

including the partial-birth abortion ban, has reported a select panel convened by ACOG could identify no circumstances under which this, meaning the D&X procedure, would be the only option to save the life or preserve the health of the woman.

Now, former Senator Daniel Patrick Moynihan, whom I am sure was very strongly supported politically by my colleague from New York, and who never voted for restrictions on abortion during his long and distinguished career in the other body, said that partial-birth abortion is very close to infanticide. I would strike very close. It is infanticide, because the difference between a legal partial-birth abortion and first degree murder is three inches. Three inches. The size of the head, which has not been delivered, where the scissors are inserted into the back of the baby's head and the brains are sucked out. This is what we want to ban. And this, I think, is supported by the vast majority of the American people.

Now, we have also heard a lot from people who are opposed to this legislation; that this always should be something that is in the professional opinion of a physician. Well, many of the physicians whose professional opinion is requested have an inherent conflict of interest because they will charge a fee and make money by saying that this is a proper procedure, even though the vast majority of their colleagues say it is never a proper procedure and other alternatives are available.

Finally, we have heard a lot about the Stenberg decision. This is a different bill than the law from the Nebraska case that was struck down by the Supreme Court. It contains extensive findings by the Congress of the United States, which is our right as a legislative body to make. It is up to the court to determine whether or not the findings that are made by the Congress are valid when it considers the constitutionality of this bill, should it be enacted into law, just like it was in the province of the court to consider the findings of the district court when it struck down the Nebraska law in the Stenberg decision.

The doctrine of separation of powers gives us the right to make those findings. Those findings are all medically supported by the testimony that the Committee on the Judiciary has received since 1995.

I believe this bill is constitutional. I believe this bill is good public policy. But, most importantly, I believe it is our right and our duty to stop this grotesque procedure, which is three inches away from infanticide.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in opposition to H.R. 4965, the Late Term Abortion Ban Act. In 2002, the U.S. Supreme Court held, by a 5-4 decision, in *Stenberg v. Carhart* that a Nebraska law prohibiting later term abortions was unconstitutional. The Court's decision makes clear that federal legislation addressing this issue must include exceptions to protect the life and health of the

mother. H.R. 4965 ignores this health exception clearly outlined by the Supreme Court.

I am a cosponsor of House Resolution 2702, the Late Term Abortion Restriction Act. This legislation would prohibit all abortions after fetal viability unless it is in the judgment of the attending physician it is necessary to preserve the life or health of the mother. The Supreme Court concluded in *Stenberg v. Carhart* that a woman's health must remain the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health. H.R. 2702 will pass constitutional scrutiny. In addition, this measure addresses the termination of viable fetuses in the late stages of pregnancy.

Mr. Speaker, it is unfortunate that we are debating a bill ruled unconstitutional by the United States Supreme Court. Instead, we should be debating and voting on H.R. 2702, a bipartisan measure to ban all late term abortions except "to preserve the life of the woman or to avert serious adverse health consequences to the woman."

Mr. Tiahrt. Mr. Speaker, I rise today in strong support of H.R. 4965, the Partial-Birth Abortion Ban Act. Regardless of whether one is pro-life or for abortion rights, the partial-birth abortion procedure is clearly morally indefensible. While every abortion sadly takes a life, a partial-birth abortion takes a baby's life as he/she emerges from the mother's womb and while the baby is still in the birth canal. My fellow colleagues have described the horrific process with pictures that make one sick to his stomach. It is unfathomable that someone could do this to another human being, especially a helpless baby.

Specialists who perform the partial-birth abortion have testified there is no medically-accepted use for the partial-birth procedure, and that, in fact the procedure itself presents health risks for the mother.

There is talk of including a provision to allow for exceptions when the "mental health" of the mother is at risk. This is a phony ban. My home state of Kansas passed such a bill, which has essentially meant that partial-birth abortions are banned unless a woman wants one. I am ashamed to report that in Wichita, the infamous late-term abortionist George Tiller performed 182 partial-birth abortions in 1999 alone under this weak law. That is 182 viable babies who were brutally murdered. We cannot allow that to happen.

Congress has passed a partial-birth abortion ban twice, which President Clinton vetoed both times—over the wishes of the American people. President Bush strongly supports H.R. 4965 and is looking forward to signing a partial-birth abortion ban. 70% of Americans believe that partial-birth abortions should be banned. This body that is expressly the "people's House" needs to listen to the will of the people.

As a father of three beautiful children and a strong defender of human life, I am embarrassed that our wonderful country permits partial-birth abortions. I urge you to vote in favor of this important legislation so that all the beautiful children who come into this world are treated as the human beings they are.

Mr. PAUL. Mr. Speaker, like many Americans, I am greatly concerned about abortion. Abortion on demand is no doubt the most serious social-political problem of our age. The lack of respect for life that permits abortion

significantly contributes to our violent culture and our careless attitude toward liberty.

Whether a civilized society treats human life with dignity or contempt determines the outcome of that civilization. Reaffirming the importance of the sanctity of life is crucial for the continuation of a civilized society. There is already strong evidence that we are indeed on the slippery slope toward euthanasia and human experimentation. Although the real problem lies within the hearts and minds of the people, the legal problems of protecting life stem from the ill-advised *Roe v. Wade* ruling, a ruling that constitutionally should never have occurred.

The best solution, of course, is not now available to us. That would be a Supreme Court that recognizes that for all criminal laws, the several states retain jurisdiction. Something that Congress can do is remove the issue from the jurisdiction of the lower federal courts, so that states can deal with the problems surrounding abortion, thus helping to reverse some of the impact of *Roe v. Wade*.

Unfortunately, H.R. 4965 takes a different approach, one that is not only constitutionally flawed, but flawed in principle, as well. Though I will vote to ban the horrible partial-birth abortion procedure, I fear that the language and reasoning used in this bill do not further the pro-life cause, but rather cement fallacious principles into both our culture and legal system.

For example, 14G in the "Findings" section of this bill states, ". . . such a prohibition [upon the partial-birth abortion procedure] will draw a bright line that clearly distinguishes abortion and infanticide . . ." The question I wish to pose in response is this: Is not the fact that life begins at conception the main tenet of the pro-life community? By stating that we are drawing a "bright line" between abortion and infanticide, I fear that we are simply reinforcing the dangerous idea underlying *Roe v. Wade*, which is the belief that we as human beings can determine which members of the human family are "expendable," and which are not.

The belief that we as a society can decide which persons are "expendable," leads us directly down a slippery slope of violence and apathy toward humanity. Though many decry such ethicists as Peter Singer of Princeton, who advocates the "right" of parents to choose infanticide, as well as euthanasia, his reasoning is simply a logical extension of the ethic underlying *Roe v. Wade*, which is that if certain people are not "useful" or "convenient," they should be done away with.

H.R. 4965 also depends heavily upon a "distinction" made by the Court in both *Roe v. Wade* and *Planned Parenthood v. Casey*, which established that a child within the womb is not protected under law, but one outside of the womb is. By depending upon this false and illogical "distinction," I fear that H.R. 4965, as I stated before, ingrains the principles of *Roe v. Wade* into our justice system, rather than refutes them as it should.

Despite its severe flaws, the bill nonetheless has the possibility of saving innocent human life, and should therefore be supported. I fear, though, that when the pro-life community uses the arguments of the opposing side to advance its agenda, it does more harm than good.

I wish to conclude with a quote from Mother Theresa, who gave a beautiful and powerful speech about abortion on February 3, 1994, at

the National Prayer Breakfast in Washington DC: “. . . From here, a sign of care for the weakest of the weak—the unborn child—must go out to the world. If you (in the United States) become a burning light of justice and peace in the world, then really you will be true to what the founders of this country stood for . . .”

May we see bills in the future that stay true to the solid principles the founders of this country stood for, rather than waver and compromise these principles.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act of 2002 and I urge my colleagues to vote in favor of this important legislation.

I am proud to serve as Co-Chair of the Pro-Life Caucus along with Representative CHRIS SMITH. Representative CHRIS SMITH's courageous leadership in legislative efforts to boldly and consistently protect the un-born is unparalleled. It has been a pleasure to share this important Chairmanship with him.

And as the lead Democratic sponsor of H.R. 4965 I also want to thank Representative CHABOT for his steadfast leadership on this and so many other important pro-life issues.

Partial-birth abortions are most often performed in the second or third trimester and I am particularly troubled by the horrifying aspects of late term abortions because there is no doubt that the partial-birth abortion procedure inflicts terrible pain upon the baby being killed.

H.R. 4965 not only bans this type of atrocious procedure but imposes fines and a maximum of two years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life and if 80 percent of abortions are elective, we must reconsider and re-evaluate the value society places on human life. In many cases, this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life and death issue for an innocent child. It is long overdue that this heinous procedure is made illegal.

Although I am a Pro-Life Democrat, I am grateful that we now have a Pro-Life President who will sign this critical piece of legislation into law. The President's support will abrogate the need for a two-thirds vote in the Senate—which has proven impossible to attain.

The prospects for making the Partial-Birth Abortion Ban Act the law of the land have improved greatly. Please vote to end this horrific procedure once and for all.

Ms. HARMAN. Mr. Speaker, as we consider H.R. 4965, the Late Term Abortion Ban Act, I would like to clarify what this debate is really about.

We are not debating so-called “partial-birth” abortion.

We are not debating late-term abortion.

We are debating a broad and unconstitutional attack on a woman's fundamental right to protect her life and health, our right to make our own decisions—our right to choose whether or not to have an abortion.

The Supreme Court has repeatedly ruled not simply that women have the right to an abortion, but that we have the right to the safest abortion procedure available.

States and Congress cannot place an undue burden on a women's right to choose, and cannot endanger the life or health of a woman seeking an abortion.

This bill fails on both counts. Its overbroad definition of “late term” abortion could include some of the most commonly used medical procedures for abortion in the second trimester—making it difficult for a woman to get an abortion. Its denial of an exception to preserve the health of a woman is dangerous. Ample evidence exists that the procedures described by my colleagues may be the safest for women with certain health conditions.

If the sponsors of this bill wanted to ban one medical procedure, why didn't they use medical terms to describe it?

If they wanted to ban post-viability abortions, why didn't they include a time limit in their bill?

I can only conclude that this bill is intended—just as the Nebraska law struck down by the Supreme Court was—to ban some of the most common abortion procedures used, even before a fetus is viable.

This bill is unconstitutional and it is harmful to women's health. Let's keep medical decisions where they belong—in the doctor's office, not the House floor.

Vote no on H.R. 4965.

Mr. VITTER. Mr. Speaker, I rise today with strong unequivocal support for H.R. 4965, the Partial-Birth Abortion Ban. Passage of this act into law is long overdue, and I hope the American people—who overwhelmingly want this ban enacted—will get their victory in this House today and in this Congress. Time and a gain we hear the myths and propaganda that this barbaric procedure is necessary to somehow protect women. But what do doctors and experts have to say about the procedure?

The head of National Coalition of Abortion Providers in 1997 said that the “vast majority” of partial-birth abortions are performed on healthy babies and healthy mothers.

The American Medical Association, regarding legislation to ban partial-birth abortions, wrote “Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.”

The Physicians' Ad Hoc Coalition for the Truth (PHACT) stated, “Never is the partial-birth procedure medically indicated. Rather such infants are regularly and safely delivered live . . . with no threat to the mother's health or fertility.”

Lastly, former Surgeon General C. Everett Koop issued a statement that not only is the procedure never medically necessary for mother or child but “on the contrary, this procedure can pose a significant threat to both.”

We also know now that the infant feels tremendous pain, contrary to prior statements by pro-abortion groups. Yet these same organizations would have us believe that this grisly procedure is actually necessary—this same procedure where an infant, in the late second or third trimester, is removed from the mother's uterus save only his or her head, and then an abortionist pierces the skull and vacuums the brain, collapsing the skull.

Allowing any procedure as gruesome as this is simply unacceptable to me, and should be so for this Congress. The American people have spoken loudly and clearly on this issue. This ban has passed the House of Representatives in the past, and we should do so here again today. This legislation before us is carefully crafted to address concerns of the Supreme Court. President Bush has indicated that he will sign this much-needed legislation.

I urge my colleagues to support passage of the Partial-Birth Abortion Ban, and let's hope

that it's the last time we have to fight for this common sense legislation.

Mr. TERRY. Mr. Speaker, I rise in support of H.R. 4965, the Partial-Birth Abortion Ban Act.

Two years ago, the Supreme Court ruled 5 to 4 that my home state of Nebraska's ban of this grisly procedure was unconstitutional. Justice Scalia wrote in his dissent that “the notion that the Constitution prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd.” He further noted that even “the most clinical description of [a partial-birth abortion] evokes a shudder of revulsion.”

H.R. 4965 contains several provisions to address the Court's concerns. A partial-birth abortion is more clearly defined to distinguish it from the “dilation and evacuation” procedure used to end early-term pregnancies. The bill also contains extensive Findings of Fact based on years of Congressional hearings and testimony. They prove beyond a shadow of a doubt that partial-birth abortion is unrecognized by the mainstream medical community, never necessary to preserve the health of the mother, and may in fact harm her health.

I sincerely hope these changes will withstand the scrutiny of the Court. I urge my colleagues to join me in voting to end the barbarism of partial-birth abortion once and for all and protect children who are just inches away from taking their first breath.

Mr. CRANE. Mr. Speaker, as a cosponsor of H.R. 4965, I rise in strong support of the Partial-Birth Abortion Ban Act of 2002. By passing this legislation we will once again take a step towards banning the truly horrifying practice whereby an innocent life is taken in the most gruesome of procedures.

Used in second and third trimester abortions, the “partial-birth” procedure involves pulling some portion of the fetus into the birth canal, crushing the skull and killing the fetus, before removing the fetus from the mother's body.

Congress passed legislation in each of the last three Congresses banning partial-birth abortions. In the 104th and 105th Congresses, President Clinton vetoed the partial-birth abortion bans. Both times the House voted to override the veto, but the Senate sustained it.

This bill makes it a federal crime for a physician, in or affecting interstate commerce, to perform a so-called partial birth abortion, unless it is necessary to save the life of the mother. Under this legislation, anyone who knowingly performs a partial-birth abortion would be subject to fines and up to two years in prison. The bill provides that a defendant could seek a hearing before the state medical board on whether his or her conduct was necessary to save the life of the mother and those findings may be admissible at trial.

Mr. Speaker, I urge my colleagues to vote in favor of this very important legislation. By passing H.R. 4965 today, we will take a giant step towards protecting innocent babies who, through no fault of their own, never have a chance.

Mr. GEPHARDT. Mr. Speaker, it is regrettable that today the Republican leadership ignored an opportunity to resolve the issue of late-term abortion in an effective and constitutional way, moving forward yet again with a ban that does not include an exception to protect the health of the woman. The Supreme Court has spoken on this matter. Banning this