERGER, and Mr. BONO.

H.R. 15: Mr. YOUNG of Florida, Mr. WELDON of Florida, Mr. WATKINS, Mr. LEVIN, Mr. BUNNING of Kentucky, Mr. CRAPO, Mr. GREENWOOD, Mr. ADAM SMITH of Washington, Mrs. LOWEY, Mr. MCCOLLUM, Mr. KLECZKA, Mr. GORDON, Mr. MCGOVERN, Mr. TALENT, Mr. BECERRA, Mr. ACKERMAN, Mr. BOUCHER, and Mr. COBLE.

H.R. 27: Mr. MCKEON, Mr. HILLEARY, and Mr. THORNBERRY.

H.R. 29: Mr. DELAHUNT, Mr. BONIOR, Mr. RUSH, Mr. FAZIO of California, Mr. OBERSTAR, Mr. DEFazio, and Mr. WATTS of Oklahoma.

H.R. 49: Ms. ESHOO.

H.R. 54: Ms. FURSE, Ms. WOOLSEY, Mr. CONDT, Mr. STARK, Mr. SMITH of Oregon, Mr. PETERSON of Minnesota, Mr. POMBO, Mr. MATSUI, Mr. PACKARD, Ms. KAPTUR, and Mr. PALLONE.

H.R. 58: Mr. HILLIARD and Mr. COYNE.

H.R. 66: Mr. BUNNING of Kentucky, Mr. SHADEGG, Mr. WATT of North Carolina, Mr. PICKERING, Mrs. MYRICK, Ms. SLAUGHTER, Mr. LEWIS of Georgia, Mr. DUNCAN, and Mr. LAMPSON.

H.R. 76: Mr. BLILEY, Mr. CHRISTENSEN, Mr. CONDT, Mr. CRAMER, Mr. DICKS, Mr. GOODE, Mr. HALL of Ohio, Mr. HAYWORTH, Mr. HOLDEN, Mr. MCGOVERN, Mrs. LINDA SMITH of Washington, and Mr. SMITH of New Jersey.

H.R. 80: Mr. CHRISTENSEN and Mr. GUTKNECHT.

H.R. 96: Mr. OBERSTAR, Mr. CHRISTENSEN, and Mr. PETERSON of Pennsylvania.

H.R. 107: Mrs. THURMAN.

H.R. 123: Mr. PAXON.

H.R. 143: Mrs. THURMAN and Mr. TORRES.

H.R. 145: Mr. METCALF.

H.R. 192: Mr. SISISKY, Mr. WICKER, Mr. MANZULLO, Mr. CALLAHAN, Mr. GOODE, Mr. KOLBE, Mr. BARTON of Texas, Mrs. LINDA SMITH of Washington, and Mr. LAHOOD.

H.R. 198: Mr. DUNCAN.

H.R. 213: Mr. CLYBURN and Ms. STABENOW.

H.R. 218: Mr. RAHALL, Mr. NEY, Mr. KLECZKA, and Mr. NORWOOD.

H.R. 230: Mr. KNOLLENBERG.

H.R. 240: Mr. ENSIGN, Mr. MANZULLO, and Mr. ENGLISH of Pennsylvania.

H.R. 250: Mr. TIAHRT.

H.R. 279: Mr. FOX of Pennsylvania, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BONIOR, Mr.

CARDIN, Mr. DELAHUNT, Mr. FATTAH, Mr. GEPHARDT, Mr. HEFNER, Mrs. MCCARTHY of New York, Mr. MANZULLO, Mrs. MEEK of Florida, Mr. NADLER, Mr. PAYNE, Mr. SCOTT, Mr. UNDERWOOD, Mr. WATT of North Carolina, Mr. WEYGAND, Ms. WATERS, Mr. THOMPSON, and Mrs. MINK of Hawaii.

H.R. 280: Mr. BROWN of California, Mr. JEFFERSON, and Ms. STABENOW.

H.R. 285: Mr. DELLUMS.

H.R. 286: Mr. DELLUMS.

H.R. 287: Mr. DELLUMS.

H.R. 297: Mr. FOGLETTA and Mr. TOWNS.

H.R. 301: Mr. FOGLETTA and Mr. TOWNS.

H.R. 306: Mr. CARDIN and Mr. TORRES.

H.R. 312: Mr. YOUNG of Alaska and Mr. SALMON.

H.R. 320: Mr. LEWIS of Georgia.

H.R. 335: Mr. GILMAN and Mrs. KELLY.

H.R. 338: Mr. PAXON.

H.R. 339: Mr. LAHOOD.

H.R. 347: Mr. GOSS.

H.R. 371: Mr. KLUG, Mr. KIND of Wisconsin, and Mr. POMBO.

H.R. 383: Mr. LOBIONDO.

H.R. 400: Ms. SLAUGHTER, Mr. DICKS, Mr. VENTO, Mr. ACKERMAN, Mr. GUTKNECHT and Mr. BROWN of California.

H.R. 404: Mr. MCKEON and Mr. STUPAK.

H.R. 407: Mr. PACKARD and Mrs. TAUSCHER.

H.R. 414: Mr. SISISKY, Mr. WICKER, Mr. CALLAHAN, Mr. GOODE, Mr. KOLBE, Mr. BARTON of Texas, and Mrs. LINDA SMITH of Washington.

H.R. 417: Mr. GEJDENSON, Mr. ENGLISH of Pennsylvania, Mr. MCINTYRE, and Mr. THOMPSON.

H.R. 418: Mr. LEWIS of Georgia, Mr. KUCINICH, Mr. PASTOR, Mrs. MYRICK and Ms. KAPTUR.

H.R. 443: Mr. KENNEDY of Massachusetts, Mr. WEXLER, and Mr. GEJDENSON.

H.R. 446: Mr. FOX of Pennsylvania, Ms. MCCARTHY of Missouri, Mr. HOUGHTON, Mr. LATHAM, Ms. DEGETTE, and Mr. HEFLEY.

H.R. 450: Mr. WELLER.

H.R. 475: Mr. LEWIS of Kentucky, Mr. SHAW, and Mr. PAUL.

H.R. 478: Mr. DELAY, Mr. HASTINGS of Washington, Mr. BONO, Mr. WICKER, Mr. KIM, and Mr. GALLEGLY.

H.R. 481: Mr. LIPINSKI.

H.R. 495: Mr. HERGER.

H.R. 519: Mr. LEVIN, Mr. ACKERMAN, Mr. COYNE, and Mr. LATOURETTE.

H.R. 528: Mr. GALLEGLY.

H.R. 533: Mr. KLECZKA, Ms. CHRISTIAN-GREEN, and Mr. MCCREERY.

H.R. 534: Mr. FROST and Ms. CHRISTIAN-GREEN.

H.R. 535: Mr. JEFFERSON and Mr. CLEMENT.

H.R. 538: Mr. TOWNS.

H.R. 543: Mr. VENTO, Ms. LOFGREN, Mr. JEFFERSON, Mr. SCHIFF, Mr. COSTELLO, Mr. PETERSON of Pennsylvania, Mr. STUPAK, Mr. BROWN of California, Mr. HASTINGS of Washington, and Mr. LEWIS of Georgia.

H.R. 548: Mr. SOLOMON and Mr. ACKERMAN.

H.R. 561: Mr. KUCINICH.

H.R. 574: Mr. MARTINEZ.

H.R. 577: Mr. FALEOMVAEGA, Mr. RAHALL, and Mr. DELLUMS.

H.R. 582: Mrs. CARSON, Mr. KUCINICH, Mr. GREEN, Mr. YATES, and Mr. FOGLETTA.

H.R. 586: Mr. BERRY, Mr. CAMPBELL, Mr. COBLE, Mr. COLLINS, Mr. COMBEST, Ms. DANNER, Mr. GALLEGLY, Ms. GRANGER, Mr. HILLIARD, Mr. MCHUGH, and Mr. TORRES.

H.R. 587: Mr. OWENS, Mr. BORSKI, and Mr. SHAYS.

H.R. 589: Mrs. LINDA SMITH of Washington.

H.R. 590: Mr. JOHNSON of Wisconsin, Mr. QUINN, and Mr. BARRETT of Wisconsin.

H.R. 596: Mr. HALL of Texas, Mr. LOBIONDO, Mr. SMITH of New Jersey, Mrs. MINK of Hawaii, and Mr. BARCIA of Michigan.

- H.R. 600: Mr. SKAGGS.  
 H.R. 610: Mr. WOLF and Mr. POSHARD.  
 H.R. 611: Mr. RUSH, Mr. STUPAK, Mr. CLAY, Mr. YATES, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Mr. CAMPBELL, Mr. ALLEN, Ms. FURSE, Mr. BLAGOJEVICH, Mr. OWENS, Mrs. MORELLA, Ms. HARMAN, and Mr. LUTHER.  
 H.R. 612: Mr. BARRETT of Nebraska, Mr. MARTINEZ, Mr. KENNEDY of Rhode Island, Mrs. EMERSON, Ms. DEGETTE, Mr. BROWN of California, and Mr. NUSSLE.  
 H.R. 614: Mr. GOODE and Mr. ENGLISH of Pennsylvania.  
 H.R. 619: Mr. LARGENT, Mr. BERMAN, Mr. MATSUI, and Mr. DAVIS of Illinois.  
 H.R. 634: Mrs. ROUKEMA, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. MCKEON, Mr. SAM JOHNSON, Mr. TALENT, Mr. KNOLLENBERG, Mr. BOB SCHAFFER, Mr. UPTON, Mr. DEAL of Georgia, Mr. SNOWBARGER, Mr. DICKEY, Mr. CHRISTENSEN, Mr. COBLE, and Mr. CUNNINGHAM.  
 H.R. 640: Mr. COOKSEY and Mr. CRAPO.  
 H.R. 662: Mr. BROWN of California, Mr. CUMMINGS, and Mr. DELLUMS.  
 H.R. 663: Mr. FROST, Mr. DIAZ-BALART, Mr. CUMMINGS, Mr. MARTINEZ, Mr. TOWNS, and Mr. BARCIA of Michigan.  
 H.R. 674: Mr. INGLIS of South Carolina and Mr. NEUMANN.  
 H.R. 679: Mr. BUNNING of Kentucky.  
 H.R. 699: Mr. ARCHER, Mr. WELDON of Pennsylvania, Mr. SKEEN, Mr. CRANE, Ms. GRANGER, Mr. FILNER, Mr. SAXTON, Mr. SMITH of Texas, Mr. SESSIONS, Mr. THORNBERRY, Mr. COMBEST, Mr. BARTON of Texas, Mr. PAUL, and Mr. WATTS of Oklahoma.  
 H.R. 714: Mr. COYNE, Mr. KLINK, and Mr. FATTAH.  
 H.R. 716: Mr. BACHUS, Mr. COOKSEY, Mr. HEFLEY, and Mr. BURTON of Indiana.  
 H.R. 723: Mr. COMBEST, Mr. EWING, Mr. HERGER, Mr. NUSSLE, Mr. TANNER, Mr. MCINTOSH, Mr. SOUDER, Mr. HOLDEN, Mr. LEWIS of Kentucky, Mr. LUCAS of Oklahoma, Mr. BRYANT, Mr. LAHOOD, Mr. BERRY, Mr. BLUNT, Mr. BOSWELL, Mr. COOKSEY, Mrs. EMERSON, Mr. JENKINS, Mr. JOHNSON of Wisconsin, Mr. MORAN of Kansas, Mr. BOB SCHAFFER, Ms. STABENOW, Mr. THUNE, Mr. EVANS, Mr. POSHARD, Mr. LEACH, Mr. LATHAM, Mr. COBURN, Mr. CRAPO, Ms. GRANGER, Mr. KIND of Wisconsin, Mr. PARKER, Mr. PITTS, Mr. SMITH of Texas, Mr. THORNBERRY, and Mr. WHITFIELD.  
 H.R. 734: Ms. MCKINNEY, Ms. WOOLSEY, and Mr. YATES.  
 H.R. 735: Mr. FOGLIETTA.  
 H.R. 744: Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. LAFALCE, Mr. TIERNEY, Mr. SANDERS, Ms. NORTON, Mr. HINOJOSA, Mr. MARKEY, Mr. DAVIS of Illinois, Mr. UNDERWOOD, Mr. FATTAH, Mr. CONYERS, Ms. RIVERS, Mr. KENNEDY of Rhode Island, Mr. BROWN of California, Ms. MCKINNEY, Mr. FALCOMA VAEGA, Mr. FOX of Pennsylvania, Mr. JEFFERSON, Mr. RUSH, Mr. STARK, Mr. CLEMENT, and Mr. ACKERMAN.  
 H.R. 746: Mr. MASCARA, Mr. KIM, and Mr. BARTLETT of Maryland.  
 H.R. 752: Mr. SKEEN.  
 H.R. 753: Mr. MINGE, Mr. BROWN of California, Mr. TIERNEY, Mr. BECERRA, and Mr. ABERCROMBIE.  
 H.R. 766: Mr. FOGLIETTA.  
 H.R. 774: Mr. KIND of Wisconsin.  
 H.R. 784: Ms. EDDIE BERNICE JOHNSON of Texas.  
 H.R. 800: Mrs. CARSON, Mr. DAVIS of Illinois, and Mr. FOGLIETTA.  
 H.R. 802: Mr. BOUCHER and Mr. WATTS of Oklahoma.  
 H.R. 812: Mr. CAMPBELL.  
 H.R. 814: Ms. WOOLSEY and Mr. ACKERMAN.  
 H.R. 815: Mr. COYNE and Mr. KILDEE.  
 H.R. 819: Mr. FATTAH.  
 H.R. 820: Mr. PASTOR, Mr. DELAHUNT, and Mr. LEWIS of Georgia.  
 H.R. 867: Mr. BLILEY, Mr. WATTS of Oklahoma, Mr. NETHERCUTT, Ms. MOLINARI, Ms. LOFGREN, Mr. FARR of California, and Mr. CANADY of Florida.  
 H.R. 871: Mr. RUSH, Mr. FOGLIETTA, Mrs. LOWEY, Mr. MANTON, and Mr. GUTIERREZ.  
 H.R. 872: Mrs. EMERSON, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, and Mr. PICKERING.  
 H.R. 873: Mr. QUINN and Mr. FRANKS of New Jersey.  
 H.R. 875: Mr. BERMAN and Mr. HASTINGS of Florida.  
 H.R. 890: Mr. CUNNINGHAM, Mr. DELLUMS, Mr. CAPPS, Mr. STARK, Mr. FRANK of Massachusetts, Mr. MCGOVERN, and Mr. KENNEDY of Rhode Island.  
 H.R. 901: Mr. BLUNT, Mr. CHAMBLISS, Mr. LUCAS of Oklahoma, Mr. MCINNIS, Mr. WATKINS, Mr. PAXON, Mr. BONILLA, Mr. GOODE, Mr. WATTS of Oklahoma, Mr. HUNTER and Mr. TIAHRT.  
 H.R. 902: Mr. BOUCHER, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DICKEY, Ms. DUNN of Washington, Mr. LATHAM, Mr. PAXON, and Mr. SPENCE.  
 H.R. 910: Mr. LIPINSKI, Mr. BOEHLERT, and Ms. DANNER.  
 H.R. 911: Mr. DELAY, Mr. BARCIA of Michigan, Mr. PASTOR, Mrs. MORELLA, Mr. BOEHRER, Mr. PAXON, Mr. RADANOVICH, and Mr. INGLIS of South Carolina.  
 H.R. 920: Mr. OWENS.  
 H.R. 922: Mr. COBURN, Mr. CALVERT, and Mr. WOLF.  
 H.R. 923: Mr. COBURN and Mr. WOLF.  
 H.R. 947: Mr. KOLBE and Mr. LEWIS of Georgia.  
 H.R. 950: Mr. BONIOR, Mr. STARK, and Mr. COYNE.  
 H.R. 953: Mr. ABERCROMBIE and Mr. TOWNS.  
 H.R. 956: Mr. ACKERMAN.  
 H.R. 965: Mr. SMITH of Oregon.  
 H.R. 967: Mr. WOLF, Mr. MILLER of Florida, Mr. LIPINSKI, Mr. HORN, Mr. UNDERWOOD, Mr. CHABOT, Mr. WATTS of Oklahoma, Mr. BUNNING of Kentucky, Mr. CANADY of Florida, Mr. BOB SCHAFFER, Mr. FRANK of Massachusetts, and Ms. PELOSI.  
 H.R. 971: Mr. McNULTY, Mr. HORN, and Mr. FORBES.  
 H.R. 979: , Mr. MATSUI, Mr. PICKETT, Mr. TORRES, Mr. BLILEY, Mr. SHAW, Mr. DELAHUNT, Mr. VENTO, Ms. DANNER, Mr. SABO, Mr. SKAGGS, Mr. KENNEDY of Massachusetts, Mr. CLAY, Mr. BARCIA of Michigan, and Mr. FILNER.  
 H.R. 981: Mr. GILMAN, Mr. MILLER of California, and Ms. NORTON.  
 H.R. 982: Mr. HANSEN, Mr. GILMAN, Mr. MILLER of California, and Ms. NORTON.  
 H.R. 988: Ms. WOOLSEY and Mr. CONYERS.  
 H.R. 991: Ms. DANNER.  
 H.R. 1002: Mr. STARK, Mr. ACKERMAN, Mr. MCGOVERN, Mr. BORSKI, and Mr. ANDREWS.  
 H.R. 1003: Mr. BALLENGER, Mr. ENSIGN, Mr. FROST, Mr. HEFLEY, Mr. HULSHOF, Mr. INGLIS of South Carolina, Mr. KLUG, Mr. LAHOOD, Mr. LEWIS of California, Mr. MCKEON, Mr. MORAN of Kansas, Mr. RAMSTAD, Mr. BOB SCHAFFER, Mr. STUPAK, and Mr. YOUNG of Alaska.  
 H.R. 1005: Mr. PAUL.  
 H.R. 1010: Mr. WATKINS, Mr. ENGLISH of Pennsylvania, Mr. CANADY of Florida, and Mr. INGLIS of South Carolina.  
 H.R. 1014: Ms. SLAUGHTER, Mr. HINOJOSA, Mr. VENTO, and Mr. OWENS.  
 H.R. 1016: Mr. PETERSON of Pennsylvania.  
 H.R. 1041: Mr. BORSKI.  
 H.R. 1049: Ms. DELAURO, Mr. GEJDENSON, Mrs. KENNELLY of Connecticut, and Mrs. MEEK of Florida.  
 H.R. 1054: Mr. CHRISTENSEN and Mr. CAMPBELL.  
 H.R. 1060: Mr. DOOLEY of California, Mr. WELLER, Mr. PICKERING, Mr. WHITFIELD and Mr. BAESLER.  
 H.R. 1062: Mr. SOLOMON, Mr. ENGLISH of Pennsylvania, Mr. GIBBONS, Mr. PAPPAS, Mr. TRAFICANT, Mr. ISTOOK, Mr. PAXON, Mr. EWING, Mr. GILMAN, Mr. PITTS, Mrs. NORTON, Mr. WELDON of Pennsylvania, Mr. INGLIS of South Carolina, Mr. MCHUGH, and Mr. DEAL of Georgia.  
 H.R. 1066: M. BROWN of Florida, Mr. ROMERO-BARCELO, Mr. CLYBURN, Ms. CHRISTIAN-GREEN, Ms. JACKSON-LEE, Mr. BISHOP, Mr. STOKES, Mr. SERRANO, Mrs. MEEK of Florida, Mr. FROST, Mr. THOMPSON, and Mr. FILNER.  
 H.R. 1089: Mr. TORRES and Mr. WATTS of Oklahoma.  
 H.R. 1090: Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. SPENCE, Mr. EVERETT, Mr. BUYER, Mr. BACHUS, Mr. STEARNS, Mr. MORAN of Kansas, Mr. COOKSEY, Mr. HUTCHINSON, Mr. HAYWORTH, Mr. KENNEDY of Massachusetts, Mr. GUTIERREZ, Mr. CLYBURN, Mr. DOYLE, Mr. MASCARA, Mr. PETERSON of Minnesota, Mrs. CARSON, Mr. REYES, Mr. SNYDER, Ms. BROWN of Florida, Mr. DAN SCHAFFER of Colorado, Mrs. CHENOWETH, Mr. LAHOOD, and Mr. DELLUMS.  
 H.R. 1104: Mr. OWENS, Mr. FOGLIETTA, Ms. LOFGREN, Mr. WYNN, Mr. YATES, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. BONIOR, and Mr. MANTON.  
 H.R. 1130: Mr. SKAGGS and Mr. TORRES.  
 H.J. Res. 54: Mr. BAESLER, Mr. HOUGHTON, and Mr. SMITH of Texas.  
 H.J. Res. 56: Ms. DEGETTE.  
 H.J. Res. 62: Mr. BACHUS, Mr. BALLENGER, Mr. BILIRAKIS, Mr. BRYANT, Mr. CRAPO, Mr. KLUG, Mr. PAUL, and Mr. PAXON.  
 H. Con. Res. 10: Mr. WELLER and Mr. GOSS.  
 H. Con. Res. 13: Mr. OBERSTAR, Mr. QUINN, Mr. SAXTON, Mr. PACKARD, Ms. ESHOO, Mrs. MCCARTHY of New York, Mr. FROST, Mr. TORRES, Mr. MCKEON, and Mr. WEXLER.  
 H.J. Con. Res. 43: Mrs. LOWEY, Mrs. JOHNSON of Connecticut, Mr. DELLUMS, and Mrs. ROUKEMA.  
 H. Res. 21: Mrs. EMERSON.  
 H. Res. 22: Mr. GREEN and Mr. DAVIS of Illinois.  
 H. Res. 30: Mr. BOB SCHAFFER.  
 H. Res. 40: Ms. SLAUGHTER, Mrs. MALONEY of New York, Mr. FOGLIETTA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HASTINGS of Florida, Mrs. CARSON, Ms. CHRISTIAN-GREEN, and Ms. ROYBAL-ALLARD.