flawed and needs to be modified because it fails to address the underlying issue—violence against women—pregnant or not. The majority of crimes against women occur during domestic violence and drunk driving incidents. I supported the Violence Against Women Act [VAWA] when it first became law in 1994. VAWA set up a national domestic violence hotline, grants for law enforcement, prosecution, and battered women shelters to combat violence and sexual assault. This Congress, I am a proud cosponsor of VAWA II which reauthorizes the original VAWA 1994 Act and has other provisions to further help protect women from violence. For example, the bill addresses sexual assault prevention and combating violence in the workplace.

When we create laws that affect women, we cannot take the woman out of the equation which is what H.R. 2436 does. The woman is the victim of the crime and one of the best ways to protect a woman is to have VAWA II passed. I think everyone agrees that crimes against women are horrible. It's especially tragic when the woman is pregnant and that needs to be appropriately addressed which is why I am supporting the Lofgren-Conyers substitute, the Motherhood Protection Act of 1999.

The Lofgren-Conyers substitute creates a federal criminal offense for harm to a pregnant woman and recognizes that the pregnant woman is the victim of a crime causing termination or harm during a pregnancy. The substitute provides for a maximum 20-year sentence for injury to a pregnant woman and a maximum life sentence for the termination of a pregnancy due to the assault. By focusing on the harm to the pregnant woman, it provides a deterrent against violence against women. I encourage my colleagues to support the Lofgren-Conyers substitute.

Mr. HANSEN. Mr. Chairman, I rise today in support of H.R. 2436, and commend my friend from South Carolina for bringing it to the floor.

Mr. Chairman, this bill has evoked the usual complaints from liberals in this country who refuse to accept any restrictions on when, how, or why an unborn child is killed. Until today, they had only defended the ''right'' of any woman to ''choose'' to kill her unborn child. How, however, it seems that they are willing to extend that protection to criminals who kill an unborn child while committing a crime for which they will be punished under federal law.

Now, before abortion rights activists paint this debate as one about a woman's 'right to choose,' let's examine a scenario that would be covered by this bill. First of all, if a woman is pregnant, and has not taken steps to end the pregnancy, it is probably safe to assume that she has chosen to bring her child into the world. When an individual, while committing a crime, harms that woman, and kills her unborn child, her choice to have her baby has been taken away, and it is that action which this bill and its sponsor seek to punish. If anything, this bill is the epitome of protecting the right to choose.

Free societies such as ours are based on giving up certain freedoms in exchange for security. Congress has, in the past, passed obscenity laws, which reasonably restrict the First Amendment. We have also made it illegal for known felons to purchase firearms, a restriction on the Second Amendment. All freedoms have reasonable limitations, yet abortion rights advocates in this nation, and specifically in this body, refuse to accept any limitations on the right to kill an unborn child. We have seen many of those individuals come before this body, listing the names of children killed by gun violence. Is it any less tragic when an unborn child is killed, simply because it has not been given a name yet? The opposition to this bill shines the spotlight of truth on abortion rights activists' belief that the death of an unborn child, under any circumstances, is all right with them. Quite frankly, Mr. Chairman, that attitude sickens me, and I would hope that it sickens the rest of our society.

I urge all of my colleagues to support decency, support human life, and support the choice of pregnant women to give birth to their children, by supporting this bill.

Mr. PAUL. Mr. Chairman, pro-life Members of Congress are ecstatic over the Unborn Victims of Violence Act, touting it as a good step toward restoring respect for life, and once again criminalizing abortion. This optimism and current effort must be seriously challenged.

As a pro-life obstetrician-gynecologist, I strongly condemn the events of the last third of the 20th century in which we have seen the casual acceptance of abortion on demand.

The law's failure to protect the weakest, smallest and most innocent of all the whole human race has undermined our respect for all life, and therefore for all liberty. As we have seen, once life is no longer unequivocally protected, the loss of personal liberty quickly follows.

The Roe v. Wade ruling will in time prove to be the most significantly flawed Supreme Court ruling of the 20th century. Not only for its codification, through an unconstitutional court action, of a social consensus that glorified promiscuity and abortion of convenience and for birth control, but for flaunting as well the constitutional system that requires laws of this sort be left to the prerogative of the states alone. A single ''Roe v. Wade'' ruling by one state would be far less harmful than a Supreme Court ruling that nullifies all state laws protecting the unborn.

Achieving the goal of dehumanizing all human life, by permitting the casting aside all pre-born life, any time prior to birth, including partially born human beings, Roe v. Wade represents a huge change in attitudes toward all life and liberty. Now pro-life Members are engaged in a similar process of writing more national laws in hopes of balancing the court's error. This current legislative effort is just as flawed.

Traditionally, throughout our history, except for the three constitutional provisions, all crimes of violence have been—and should remain—state matters. Yet this legislation only further undermines the principle of state jurisdiction, and our system of law enforcement, which has served us well for most of our history.

Getting rid of Roe v. Wade through a new court ruling or by limiting federal jurisdiction would return this complex issue to the states.

Making the killing of an unborn infant a federal crime, as this bill does, further institutionalizes the process of allowing federal courts to destroy the constitutional jurisdiction of the states. But more importantly, the measure continues the practice of only protecting some life, by allowing unborn children to be killed by anyone with an ''M.D.'' after his name.

By protecting the abortionist, this legislation carves out a niche in the law that further ingrains in the system the notion that the willful killing of an innocent human being is not deserving of our attention. With more than a million children a year dying at the hands of abortionists, it is unwise that we ignore these acts for the sake of political expediency.

Pro-abortion opponents of this legislation are needlessly concerned regarding its long-term meaning, and supporters are naively hoping that unintended consequences will not occur.

State laws have already established clearly that a fetus is a human being deserving protection; for example, inheritance laws acknowledge that the unborn child does enjoy the estate of his father. Numerous states already have laws that correctly punishes those committing acts of murder against a fetus.

Although this legislation is motivated by the best of intentions of those who strongly defend the inalienable rights of the unborn, it is seriously flawed, and will not achieve its intended purpose. For that reason I shall vote against the bill and for the sanctity of life and the rights of the states, and against the selected protection of abortionists.

Mr. Chairman, today Congress will vote to further instill and codify the ill-advised Roe versus Wade decision. While it is the independent duty of each branch of the federal government to act Constitutionally, Congress will likely ignore not only its Constitutional limits but earlier criticisms from Chief Justice William H. Rehnquist, as well.

The Unborn Victims of Violence Act of 1999, H.R. 2436, would amend title 18, United States Code, for the laudable goal of protecting unborn children from assault and murder. However, by expanding the class of victims to which unconstitutional (but already-existing) federal murder and assault statutes apply, the federal government moves yet another step closer to a national police state.

Of course, it is much easier to ride the current wave of federalizing every human misdeed in the name of saving the world from some evil than to uphold a Constitutional oath which prescribes a procedural structure by which the nation is protected from what is perhaps the worst evil, totalitarianism. Who, after all, wants to be amongst those members of Congress who are portrayed as soft on violent crimes initiated against the unborn?

Nevertheless, our federal government is, constitutionally, a government of limited powers. Article one, section eight, enumerates the legislative areas for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the federal government lacks any authority or consent of the governed and only the state governments, their designees, or the people in their private market actions enjoy such rights to governance. The tenth amendment is brutally clear in stating ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'' Our nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently.

However, Congress does more damage than just expanding the class to whom federal murder and assault statutes apply—it further

entrenches and seemingly concurs with the Roe versus Wade decision (the Court's intrusion into rights of states and their previous attempts to protect by criminal statute the unborn's right not to be aggressed against). By specifically exempting from prosecution both abortionists and the mothers of the unborn (as is the case with this legislation), Congress appears to say that protection of the unborn child is not a federal matter but conditioned upon motive. In fact, the Judiciary Committee in marking up the bill, took an odd legal turn by making the assault on the unborn a strict liability offense insofar as the bill does not even require knowledge on the part of the aggressor that the unborn child exists. Murder statutes and common law murder require intent to kill (which implies knowledge) on the part of the aggressor. Here, however, we have the odd legal philosophy that an abortionist with full knowledge of his terminal act is not subject to prosecution while an aggressor acting without knowledge of the child's existence is subject to nearly the full penalty of the law. (The bill exempts the murderer from the death sentence—yet another diminution of the unborn's personhood status.) It is becoming more and more difficult for Congress and the courts to pass the smell test as government simultaneously treats the unborn as a person in some instances and as a non-person in others.

In this first formal complaint to Congress on behalf of the federal Judiciary, Chief Justice William H. Rehnquist said ''the trend to federalize crimes that have traditionally been handled in state courts . . . threatens to change entirely the nature of our federal system.'' Rehnquist further criticized Congress for yielding to the political pressure to ''appear responsive to every highly publicized societal ill or sensational crime.''

Perhaps, equally dangerous is the loss of another Constitutional protection which comes with the passage of more and more federal criminal legislation. Constitutionally, there are only three federal crimes. These are treason against the United States, piracy on the high seas, and counterfeiting (and, because the constitution was amended to allow it, for a short period of history, the manufacture, sale, or transport of alcohol was concurrently a federal and state crime). ''Concurrent'' jurisdiction crimes, such as alcohol prohibition in the past and federalization of murder today, erode the right of citizens to be free of double jeopardy. The fifth amendment to the U.S. Constitution specifies that no ''person be subject for the same offense to be twice put in jeopardy of life or limb . . .'' In other words, no person shall be tried twice for the same offense. However, in *United States v. Lanza,* the high court in 1922 sustained a ruling that being tried by both the federal government and a state government for the same offense did not offend the doctrine of double jeopardy. One danger of unconstitutionally expanding the federal criminal justice code is that it seriously increases the danger that one will be subject to being tried twice for the same offense. Despite the various pleas for federal correction of societal wrongs, a national police force is neither prudent nor constitutional.

Occasionally the argument is put forth that states may be less effective than a centralized federal government in dealing with those who leave one state jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of state sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow states to exact judgments from those who violate their state laws. The Constitution even allows the federal government to legislatively preserve the procedural mechanisms which allow states to enforce their substantive laws without the federal government imposing its substantive edicts on the states. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one state to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon states in working with one another rather than relying on a national, unified police force. At the same time, there is a greater cost to centralization of a police power.

It is important to be reminded of the benefits of federalism as well as the costs. There are sound reasons to maintain a system of smaller, independent jurisdictions—it is called competition and, yes, governments must, for the sake of the citizenry, be allowed to compete. We have obsessed so much over the notion of ''competition'' in this country we harangue someone like Bill Gates when, by offering superior products to every other similarly-situated entity, he becomes the dominant provider of certain computer products. Rather than allow someone who serves to provide value as made obvious by their voluntary exchanges in the free market, we lambaste efficiency and economies of scale in the private marketplace. Curiously, at the same time, we further centralize government, the ultimate monopoly and one empowered by force rather than voluntary exchange.

When small governments become too oppressive with their criminal laws, citizens can vote with their feet to a ''competing'' jurisdiction. If, for example, one does not want to be forced to pay taxes to prevent a cancer patient from using medicinal marijuana to provide relief from pain and nausea, that person can move to Arizona. If one wants to bet on a football game without the threat of government intervention, that person can live in Nevada. As government becomes more and more centralized, it becomes much more difficult to vote with one's feet to escape the relatively more oppressive governments. Governmental units must remain small with ample opportunity for citizen mobility both to efficient governments and away from those which tend to be oppressive. Centralization of criminal law makes such mobility less and less practical.

Protection of life (born or unborn) against initiations of violence is of vital importance. So vitally important, in fact, it must be left to the states' criminal justice systems. We have seen what a legal, constitutional, and philosophical mess results from attempts to federalize such an issue. Numerous states have adequately protected the unborn against assault and murder and done so prior to the federal government's unconstitutional sanctioning of violence in the Roe v. Wade decision. Unfortunately, H.R. 2436 ignores the danger of further federalizing that which is properly reserved to state governments and, in so doing, throws legal philosophy, the Constitution, the bill of rights, and the insights of Chief Justice Rehnquist out with the baby and the bathwater. For these reasons, I must oppose H.R. 2436, The Unborn Victims of Violence Act of 1999.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of H.R. 2436, the Unborn Victims of Violence Act. Under current federal law, an individual who commits a federal crime of violence against a pregnant women receives no additional punishment for killing or injuring the fetus. I think this is wrong and should be changed.

An incident that occurred in my district illustrates why this law is so desperately needed. in 1996, a man enlisted in the Air Force and stationed at Wright-Patterson Air Force Base—a jurisdiction which is governed by federal military law—severely beat his wife who was 34 weeks pregnant at the time. Although the women survived the attack, her uterus split open, expelling the baby into her mother's abdominal cavity, where the baby died.

The man was arrested and charged with several criminal offenses for the attack. However, Air Force prosecutors concluded that they could not charge him with a separate offense for killing the baby because, although Ohio law recognizes an unborn child as a victim, federal law does not.

In 1998, that judgment was concurred in the U.S. Air Force Court of Criminal Appeals ruling on that case. The court said, ''Federal homicide statutes reach only the killing of a born human being . . . (Congress) has not spoken with regard to the protection of an unborn person.''

Mr. Chairman, I believe it is time that Congress speaks on this issue by passing H.R. 2436. Many states, like Ohio, have passed laws to recognize unborn children as human victims of violent crimes. However, these laws do not apply on federal property. I think they should and therefore would urge my colleagues to pass the Unborn Victims of Violence Act.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 2436, the Unborn Victims of Violence Act. This bill would give pregnancy from beginning to birth the same legal standing under federal law that we currently give a person. This legislation would establish a separate offense and punishment for federal crimes committed when death or bodily injury to the fetus occurs. Likewise, the bill establishes the same penalty for a violation under federal law if the injury or death occurred to the unborn fetus' mother.

This bill is designed for one purpose: to undermine the decision in Roe v. Wade. This legislation is an effort to endow legal rights to fetuses—in fact a backdoor way of elevating the legal status of a fetus—which has been the cornerstone of the conservative anti-choice agenda. This is just another way of writing a Human Life Amendment, a decades-long effort to expand the meaning of the word ''person'' under the constitution to include unborn offspring at every state of their biological development. Anti-choice Members of Congress know that they are trying to fool the American people.

They would also have us believe in their crusade to protect unborn victims of violence—but what about the born victims of violence?

Every day in America, 13 children and youth under age 20 die from firearms. If this Congress is so concerned with the safety of children, why has it not passed the gun control provisions approved by the Senate that would eliminate gun show loopholes and require mandatory safety locks with firearms sales?

The conference committee on H.R. 1501 and the Senate gun legislation has met only once publicly—and that was before we adjourned for the August recess—to read their opening statements.

Every day in America, 1,353 babies are born without health insurance and 2,162 babies are born into poverty as a result of welfare reform legislation passed by many who remain in the majority of this Congress today. We know now that children are losing critical benefits like Medicaid and food stamps. The Urban Institute cites falling welfare rolls as the ''primary reason'' that an estimated 500,000 fewer adults and children nationwide participated in Medicaid in 1996 than in 1995. Loss of Medicaid and the absence of employer-sponsored health insurance coverage make it extremely difficult for former recipients to obtain health care for themselves and their children.

In addition, the Children's Defense Fund's study entitled ''Welfare to What?'' cites troubling findings by NETWORK, a coalition of Catholic organizations, on 455 children in California, Florida, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania and Texas during late 1997. The study found that 36% of children in families who had recently lost cash assistance were ''eating less or skipping meals due to cost.'' The bottom line is that families who lose welfare often lose food stamps, making it impossible to buy sufficient food.

The same disregard for our children is evident in Congress' refusal to hold states accountable for maintaining high levels of quality in our child care centers. Today in America, more than 80% of child care services in the U.S. is thought to be of poor or average quality. Still, Congress turns its head and allocate billions of child care dollars a year with very little assurance of quality, allowing our children to be placed in substandard conditions.

The crimes of domestic violence is a horrendous one, and should be punished, but this blatant attempt to placate the radical right belittles the severity of domestic violence by using women and their pregnancies as tools to elevate the legal status of a fetus. It is cowardly, and it dishonors the lives of women who have survived, and those who have succumbed to the terrible tragedy of domestic violence.

Mr. RYUN of Kansas. Mr. Chairman, as the Declaration of Independence declares, ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.''

I believe that one thing that makes America great is our defense of those incapable of defending themselves. Proverbs admonishes us to ''Speak up for those who cannot speak for themselves'' (31:8). It still is our duty to stand up for the weaker members of our society.

Tragically, under current federal law there are no consequences for injury or death to an unborn child. Where is the justice for the smallest and most helpless members of our society?

The intentional attack on a mother and her baby requires that justice be served. Our justice system is based on the protection of the innocent and the punishment of the guilty. The attacker must take responsibility for his actions and make restitution to his victims.

The Unborn Victims of Violence Act would make the offense to the baby a separate crime because it's a separate person. In this situation there are two victims and both of their lives should receive equal recompense under federal law.

Twenty-four states already have laws that recognize the unborn child as a victim. It is time that we agree with nearly half the states and provide grieving parents recognition of their loss.

Mr. Chairman, with the passage of the Unborn Victims of Violence Act we will be able to proudly say we are ''one nation, under God, with liberty and justice for all''.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2436

*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 ''Unborn Victims of Violence Act of 1999''.*

*SEC. 2. PROTECTION OF UNBORN CHILDREN.*

*(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:*

*''CHAPTER 90A—PROTECTION OF UNBORN CHILDREN*

*''Sec.*

*''1841. Protection of unborn children.*

*''§1841. Protection of unborn children*

*''(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.*

*''(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.*

*''(B) An offense under this section does not require proof that—*

*''(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or*

*''(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.*

*''(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.*

*''(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.*

*''(b) The provisions referred to in subsection (a) are the following:*

*''(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.*

*''(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).*

*''(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).*

*''(c) Nothing in this section shall be construed to permit the prosecution—*

*''(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law in a medical emergency;*

*''(2) of any person for any medical treatment of the pregnant woman or her unborn child; or*

*''(3) of any woman with respect to her unborn child.*

*''(d) As used in this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.''.*

*(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 90 the following new item:*

*''90A. Protection of unborn children ... 1841''.*

*SEC. 3. MILITARY JUSTICE SYSTEM.*

*(a) PROTECTION OF UNBORN CHILDREN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:*

*''§919a. Art. 119a. Protection of unborn children*

*''(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.*

*''(2) The punishment for that separate offense is the same as the punishment provided for that conduct under this chapter had the injury or death occurred to the unborn child's mother, except that the death penalty shall not be imposed.*

*''(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).*

*''(c) Subsection (a) does not permit prosecution—*

*''(1) for conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law in a medical emergency;*

*''(2) for conduct relating to any medical treatment of the pregnant woman or her unborn child; or*

*''(3) of any woman with respect to her unborn child.*

*''(d) In this section, the term 'unborn child' means a child in utero.''.*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:*

*''919a. 119a. Protection of unborn children.''.*

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in House Report 106–348. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for a time specified in the report, equally divided and controlled by the proponent and an opponent, shall be not subject to amendment, and shall not be subject to a demand for division of the question.

The chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes