

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Bill Clinton to Robert Brothers re: address (partial) (1 page)	05/16/1996	P6/b(6)
002. letter	Brandt Ayers to the President (partial) (1 page)	03/11/1997	P6/b(6)
003. letter	Constituent to the President (3 pages)	03/04/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Heather Howard (Subject Files)
OA/Box Number: 21196

FOLDER TITLE:

Abortion - Partial Birth [Binder] [2]

2012-0254-S

rc653

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

PB - Notes & Memos

BACKGROUND
INFO

Abortion - partial birth -
notes + memos

THE WHITE HOUSE
WASHINGTON

July 23, 1998

MEMORANDUM TO:

The President
The Vice President
Erskine Bowles
Paul Begala
Bruce Reed
Elena Kagan

FROM: Rahm Emanuel

SUBJECT: Poll from Geoffrey Garin

Thought you may find the attached poll interesting.

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: BLR DATE: 02/09/12
2012-0254-J

CONFIDENTIAL MEMORANDUM

TO: Rahm Emanuel
FROM: Geoffrey Garin
DATE: July 22, 1998
RE: The Partial Birth Abortion Override

Recent polling we have conducted for the Center on Reproductive Law and Policy shows clearly that playing defense (or, worse yet, just being silent) in the partial birth abortion debate is a dangerous proposition, because it gives the other side too much freedom to define their position as mainstream and the President's position as "radical."

More importantly, our polling also shows there is a surprising opportunity here to turn the tables on the other side by going on the offensive and aggressively attacking their position – specifically, their opposition to any exception to the partial birth abortion ban for cases involving serious harm to the woman's health – as being extreme. Based on our polling, here is how we should be drawing the battle lines on this matter:

The partial birth abortion ban as drafted and passed by the anti-choice forces in Congress is an extreme measure because it doesn't provide exceptions for serious harm to the woman's health. If enacted, this law would lead to undue government interference in medical decisions that should be left up to women and their doctors, because in its current form this law would put women at risk by forcing them to use a more dangerous abortion procedure to avoid serious harm to their health than the one their doctor would otherwise have recommended.

This problem is compounded by the fact that recent court decisions and medical interpretations (from the College of Obstetricians and Gynecologists, among others) suggest the law in its current form would ban the safest procedures to protect a woman's health throughout the pregnancy.

A reasonable ban on partial birth abortion would include an exception for serious harm to the woman's health. The ban as passed by Congress is an extreme measure that fails to provide for this common sense exception – because its supporters are more interested in gaining political support from powerful, conservative groups that basically oppose a woman's right to choose in all forms.

Key findings from our research include the following:

1. By 64-24, voters say they favor the proposal in Congress that would ban partial birth abortions and make them illegal except when necessary to save the life of the mother. **However, voters say by 65% to 23% there should be an exception to the ban in cases when "the woman's doctor determines that the procedure is necessary to prevent serious harm to the woman's health."** Even among those who strongly favor a partial birth abortion ban, 63% say there should be an exception for preventing serious harm to the woman's health.

2. When told that Congress has passed a bill banning partial birth abortions except when necessary to save the life of the woman, but President Clinton vetoed the ban because it doesn't allow for any exceptions in cases when the procedure is necessary for preventing serious harm to the woman's health, voters say they agree with the President rather than Congress on this matter by 44% to 34%. Democrats support the President by 58% to 24%, and Independents support his position by 47% to 30%. Republicans support the congressional position by 51% to 25%; pro-choice Republicans are evenly divided (38% Clinton, 34% Congress).

3. When asked what their reaction would be if their member of Congress opposed making any exceptions to the partial birth abortion ban for cases when the procedure is needed to prevent serious harm to the woman's health, 45% say they would be less likely to vote for that member, while just 18% say they would be more likely to vote for someone as a result of this position. Pro-choice Republicans split 48% to 20% against a member of Congress who opposes the health exception.

4. When voters are read some criticisms of the congressional ban, two-thirds of voters rate six of them as causing them very or fairly serious concerns. These include: (1) this law represents government interference in personal and difficult medical decisions that should be left up to women, their families, and their doctors

(55% very serious, 20% fairly serious); (2) by passing this law, politicians and government would be putting women at risk by forcing them to use a more dangerous abortion procedure than the one their doctor would have otherwise recommended (53% very serious, 20% fairly serious); (3) this law is so extreme that it doesn't provide exceptions for serious harm to the woman's health (52% very serious, 25% fairly serious); and, (4) this law is a deceptive measure by politicians to focus public attention on the difficult subject of late-term abortion, while actually banning safe and legal procedures throughout pregnancy (46% very serious, 22% fairly serious).

5. The political motivations of the authors of this extreme version of the partial birth abortion ban can be attacked with great credibility. By 59% to 19%, voters say that politicians who are trying to impose more restrictions on abortion are mainly concerned with gaining support for powerful conservative religious groups, rather than with protecting unborn life.

Copied
Reed
Kagan
COS

Abortion - partial birth -
notes + memos

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN
5/14/97

May 13, 1997

'97 MAY 13 PM 5:41

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: DASCHLE AND FEINSTEIN AMENDMENTS

I fully agree - no one can
seriously say D. wouldn't
stop for non-abortion w/
less human damage
Let's do it now

As you know, the Senate is taking up the Partial Birth Abortion Act (HR 1122) this afternoon. We expect Senator Daschle and Senator Feinstein to offer substitute amendments during the course of the debate. We recommend that you send a letter to Congress indicating that you would accept either of these substitute proposals. John Hilley and Rahm strongly agree, believing that a letter of this kind will help prevent a veto override on this issue. The proposed letter is attached; if you agree to send it, we will put it into final form for your signature.

B.C

Background

Both the Feinstein and the Daschle amendments prohibit post-viability abortions generally. They thus differ in two crucial ways from HR 1122: (1) they apply to all procedures, including but not limited to the "partial birth" procedure, and (2) they apply only to abortions performed after the fetus has become viable.

Both amendments impose civil, rather than criminal, penalties. Feinstein's would fine the physician up to \$10,000 for a violation. Daschle's would result in a fine of up to \$100,000, or suspension or revocation of the doctor's medical license (and in the case of a second or subsequent offense, \$250,000 or revocation of the license).

Most critically, both amendments contain a health exception, though of different kinds. The Feinstein legislation would exempt an abortion if, "in the medical judgment of the attending physician, the abortion is necessary to . . . avert serious adverse health consequences to the woman." This language is essentially identical to the language you have used in calling for a health exception to the Partial Birth Act. The Daschle language is more stringent. It exempts an abortion when the physician "certifies that continuation of the pregnancy would . . . risk grievous injury to [the mother's] physical health." "Grievous injury" is then defined as "a severely debilitating disease or impairment specifically caused by the pregnancy, or an inability to provide necessary treatment for a life-threatening condition."

The five women you spoke with before your last year's veto would fall within even the Daschle exception, assuming the truth of their accounts. Each said that her doctor advised her that an abortion was necessary to prevent a risk of grave physical harm -- for example, of serious

damage to her reproductive system. Daschle himself believes that his bill protects such women, and is willing to refer to these women when he offers his amendment. You should be aware, however, of a slight chance that one of the choice groups will persuade one or more of these women to oppose the Daschle bill on the ground that it would not protect women in her situation.

The American College of Obstetricians and Gynecologists today endorsed the Daschle amendment, stating that it "provides a meaningful ban [on post-viability abortions] while assuring women's health is protected." (ACOG took no position on the Feinstein amendment, which the group rightly views as a less serious proposal.) The AMA has refused to take a position on any of the pending legislative proposals, but yesterday issued a study (1) expressing skepticism about the need to use the "partial birth" procedure, but stating that doctors must retain discretion to use medical judgment in selecting procedures, and (2) stating that post-viability abortions are almost never necessary to save a woman's life or prevent serious harm to her health, given the alternative at this stage of delivering the fetus.

The choice groups (somewhat reluctantly) support the Feinstein language, but oppose the Daschle proposal. They argue that the stringency of Daschle's health exception -- including its limitation to cases of physical harm -- undermines the comprehensive protections announced in Roe regarding the health of the woman. The Office of Legal Counsel of the Justice Department similarly believes that both the Daschle and the Feinstein amendments, properly read, violate Roe because they countenance tradeoffs involving women's health. (OLC thinks, however, that a court might be able to interpret the Feinstein amendment so narrowly as to avoid this problem.)

John Hilley believes that a letter from you supporting the Daschle amendment is of crucial importance in sustaining a veto. He worries that if the Daschle amendment goes down to a decisive defeat, many Senators who previously supported you will switch and vote for HR 1122. He thinks a letter of endorsement from you will strengthen the prospects for the Daschle amendment.

Recommendation

We recommend that you endorse the Daschle amendment in order to sustain your credibility on HR 1122 and prevent Congress from overriding your veto. You have spent many months calling on Congress to pass a bill that contains a sufficiently protective, but also appropriately confined, health exception -- as you said in a letter to the Cardinals, not a health exception that "could be stretched to cover most anything," but a health exception that "takes effect only where a woman faces real, serious adverse health consequences." Especially given ACOG's endorsement of the Daschle amendment, it will be difficult for you to make the case that Daschle's language does not adequately safeguard women's health. In these circumstances, declining to support the amendment will weaken your position and increase the chance that Congress will override your veto.

DRAFT

Dear Senators Daschle and Feinstein:

I am writing to express support for your amendments prohibiting late-term abortions. If Congress were to substitute either of these amendments for the current H.R. 1122, I would sign the legislation.

As you know, I have long opposed late-term abortions, and I continue to do so except where necessary to save the life of a woman or prevent serious harm to her health. When I was Governor of Arkansas, I signed into law a bill that barred third-trimester abortions, with an appropriate exception for life or health. And last year, I made clear that I would sign such a bill at the federal level.

Your amendments, though differing in detail, both meet the standards I have set for such legislation. The amendments contain exceptions that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion at a late stage of pregnancy to avert death or great injury. At the same time, the amendments prohibit any late-term abortions performed for elective reasons. This balance is an appropriate one, which I -- and, I believe, most Americans -- would gladly make the nation's law.

Sincerely,

THE PRESIDENT HAS SEEN
4/11/97

THE WHITE HOUSE
WASHINGTON

~~Copy to Bruce~~
Then file - Abortion - partial birth -
notes + memos

'97 APR 11 PM 4:03

copied
Hilley
Kagan
Thornton
COS

April 10, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: John Hilley *John Hilley*
Elena Kagan
Tracey Thornton

SUBJECT: "Partial-Birth" Abortion

*any possibility
we can go any
distance to support
the Baseba bill in
its ~~new~~ structure
won't pointing out
would need abortion
partial birth abortions*

ALTERNATIVES TO THIS PROCEDURE

You have asked whether the so-called partial-birth procedure is ever necessary to save the life of a woman or avert serious harm to her health. Considerable medical uncertainty surrounds this question. The doctors of the women you met with believed the procedure was necessary to prevent serious injury, and other doctors have said that the procedure, in certain circumstances, is or may be the safest one to use. Still other doctors have disputed that health considerations ever demand use of the procedure. *BS*

Perhaps the most reliable opinion is from the American College of Obstetricians and Gynecologists (ACOG), which issued a statement in January addressing the procedure. (ACOG, like most other medical groups, calls the procedure an intact dilatation and extraction or intact D&X.) According to the statement, "A select panel convened by ACOG could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman." (Emphasis in original.) The statement then went on: "An intact D&X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision." In sum, doctors have other options, but those other options may be more risky or otherwise more undesirable from a medical standpoint.

Other groups of doctors, with a greater stake in the abortion controversy, have taken more definitive positions. The Society of Physicians for Reproductive Choice and Health issued a statement last month saying that "in complex obstetrical situations, dilatation and extraction is the safest procedure to use. It carries the least risk of bleeding, perforation, infection or trauma to the birth canal." On the other hand, a group of mostly pro-life physicians called PHACT has written that "there are absolutely no obstetrical situations requiring the destruction of a partially delivered

fetus," and indeed that the procedure involves serious risks of maternal hemorrhage, uterine rupture, and infection.

A recent article in the "New York Times" noted that the partial-birth procedure is only one of three procedures (all of them "pretty gruesome," as one doctor quoted in the article said) that can be used to end pregnancies after 20 weeks. The article reported that three of the twelve abortion specialists interviewed generally prefer the procedure on the ground that it poses less risk of uterine perforation. The article also noted that one doctor who does not usually use the procedure has done so on particular occasions because "the woman's anatomy or the fetus's size demanded it."

Given the state of medical evidence on this subject, an exception for women who need the procedure to prevent serious harm is appropriate. Such an exception would enable the attending doctor -- the person with the most relevant knowledge -- to make the complex decision whether the procedure is in fact medically necessary in a given set of circumstances. The uncertainties surrounding this issue, however, caution against your making any estimates of the number of women whose health, without this procedure, would be at risk of serious harm. Any such estimates, however large or small, would be difficult to support.

HOUSE CONSIDERATION

On March 20 the House passed a bill identical to the one you vetoed last year (H.R. 1122) by a vote of 295-136, five (5) votes more than the two-thirds necessary to override a veto when all Members are present and voting. Since the September 1996 veto override vote in the House, only three Members -- all Republicans -- switched their votes from supporting your veto to supporting the legislation (Representatives Shays (R-CT), Freylinghausen (R-NJ) and Sue Kelly (R-NY). They all indicated that an abortion rights advocate's recent statement that he lied about the number and circumstances of late-term abortions influenced their switch. All 73 Republican freshmen voted for the bill, and 22 of the 42 freshmen Democrats voted against it.

Two different alternatives were offered during the House debate on the floor. The first was a Hoyer (D-MD)/Greenwood (R-PA) substitute which would ban all post-viability abortion procedures with an exception if the woman's life were in jeopardy or if she faced "serious adverse health consequences" without the procedure. The Hoyer/Greenwood substitute was ruled non-germane by the House parliamentarian and a motion to appeal that ruling failed by a vote of 265-165. A second motion to recommit, offered by Congressman Frank (D-MA), would have amended the underlying bill to provide a health exception where the procedure is performed to spare a woman "serious adverse long-term physical health consequences." This health exception would have applied to both pre- and post-viability abortions using the "partial birth" method. That motion failed 149-282.

Opponents of these two alternatives argued that both health exceptions were either overly broad, and therefore would not prevent any procedures, or unnecessary, because there is no instance where this specific procedure is medically necessary to protect the health of the mother. House Judiciary Committee Chairman Henry Hyde, one of the leading proponents of the legislation, has gone even further in publicly stating that, while he will trade "a life for a life," he will "never trade life for health." Given Mr. Hyde's position, which has broad support in the Republican caucus, it is extremely unlikely that any late-term abortion measure that contains even a very narrow health exception will pass the House.

SENATE CONSIDERATION

You will recall that last September the Senate failed by nine (9) votes to override your veto of this legislation (57-41). Senator Lott has indicated that "partial birth" will be on the floor when he has the votes to override a veto, but Senator Daschle is preparing for consideration at any time this month.

The Senate dynamic is somewhat different from the House. First, in his leadership role, Senator Daschle has taken a personal interest in trying to find a compromise that will pass and is also consistent with Roe vs. Wade. Both Senators Daschle and Mikulski recently spoke out strongly in a Democratic caucus meeting that Members should not make up their minds about this issue until after they have considered an alternative being crafted by Senator Daschle (discussed below).

To date, only one Senator who voted against the "partial birth" abortion ban last year has publicly announced that he intends to switch his vote to support the ban -- Senator Hollings, who is up for reelection in '98 and whose state of South Carolina recently enacted a "partial birth" ban (March 1997). Other states that have recently enacted similar bans are listed below.

For his part, Senator Daschle thoroughly understands this area and intends to cast a wide net to try to capture what he regards as the center here. He has held a number of meetings with his colleagues on both sides of the aisle and they have encouraged him to continue his efforts. His aim is to try to construct language that gets the votes to pass the Senate and he is talking to Senators personally to see what it will take to secure those votes. Senator Daschle also recognizes, though, that if he is unsuccessful in getting a majority vote, he still must get a strong vote on his alternative in order to keep enough Members voting to sustain the veto.

The Daschle alternative would ban all abortions after fetal viability unless the mother's life or health is truly endangered. The health exception is being drafted to cover three categories of medically diagnosable conditions based on their severity: (1) disease or illness related to the pregnancy itself, such as serious heart damage or severe hypertension; (2) inability to treat aggressive cancers or life-threatening conditions such as non-Hodgkin's lymphoma, breast cancer, leukemia or diabetes complications ; and (3) injury or loss of function such as paralysis, uterine rupture or future fertility. These categories set parameters to cover circumstances connected

rupture or future fertility. These categories set parameters to cover circumstances connected directly to continuation of the pregnancy but the ultimate decision of which conditions fit within these categories is left to the physician's best judgement. In terms of the sanctions, like the Republican bill, Daschle's alternative also provides for criminal penalties where the ban is violated. [Daschle one-pager attached]

There may be a series of targeted amendments offered as well that will be designed to focus attention on the health issue. For example, amendments could list specific health conditions that would be excepted like breast cancer or diabetes. Another approach would be an amendment that would require that the procedure most protective of a woman's health be used. These would be constructed as message-type amendments to be used only if necessary.

Basically, there are six (6) pro-choice Republicans very much in play for Daschle to pick-up on his compromise: Campbell, Chafee, Collins (ME), Jeffords, Snowe and Specter. Senator Snowe, who has been working closely with Daschle, has indicated that Hutchison (TX), Roth and Stevens are also possible pick-ups but they are long-shots. Daschle has asked Snowe to continue to work her Republican colleagues. With these Republican numbers, Daschle will have to get almost all 45 Democrats in order for his alternative to pass. During the last Congress, four (4) Democrats currently serving voted against a Boxer amendment (Hoyer/Greenwood-type language) which would have applied the ban post-viability only with a health exception: Breaux, Ford, Reid (NV) all three (3) pro-life and Conrad (mixed voting record on abortion). The pro-life Democrats will be the most difficult for Daschle to convince to vote for his alternative because of the strongly held pro-life view that there should be no exception for a woman's health. Both Reid and Breaux are up for reelection in '98. New Senators Landrieu and Cleland will require some work to get their support. In terms of pro-choice and mixed-voting-record Democrats who supported overriding your veto -- Biden, Conrad, Dorgan, Leahy, and Moynihan -- most, if not all, of them will vote for the Daschle alternative. Biden, Dorgan and Leahy voted for the Boxer amendment and Moynihan was absent the day of the vote.

Much of the outcome here depends on the procedural posture under which this compromise arises. While we do not know what that situation will be when the Senate takes this matter up, we can be sure that if the Republicans believe that the Daschle alternative actually has a chance of passing, they will demand at least a separate up or down vote on the underlying Republican bill and there would also be an up or down vote on Daschle. If both pass, both would go into conference with the House-passed bill that you vetoed last year, and we certainly cannot predict what the outcome would be of this conference which would be under the exclusive control of the Republicans. It is likely that they would simply come back with the bill you previously vetoed since most House Republicans, lead by Messrs. Hyde and Canady, are unlikely to accept any measure which contains a health exception. Another possibility is that they would keep both Daschle and the vetoed bill together but further narrow the health exception in the Daschle alternative. Keep in mind though that the Daschle health exception only applies to abortions after viability. This means that, if they combine the Daschle alternative with the Republican bill, the Republican bill would control in cases where the "partial birth"

procedure is performed before viability and therefore, in such instances, there would only be an exception for the life of the mother but not her health.

Procedurally, Daschle's vote count will be higher if Members are able to cast votes on both his alternative and on the underlying Republican bill -- there will be a lot of folks who would vote for both. Members like those who voted for the Boxer amendment and also supported an override would fit into this category. Leahy, Biden, Specter, Campbell and Dorgan are examples. In addition, both Cleland and Landrieu are candidates for voting for both versions. Hollings is obviously in this category now as is freshman Senator Tim Johnson (D-SD) who voted to override your veto when he was in the House. A measure which contained both the Daschle alternative and the underlying Republican bill would probably have the votes to pass the Senate.

Another component of this mix is the strong, unabashed pro-choice wing which includes Members like Boxer, Feinstein and Moseley-Braun. Bolstered by the pro-choice lobby, this group has warned Senator Daschle that they will not support his alternative if the health exception is too narrowly drawn. While this group is not a large one, the vote situation is so tenuous that Daschle does not have a vote to spare on his alternative. For now, he is continuing to canvas other Members and when he has a better idea of his vote count, he will be able to determine the best course of action to take with regard to this group. The language in the alternative is still fairly fluid and changes can be made to accommodate these Members; but in the end, this group will have to come back into the fold. Of course, there is absolutely no danger of any Senators in this group voting to override a veto.

Mention should also be made of Members who are up for re-election in 1998. Senator Harkin has painted for a number of these Democrats -- most notably Senators Murray, Dodd, and Feingold -- a very dire description of how his vote to sustain your veto played in his '96 race. As for Dodd, and to some degree Lieberman, another concern is the fact that moderate House Republican Chris Shays (CT) switched and voted to support the measure. The pro-life community is spending a substantial amount of money running TV ads in certain key states. But countering the Harkin experience is Senator Durbin's '96 race; Durbin has told a number of Members that what matters most is how they talk about this issue.

If the Daschle alternative does not pass, the question becomes which supporters of his alternative will vote for final passage of the Republican bill? As previously pointed out, a strong Daschle vote just shy of passing will likely help in much the same way the Boxer vote happened last year -- 47 Senators voted for her amendment and 41 voted to sustain the veto.

Finally, the ultimate success of Daschle's effort either in passing or getting veto override strength depends a great deal on the rhetorical battle that will become much more intense as this bill goes to the floor. So far, unlike the House, Senate Republicans have not been able to publicly unnerve the Daschle bloc. This is due more than anything to the hard work being put into this effort by Senator Daschle and his team. The fact that the effort has become a Leadership driven initiative is also critical. So the proponents' argument that the recent exposure of the "lies" told by the pro-

choice lobby should cause Senators to reevaluate their position is being countered by the Daschle camp with the fact that, unlike the Daschle alternative, the Republican bill would not stop a single abortion; it would merely result in abortion by other methods, all of which pose a greater risk to the woman's health. By contrast, the alternative would outlaw these late-term abortions entirely no matter what the method and thereby actually reduce the number of abortions in this country without putting women at unacceptable risk. Finally, the Daschle approach permits the argument that even if Congress overrides your veto, the Republican bill will be struck down because its pre-viability restrictions significantly intrude upon the essential holding of the Roe vs. Wade decision. Enactment of the Daschle alternative allows Congress to pass a comprehensive, constitutional ban to stop unnecessary abortions of viable fetuses and is a ban that you would sign.

STATES THAT HAVE RECENTLY ENACTED PROCEDURE SPECIFIC BANS

Georgia : "Partial-Birth" Ban (March 1997)

Michigan: "Partial-Birth" Ban (June 1997); legal challenge filed

Mississippi: "Partial-Birth" Ban (March 1997)

Ohio: "Dilation and Extraction" Ban (August 1995); enjoined by Federal district court and appeal filed with 6th circuit

South Carolina: "Partial-Birth" Ban (March 1997)

South Dakota: "Partial-Birth" Ban (March 1997)

Utah: "Partial-Birth" and "Dilation and Extraction" and "Saline Abortion" Bans (March 1996)

Bipartisan Alternative to S. 6/H.R. 1122

S. 6, the "Partial Birth Abortion Ban", would outlaw the procedure physicians call dilatation and extraction (D&X) at any stage of pregnancy — with no exception for the health of the mother — but allow other, sometimes more dangerous abortion procedures to be used in its place.

The bipartisan alternative to S. 6 would ban all abortions after fetal viability (when the fetus can sustain survivability outside the womb with or without life support) unless the mother's life or health is truly endangered. The health exception to the comprehensive ban is being written to cover only very rare situations that arise from complications of the pregnancy itself, such as serious heart damage (cardiomyopathy), severe hypertension (pre-eclampsia), and, as in the cases of some women carrying severely deformed fetuses, uterine rupture and other injuries; from pre-existing conditions that become very dangerous, such as complications from diabetes (blindness, amputation); or from newly diagnosed diseases, such as aggressive cancers (acute leukemia or breast cancer) that require treatment that cannot be given during pregnancy.

Constitutional Parameters Limiting Government Restriction of Abortion

Right To Terminate Pregnancy Prior To Viability: Roe v. Wade held that the Constitution protects "a woman's decision whether or not to terminate her pregnancy." This holding was reaffirmed in Planned Parenthood of Southeastern Pennsylvania v. Casey, in which the Supreme Court held that "it is a constitutional liberty of the woman to have some freedom to terminate her pregnancy."

Viability Defined: According to the Court, "viability is the time at which there is a realistic possibility of maintaining and nourishing a life outside the womb, so that the independent existence of the second life can in reason and all fairness be the object of state protection that now overrides the rights of the woman." Although the actual point of viability varies with each case, it is generally reached between the 23rd and the 28th week.

Government May Ban Abortion After Viability: In Casey, the Supreme Court reiterated Roe's determination that after viability, the State may ban abortion. Many states have done so, and post-viability abortions comprise less than 0.5% of all abortions (99% occur in the first 20 weeks).

Ban Must Have An Exception When A Woman's Life or Health Is At Risk: According to Roe and Casey, although the State has a legitimate interest in preserving potential life, and may promote this interest by prohibiting abortion once the fetus attains viability, it may not do so when preventing an abortion would endanger the life or health of the mother. The Court has consistently held that "maternal health [must] be the physician's paramount consideration."

Would S. 6 prevent abortions? No. S. 6 would not stop a single abortion; it would merely result in abortion by a different method, such as induction, hysterotomy (pre-term c-section), or dilatation and evacuation (D&E) — all of which pose a greater risk to the mother's health in certain cases.

Can S. 6 become permanent law? No. Even if Congress overrides a Presidential veto, S. 6 is clearly unconstitutional, so it will be struck down by the courts and have no ultimate effect.

Can something be done to stop unnecessary abortions of viable fetuses? Yes. Congress can pass a comprehensive post-viability abortion ban with a narrow life and health exception that will outlaw these very late-term abortions. This will actually reduce the number of abortions in this country without putting women at unacceptable risk. This ban would be constitutional, and the President would sign it.

HOUSE CONSIDERATION

On March 20 the House passed a bill identical to the one you vetoed last year (H.R. 1122) by a vote of 295-136, five (5) votes more than the two-thirds necessary to override a veto when all Members are present and voting. Since the September 1996 veto override vote in the House, only three Members -- all Republicans -- switched their votes from supporting your veto to supporting the legislation (Representatives Shays (R-CT), Freylinghausen (R-NJ) and Sue Kelly (R-NY). They all indicated that an abortion rights advocate's recent statement that he lied about the number and circumstances of late-term abortions influenced their switch. All 73 Republican freshmen voted for the bill, and 22 of the 42 freshmen Democrats voted against it.

Two different alternatives were offered during the House debate on the floor. The first was a Hoyer (D-MD)/Greenwood (R-PA) substitute which would ban all post-viability abortion procedures with an exception if the woman's life were in jeopardy or if she faced "serious adverse health consequences" without the procedure. The Hoyer/Greenwood substitute was ruled non-germane by the House parliamentarian and a motion to appeal that ruling failed by a vote of 265-165. A second motion to recommit, offered by Congressman Frank (D-MA), would have amended the underlying bill to provide a health exception where the procedure is performed to spare a woman "serious adverse long-term physical health consequences." This health exception would have applied to both pre- and post-viability abortions using the "partial birth" method. That motion failed 149-282.

Opponents of these two alternatives argued that both health exceptions were either overly broad, and therefore would not prevent any procedures, or unnecessary, because there is no instance where this specific procedure is medically necessary to protect the health of the mother. ^{a health exception} ^{powerfully explained} This ^{opposition to} position has been ~~best summarized~~ by Judiciary Committee Chairman Henry Hyde, one of the leading proponents of the legislation. He has publicly stated that while he will trade "a life for a life," he will "never trade life for health." Given Mr. Hyde's position, which has broad support in the Republican caucus, it is extremely unlikely that any late-term abortion measure that contains even a very narrow health exception will pass the House.

SENATE CONSIDERATION

You will recall that last September the Senate failed by nine (9) votes to override your veto of this legislation (57-41). Senator Lott has indicated that "partial birth" will be on the floor right after the recess.

The Senate dynamic is somewhat different from the House. First, in his leadership role, Senator Daschle has taken a personal interest in trying to find a compromise that will pass and is also consistent with Roe vs. Wade. Both Senators Daschle and Mikulski recently spoke out strongly in a Democratic caucus meeting that Members should not make up their minds about this issue until after they have considered an alternative being crated by Senator Daschle (discussed below).

To date, only one Senator who voted to sustain your veto has publicly announced that he intends

to switch his vote to support an override -- Senator Hollings, who is up for reelection in '98 and whose state of South Carolina recently enacted a "partial birth" abortion ban (March 1997). Other states that have recently enacted similar bans are listed below.

For his part, Senator Daschle thoroughly understands this area and intends to cast a wide net to try to capture what he regards as the center here. He has held a number of meetings with his colleagues on both sides of the aisle and they have encouraged him to continue his efforts. His aim is to try to construct language that gets the votes to pass the Senate and he is talking to Senators personally to see what it will take to secure those votes. Senator Daschle also recognizes, though, that if he is unsuccessful in getting a majority vote, he still must get a strong vote on his alternative in order to keep enough Members voting to sustain the veto.

The Daschle alternative would ban all abortions after fetal viability unless the mother's life or health is truly endangered. This health exception is being drafted to cover only very rare situations that arise from complications of the pregnancy itself, such as serious heart damage, severe hypertension and, as in the cases of some women carrying severely deformed fetuses, uterine rupture and other injuries; from pre-existing conditions that become very dangerous, such as complications from diabetes or from newly diagnosed diseases that require treatment that cannot be given during pregnancy. The alternative would also provide for criminal penalties where the ban is violated.

Basically, there are six (6) pro-choice Republicans very much in play for Daschle to pick-up on his compromise: Campbell, Chafee, Collins (ME), Snowe and Specter. Senator Snowe, who has been working closely with Daschle, has indicated that Roth and Stevens are also possible pick-ups but they are long-shots. Daschle has asked Snowe to continue to work her Republican colleagues. With these Republican numbers, Daschle will have to get almost all 45 Democrats in order for his alternative to pass. During the last Congress, four (4) Democrats currently serving voted against a Boxer amendment (Hoyer/Greenwood-type language) which would have applied the ban post-viability only with a health exception: Breaux, Ford, Reid (NV) all three (3) pro-life and Conrad (mixed voting record on abortion). These 3 pro-life Democrats will be the most difficult for Daschle to convince to vote for his alternative. In addition, new Senators Landrieu and Cleland will require some work to get their support. In terms of pro-choice and mixed-voting-record Democrats who supported overriding your veto -- Biden, Conrad, Dorgan, Leahy, and Moynihan -- most, if not all, of them will vote for the Daschle alternative. Biden, Dorgan and Leahy voted for the Boxer amendment and Moynihan was absent the day of the vote.

Much of the outcome here depends on the procedural posture under which this compromise arises. While we cannot predict what that situation will be when the Senate takes this matter up, we can be sure that if the Republicans believe that the Daschle alternative has a chance of actually passing, they will demand at least an up or down vote on the underlying Republican bill and there would also be an up or down vote on Daschle. If both pass, both would go into conference with the House-passed bill that you vetoed last year. We cannot predict what the outcome would be of this conference which would be under the exclusive control of the Republicans. It is likely that they would simply come back with the bill you previously vetoed

since most House Republicans, lead by Messrs. Hyde and Canady, are unlikely to accept any measure which contains a health exception. Another possibility is that they would keep both Daschle and the vetoed bill together but further narrow the health exception in the Daschle alternative. **Keep in mind though that the Daschle health exception only goes to abortions after viability. This means that, if they combine the Daschle alternative with the Republican bill, the Republican bill would control in cases where the "partial birth" procedure is performed before viability and therefore, in such instances, there would only be an exception for the life of the mother but not health.**

Procedurally, Daschle's vote count will be higher if Members are able to cast votes on both his alternative and on the underlying Republican bill -- there will be a lot of folks who would vote for both. Members like those who voted for the Boxer amendment and also supported an override would fit into this category. Leahy, Biden, Specter, Campbell and Dorgan are examples. In addition, both Cleland and Landrieu are candidates for voting for both versions. Hollings is obviously in this category now as well. A measure which contained both the Daschle alternative and the underlying Republican bill would probably have the votes to pass the Senate.

Another component of this mix is the strong, unabashed pro-choice wing which includes Members like Boxer, Feinstein and Moseley-Braun. Bolstered by the pro-choice lobby, this group has warned Senator Daschle that they will not support his alternative if the health exception is too narrowly drawn. While this group is not a large one, the vote situation is so tenuous that Daschle does not have a vote to spare on his alternative. For now, he is continuing to canvas other Members and when he has a better idea of what his vote count, he will be able to determine the best course of action to take with regard to this group. The language in the alternative is still fairly fluid and changes can be made to accommodate these Members; but in the end, this group will have to come back into the fold. Of course, there is absolutely no danger in any Member of this group voting to override a veto.

Mention should also be made of Members who are up for re-election in 1998. Senator Harkin has painted for a number of these Democrats a very dire description of how his vote to sustain your veto played in his '96 race -- most notably Senators Murray, Dodd, and Feingold. As for Dodd and to some degree Lieberman, another issue for these Members is the fact that moderate House Republican Chris Shays switched and voted to support the measure. The pro-life community is spending a substantial amount of money running TV ads in certain key states. But countering the Harkin experience is Senator Durbin's '96 race; he has told a number of Members that what matters most is how they talk about this issue.

If the Daschle alternative does not pass, the question becomes which supporters of his alternative will vote for final passage of the Republican bill? As previously pointed out, a strong Daschle vote just shy of passing will likely help in much the same way the Boxer vote happened last year -- 47 Senators voted for her amendment and 41 voted to sustain the veto.

Finally, the ultimate success of Daschle's effort either in passing or getting veto override strength depends a great deal on the rhetorical battle that will become much more intense when they

return. So far, unlike the House, Senate Republican have not been able to publicly unnerve the Daschle bloc. This is due more than anything to the hard work being put into this effort by Senator Daschle and his team. The fact that the effort has become a Leadership driven initiative is also critical. So the proponents' argument that the recent exposure of the "lies" told by the pro-choice lobby should cause Senators to reevaluate their position is being countered by the Daschle camp with the fact that, unlike the Daschle alternative, the Republican bill would not stop a single abortion; it would merely result in abortion by other methods, all of which pose a greater risk to the woman's health. By contrast, the alternative would outlaw these late-term abortions entirely no matter what the method and thereby actually reduce the number of abortions in this country without putting women at unacceptable risk. Finally, the Daschle approach permits the argument that even if Congress overrides your veto, the Republican bill will never become law because it will be struck down by the Court as unconstitutional. Enactment of the Daschle alternative allows Congress to pass a comprehensive, constitutional ban to stop unnecessary abortions of viable fetuses and is a ban that you would sign.

STATES THAT HAVE RECENTLY ENACTED PROCEDURE SPECIFIC BANS

Georgia : "Partial-Birth" Ban (March 1997)

Michigan: "Partial-Birth" Ban (June 1997); legal challenge filed

Mississippi: "Partial-Birth" Ban (March 1997)

Ohio: "Dilation and Extraction" Ban (August 1995); enjoined by Federal district court and appeal filed with 6th circuit

South Carolina: "Partial-Birth" Ban (March 1997)

South Dakota: "Partial-Birth" Ban (March 1997)

Utah: "Partial-Birth" and "Dilation and Extraction" and "Saline Abortion" Bans (March 1996)

Abortion - partial birth -
notes

Patricia F. Lewis

03/04/97 01:13:53 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Abortion

I talked to the reporter with *Our Sunday Visitor*. She said Doug Johnson, National Right to Life Committee, was making his remarks based on what Leon said in December.

What I said, as you advised, was that the President has never said that needed to be in the bill. He has said many times that he would sign this bill, if it contained an exception in cases where the procedure is necessary to save a woman's life or prevent serious harm to her health.

Thanks for the help.

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR: SYLVIA MATTHEWS
JOHN PODESTA
RAHM EMANUEL
JOHN HILLEY
MELANNE VERVEER
VICKI RADD
CHUCK RUFF

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: LATE TERM ABORTION LETTER

Attached is a draft letter from the President stating his support for the Daschle and Feinstein amendments. Assuming the President signs off, we recommend sending the letter as soon as possible.

both find. occurs

Dear Senators Daschle and Feinstein:

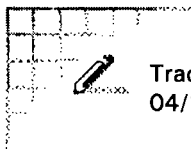
I am writing to express support for your amendments prohibiting late-term abortions. If Congress were to substitute either of these amendments for the current H.R. 1122, I would sign the legislation.

As you know, I have long opposed late-term abortions, and I continue to do so except where necessary to save the life of a woman or prevent serious harm to her health. When I was Governor of Arkansas, I signed into law a bill that barred third-trimester abortions, with an appropriate exception for life or health. And last year, I made clear that I would sign such a bill at the federal level.

Your amendments, though differing in detail, both meet the standards I have set for such legislation. The amendments contain exceptions that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion at a late stage of pregnancy to avert death or great injury. At the same time, the amendments prohibit any late-term abortions performed for elective reasons. This balance is an appropriate one, which I -- and, I believe, most Americans -- would gladly make the nation's law.

Sincerely,

Aburke - partial birth -
notes + memos



Tracey E. Thornton
04/18/97 11:04:49 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: John L. Hilley/WHO/EOP, Elisa Millsap/WHO/EOP, John Podesta/WHO/EOP

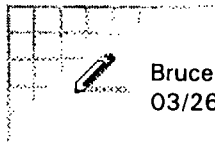
Subject: Late-term

We're hearing that late-term is likely to come up within the next two weeks in the Senate -- after chemical weapons and comp/flex time -- which would put it on the floor about the first week of May. The President's comments on our memo went to trying to get Catholic support for the Daschle approach. I've been talking to Daschle's folks about this and they're happy to help us with ideas. John (Hart) I told Caroline Fredrickson you may call (224-9531). In any case, we need some feedback from this process as we go forward on the hill. Let me know...

Message Sent To:

John P. Hart/WHO/EOP
Elena Kagan/OPD/EOP
Sylvia M. Mathews/WHO/EOP
Ann F. Lewis/WHO/EOP
Nicole R. Rabner/WHO/EOP
Jennifer L. Klein/OPD/EOP
Barbara D. Woolley/WHO/EOP

Abortion - partial birth -
notes rmemos



Bruce N. Reed
03/26/97 10:05:33 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: attached

That looks pretty good. We should probably let him know that the number of women whose health is potentially at risk here is very small -- not the few hundred he said at the press conference -- and that principles more than lives are what's at stake. That won't make him feel any better.

That Times story was really gruesome.

DRAFT
ALTERNATIVES TO THIS PROCEDURE

You have asked whether the so-called partial-birth procedure is ever necessary to save the life of a woman or avert serious harm to her health. Considerable medical uncertainty surrounds this question. The doctors of the women present during your veto believed the procedure was necessary for this reason, and other doctors agree that the procedure, in certain circumstances, is the safest one to use. Still other doctors dispute that health considerations ever demand use of the procedure.

Perhaps the most reliable opinion is from the American College of Obstetricians and Gynecologists (ACOG), which issued a statement in January addressing the procedure, which it calls intact dilatation and extraction (intact D&X). According to the statement, "A select panel convened by ACOG could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman." (Emphasis in original.) The statement then went on: "An intact D&X, however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances can make this decision." In sum, doctors have other options, but those other options may be more risky or otherwise more undesirable from a medical standpoint.

Other groups of doctors, with a greater stake in the abortion controversy, have taken more definitive positions. The Society of Physicians for Reproductive Choice and Health issued a statement last month saying that "in complex obstetrical situations, dilatation and extraction is the safest procedure to use. It carries the least risk of bleeding, perforation, infection or trauma to the birth canal." On the other hand, a group of mostly pro-life physicians called PHACT has written that "there are absolutely no obstetrical situations requiring the destruction of a partially delivered fetus," and indeed that the procedure involves serious risks of maternal hemorrhage, uterine rupture, and infection.

A recent article in the New York Times notes that the partial-birth procedure is only one of three procedures (all of them "pretty gruesome," as one doctor says) that can be used to end pregnancies after 20 weeks. The article reports that three of the twelve abortion specialists interviewed for the article generally prefer the procedure on the ground that it poses less risk of uterine perforation. The article also notes that one doctor who does not usually use the procedure has done so on occasion because "the woman's anatomy or the fetus's size demanded it."

Given the state of medical evidence on this subject, your longstanding position seems the appropriate one. That position would leave to doctors themselves the complex decision whether the procedure is medically necessary in a given set of circumstances. ~~Allowing the medical community to make clearly medical decisions in this way is the only certain way to protect the health of women.~~

~~It is important to note, however, that the number of women who need this procedure to save her life or prevent injury to her health is very uncertain, and you should, therefore, be very cautious about estimating the number of women whose health, without this procedure, would be at risk of serious harm.~~

Abortion -
partial birth -
notes + memos

→ health exception

Partial
birth
notes

Wen
or

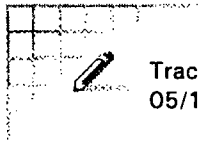
Post ✓

no
health
exception

Pre - ✓

allowed

Anti-Partial Birth -
notes + memos



Tracey E. Thornton
05/12/97 05:43:27 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: late-term

Okay...Boxer is okay with letter supporting both her and Daschle but her staff is outraged at the notion that we might Daschle ("women not covered/unconstitutional"). She will not support Daschle but hasn't decided what her level of opposition will be.

Message Sent To:

Elena Kagan/OPD/EOP
William P. Marshall/WHO/EOP
Sara M. Latham/WHO/EOP
Jennifer L. Klein/OPD/EOP
Ann F. Lewis/WHO/EOP

Abortion-Partial Birth -
Notes + memos

Maria Echaveste

05/14/97 11:33:46 AM

Record Type: Record

To: John Podesta/WHO/EOP, Rahm I. Emanuel/WHO/EOP

cc: Sylvia M. Mathews/WHO/EOP, Sara M. Latham/WHO/EOP, Elena Kagan/OPD/EOP

Subject: Late-term/Daschle Amendment

John/Rahm--Even if a decision gets made within the one/two hours on the Daschle amendment issue, it would still be very useful if we could arrange for you a meeting or conference call with some key women's groups on this abortion issue. Clearly if a call or meeting could be done before a decision were made--that would be the best, but even if shortly after, it will help with damage control. (While we all anticipate that our friends are not going to be violently criticizing, there will still be severe disappointment.)

THE WHITE HOUSE
WASHINGTON

May 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: DASCHLE AND FEINSTEIN AMENDMENTS

As you know, the Senate is taking up the Partial Birth Abortion Act (HR 1122) this afternoon. We expect Senator Daschle and Senator Feinstein to offer substitute amendments during the course of the debate. We recommend that you send a letter to Congress indicating that you would accept either of these substitute proposals. John Hilley and Rahm strongly agree, believing that a letter of this kind will help prevent a veto override on this issue. The proposed letter is attached; if you agree to send it, we will put it into final form for your signature.

Background

Both the Feinstein and the Daschle amendments prohibit post-viability abortions generally. They thus differ in two crucial ways from HR 1122: (1) they apply to all procedures, including but not limited to the "partial birth" procedure, and (2) they apply only to abortions performed after the fetus has become viable.

Both amendments impose civil, rather than criminal, penalties. Feinstein's would fine the physician up to \$10,000 for a violation. Daschle's would result in a fine of up to \$100,000, or suspension or revocation of the doctor's medical license (and in the case of a second or subsequent offense, \$250,000 or revocation of the license).

Most critically, both amendments contain a health exception, though of different kinds. The Feinstein legislation would exempt an abortion if, "in the medical judgment of the attending physician, the abortion is necessary to . . . avert serious adverse health consequences to the woman." This language is essentially identical to the language you have used in calling for a health exception to the Partial Birth Act. The Daschle language is more stringent. It exempts an abortion when the physician "certifies that continuation of the pregnancy would . . . risk grievous injury to [the mother's] physical health." "Grievous injury" is then defined as "a severely debilitating disease or impairment specifically caused by the pregnancy, or an inability to provide necessary treatment for a life-threatening condition."

The five women you spoke with before your last year's veto would fall within even the Daschle exception, assuming the truth of their accounts. Each said that her doctor advised her that an abortion was necessary to prevent a risk of grave physical harm -- for example, of serious

damage to her reproductive system. Daschle himself believes that his bill protects such women, and is willing to refer to these women when he offers his amendment. You should be aware, however, of a slight chance that one of the choice groups will persuade one or more of these women to oppose the Daschle bill on the ground that it would not protect women in her situation.

The American College of Obstetricians and Gynecologists today endorsed the Daschle amendment, stating that it “provides a meaningful ban [on post-viability abortions] while assuring women’s health is protected.” (ACOG took no position on the Feinstein amendment, which the group rightly views as a less serious proposal.) The AMA has refused to take a position on any of the pending legislative proposals, but yesterday issued a study (1) expressing skepticism about the need to use the “partial birth” procedure, but stating that doctors must retain discretion to use medical judgment in selecting procedures, and (2) stating that post-viability abortions are almost never necessary to save a woman’s life or prevent serious harm to her health, given the alternative at this stage of delivering the fetus.

The choice groups (somewhat reluctantly) support the Feinstein language, but oppose the Daschle proposal. They argue that the stringency of Daschle’s health exception -- including its limitation to cases of physical harm -- undermines the comprehensive protections announced in Roe regarding the health of the woman. The Office of Legal Counsel of the Justice Department similarly believes that both the Daschle and the Feinstein amendments, properly read, violate Roe because they countenance tradeoffs involving women’s health. (OLC thinks, however, that a court might be able to interpret the Feinstein amendment so narrowly as to avoid this problem.)

John Hilley believes that a letter from you supporting the Daschle amendment is of crucial importance in sustaining a veto. He worries that if the Daschle amendment goes down to a decisive defeat, many Senators who previously supported you will switch and vote for HR 1122. He thinks a letter of endorsement from you will strengthen the prospects for the Daschle amendment.

Recommendation

We recommend that you endorse the Daschle amendment in order to sustain your credibility on HR 1122 and prevent Congress from overriding your veto. You have spent many months calling on Congress to pass a bill that contains a sufficiently protective, but also appropriately confined, health exception -- as you said in a letter to the Cardinals, not a health exception that “could be stretched to cover most anything,” but a health exception that “takes effect only where a woman faces real, serious adverse health consequences.” Especially given ACOG’s endorsement of the Daschle amendment, it will be difficult for you to make the case that Daschle’s language does not adequately safeguard women’s health. In these circumstances, declining to support the amendment will weaken your position and increase the chance that Congress will override your veto.

DRAFT

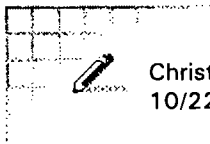
Dear Senators Daschle and Feinstein:

I am writing to express support for your amendments prohibiting late-term abortions. If Congress were to substitute either of these amendments for the current H.R. 1122, I would sign the legislation.

As you know, I have long opposed late-term abortions, and I continue to do so except where necessary to save the life of a woman or prevent serious harm to her health. When I was Governor of Arkansas, I signed into law a bill that barred third-trimester abortions, with an appropriate exception for life or health. And last year, I made clear that I would sign such a bill at the federal level.

Your amendments, though differing in detail, both meet the standards I have set for such legislation. The amendments contain exceptions that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion at a late stage of pregnancy to avert death or great injury. At the same time, the amendments prohibit any late-term abortions performed for elective reasons. This balance is an appropriate one, which I -- and, I believe, most Americans -- would gladly make the nation's law.

Sincerely,



Christopher C. Jennings
10/22/97 08:19:10 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Satcher update

David Satcher was reported out of the Labor and Human Resources Committee by 12-5 vote. The vote makes it very possible that we could have a confirmed Surgeon General by the time Congress goes home for the winter.

There appears to be one major issue that might get in the way. Prior to the vote, Senator Coats made a big deal about Dr. Satcher supporting the President's position on the partial birth issue. Rich Tarplin and I are somewhat concerned that some of the right-leaning Republicans may, once again, take the opportunity to use the final Senate floor vote on Dr. Satcher's confirmation as a vehicle to hit the President again on this issue. Worst case scenario, of course, is the politics of partial birth has the impact of delaying the final vote until next year.

At this point, we may be being overly paranoid/cautious, but we felt -- at the very least -- we should be prepared to answer questions on this issue one more time. I assume it would be a reiteration of the President's position, which of course Dr. Satcher supports, and a criticism that certain members are -- once again -- trying to politicize "America's doctor" and delay the valuable service he can provide. If we hear anything new on this front, we will advise immediately...

cj

Message Sent To:

John Podesta/WHO/EOP
Sylvia M. Mathews/WHO/EOP
Bruce N. Reed/OPD/EOP
John L. Hilley/WHO/EOP
Elena Kagan/OPD/EOP
Joshua Gotbaum/OMB/EOP
FOLEY_M @ A1 @ CD @ LNGTWY
Janet Murguia/WHO/EOP
Michael D. McCurry/WHO/EOP
Barry J. Toiv/WHO/EOP

Abortion - partial birth -
notes + memos

PETER G. JACOBY

05/29/97 03:27:36 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Recent POTUS statements on late term

As you may know, the House is tentatively scheduled to consider the Senate amendments to the late term bill next Thursday. My question is whether the POTUS or any other Administration official has (officially) reiterated our veto threat following the Senate's adoption of the AMA-sponsored amendments. If so do we have paper to send to the Hill or if not perhaps a new SAP is in order.]
Peter

Atlantic -
partial birth -
notes + memos

5/28/97

Abortion - groups meeting
Clay, doctors around Pres for veto.
Do contraception stuff

AMA meeting - June 23

Admin efforts → AMA
(some Admin people - delegates)

id.

are running the
The BPC recommends that you ~~are~~ ~~some~~
give a major speech about welfare
reform in the next month or two -
perhaps to a state legislature -
incorporating some of the ideas
in this memo about

copied
Reed
Kagan
cos

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN
5/14/97

May 13, 1997

'97 MAY 13 PM5:41

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: DASCHLE AND FEINSTEIN AMENDMENTS

I fully agree - no one can
seriously say D. wouldn't
stop far more abortion w/
let human beings
lets do it now

As you know, the Senate is taking up the Partial Birth Abortion Act (HR 1122) this afternoon. We expect Senator Daschle and Senator Feinstein to offer substitute amendments during the course of the debate. We recommend that you send a letter to Congress indicating that you would accept either of these substitute proposals. John Hilley and Rahm strongly agree, believing that a letter of this kind will help prevent a veto override on this issue. The proposed letter is attached; if you agree to send it, we will put it into final form for your signature.

B.C.

Background

Both the Feinstein and the Daschle amendments prohibit post-viability abortions generally. They thus differ in two crucial ways from HR 1122: (1) they apply to all procedures, including but not limited to the "partial birth" procedure, and (2) they apply only to abortions performed after the fetus has become viable.

Both amendments impose civil, rather than criminal, penalties. Feinstein's would fine the physician up to \$10,000 for a violation. Daschle's would result in a fine of up to \$100,000, or suspension or revocation of the doctor's medical license (and in the case of a second or subsequent offense, \$250,000 or revocation of the license).

Most critically, both amendments contain a health exception, though of different kinds. The Feinstein legislation would exempt an abortion if, "in the medical judgment of the attending physician, the abortion is necessary to . . . avert serious adverse health consequences to the woman." This language is essentially identical to the language you have used in calling for a health exception to the Partial Birth Act. The Daschle language is more stringent. It exempts an abortion when the physician "certifies that continuation of the pregnancy would . . . risk grievous injury to [the mother's] physical health." "Grievous injury" is then defined as "a severely debilitating disease or impairment specifically caused by the pregnancy, or an inability to provide necessary treatment for a life-threatening condition."

The five women you spoke with before your last year's veto would fall within even the Daschle exception, assuming the truth of their accounts. Each said that her doctor advised her that an abortion was necessary to prevent a risk of grave physical harm -- for example, of serious

damage to her reproductive system. Daschle himself believes that his bill protects such women, and is willing to refer to these women when he offers his amendment. You should be aware, however, of a slight chance that one of the choice groups will persuade one or more of these women to oppose the Daschle bill on the ground that it would not protect women in her situation.

The American College of Obstetricians and Gynecologists today endorsed the Daschle amendment, stating that it "provides a meaningful ban [on post-viability abortions] while assuring women's health is protected." (ACOG took no position on the Feinstein amendment, which the group rightly views as a less serious proposal.) The AMA has refused to take a position on any of the pending legislative proposals, but yesterday issued a study (1) expressing skepticism about the need to use the "partial birth" procedure, but stating that doctors must retain discretion to use medical judgment in selecting procedures, and (2) stating that post-viability abortions are almost never necessary to save a woman's life or prevent serious harm to her health, given the alternative at this stage of delivering the fetus.

The choice groups (somewhat reluctantly) support the Feinstein language, but oppose the Daschle proposal. They argue that the stringency of Daschle's health exception -- including its limitation to cases of physical harm -- undermines the comprehensive protections announced in Roe regarding the health of the woman. The Office of Legal Counsel of the Justice Department similarly believes that both the Daschle and the Feinstein amendments, properly read, violate Roe because they countenance tradeoffs involving women's health. (OLC thinks, however, that a court might be able to interpret the Feinstein amendment so narrowly as to avoid this problem.)

John Hilley believes that a letter from you supporting the Daschle amendment is of crucial importance in sustaining a veto. He worries that if the Daschle amendment goes down to a decisive defeat, many Senators who previously supported you will switch and vote for HR 1122. He thinks a letter of endorsement from you will strengthen the prospects for the Daschle amendment.

Recommendation

We recommend that you endorse the Daschle amendment in order to sustain your credibility on HR 1122 and prevent Congress from overriding your veto. You have spent many months calling on Congress to pass a bill that contains a sufficiently protective, but also appropriately confined, health exception -- as you said in a letter to the Cardinals, not a health exception that "could be stretched to cover most anything," but a health exception that "takes effect only where a woman faces real, serious adverse health consequences." Especially given ACOG's endorsement of the Daschle amendment, it will be difficult for you to make the case that Daschle's language does not adequately safeguard women's health. In these circumstances, declining to support the amendment will weaken your position and increase the chance that Congress will override your veto.

DRAFT

Dear Senators Daschle and Feinstein:

I am writing to express support for your amendments prohibiting late-term abortions. If Congress were to substitute either of these amendments for the current H.R. 1122, I would sign the legislation.

As you know, I have long opposed late-term abortions, and I continue to do so except where necessary to save the life of a woman or prevent serious harm to her health. When I was Governor of Arkansas, I signed into law a bill that barred third-trimester abortions, with an appropriate exception for life or health. And last year, I made clear that I would sign such a bill at the federal level.

Your amendments, though differing in detail, both meet the standards I have set for such legislation. The amendments contain exceptions that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion at a late stage of pregnancy to avert death or great injury. At the same time, the amendments prohibit any late-term abortions performed for elective reasons. This balance is an appropriate one, which I -- and, I believe, most Americans -- would gladly make the nation's law.

Sincerely,

218945 JS

'97 MAY 12 PM 8:09

WE 003

THE WHITE HOUSE
WASHINGTON

May 12, 1997

THE PRESIDENT HAS SEEN

5/13/97

MEMORANDUM FOR THE PRESIDENT

FROM:

ELENA KAGAN *EL*

SUBJECT:

DASCHLE AMENDMENT

The First Lady asked Sylvia for a copy of the amendment that Senator Daschle plans to offer tomorrow during the debate on the Partial Birth Abortion Act. Sylvia suggested that I send it to you too. Attached is the most recent draft. As you will see, the amendment prohibits all post-viability abortions, with an exception for life or "grievous injury." I am sorry I could not find a cleaner copy of the amendment. Please let me know if you have any questions.

1757

Abortion - partial birth
legislative

05/08/97

18:48

Q 004

DRAFT -- NOT FOR DISTRIBUTION

Findings

(1) As the Supreme Court recognized in Roe v. Wade, the government has an "important and legitimate interest in preserving and protecting the health of the pregnant woman . . . and has still another important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grows in substantiality as the woman approaches term and, at a point during pregnancy, each becomes compelling";

(2) In delineating at what point the government's interest in fetal life becomes "compelling," Roe v. Wade held that "a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability," a conclusion reaffirmed in Planned Parenthood of Southeastern Pennsylvania v. Casey;

(3) Planned Parenthood v. Casey also reiterated Roe's holding that the government's interest in potential life becomes compelling with fetal viability, stating that "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even prescribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother";

(4) According to the Supreme Court, viability "is the time at which there is a realistic possibility of maintaining and nourishing a life outside the womb, so that the independent existence of the second life can in reason and all fairness be the object of state protection that now overrides the rights of the woman";

(5) The Supreme Court has thus indicated that it is constitutional for Congress to ban abortions occurring after viability so long as the ban does not apply when a woman's life or health faces a serious threat;

(6) Even when it is necessary to terminate a pregnancy to save the life or health of the mother, every medically appropriate measure should be taken to protect a viable fetus as long as the mother's health is not put at greater risk;

(7) It is well established that women may suffer serious health conditions during pregnancy, such as breast cancer, preeclampsia, uterine rupture or non-Hodgkin's lymphoma, among others, that may require the pregnancy to be terminated;

(8) While such situations are rare, not only would it be unconstitutional but it would be unconscionable for Congress to ban abortions in such cases, forcing women to endure severe damage to their health and, in some cases, risk early death;

(9) In cases where the mother's health is not at such high risk, however, it is appropriate for Congress to assert its "compelling interest" in fetal life by prohibiting abortions after fetal viability;

(10) While many States have banned abortions of viable fetuses, in some States it continues to be legal for a healthy woman to abort a viable fetus;

(11) As a result, women seeking abortions may travel between the States to take advantage of differing State laws;

(12) To prevent abortions of viable fetuses not necessitated by severe medical complications, Congress must act to make such abortions illegal in all States;

(more)

05/08/97 10:48

DRAFT -- NOT FOR DISTRIBUTION

(13) Congress finds that abortion of a viable fetus should be prohibited throughout the United States, unless a woman's life or health is threatened and that, even when it is necessary to terminate the pregnancy, every measure should be taken, consistent with the goals of protecting the mother's life and health, to preserve the life and health of the fetus.

Prohibition of Post-Viability Abortions

(a) In General. It shall be unlawful to abort a viable fetus unless the physician certifies that continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

"Grievous injury" shall be defined as:

- (a) a severely debilitating disease or impairment specifically caused by the pregnancy; or
- (b) an inability to provide necessary treatment for a life-threatening condition.

(b) "Grievous injury" does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated.

Penalties

(a) Action by Attorney General: the Attorney General may commence a civil action under this Act in any appropriate United States District Court.

(b) Relief.

(1) First offense: In any action under subparagraph (.), the court shall order the suspension or revocation of respondent's medical license, certificate, or permit, or shall assess a civil penalty against the respondent in an amount not exceeding \$100,000, or both.

(2) Second offense: If the respondent has been convicted on a prior occasion for a violation of this Act, the court shall order the revocation of respondent's medical license, certificate, or permit, or shall assess a civil penalty against the respondent in an amount not exceeding \$250,000, or both.

(c) Certification Requirements. At the time of the commencement of an action under this section, the Attorney General shall certify to the court that at least 30 calendar days previously --

(1) he or she has notified in writing to the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision of the alleged violation of this section; and

(2) he or she believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

No woman who has had an abortion after fetal viability may be prosecuted under this section for a conspiracy to violate this section or for an offense under section 2, 3, 4, or 1512 of this title.

(more)

Abortion - Partial Birth

Penalties

(a) **Action by Attorney General.** The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this Act in any appropriate United States District Court.

(b) **Relief.**

(1) **First offense:** In any action under subparagraph (), the court shall notify the State medical licensing authority in order to effect the suspension or revocation of respondent's medical license, or shall assess a civil penalty against the respondent in an amount not exceeding \$100,000, or both.

(2) **Second offense:** If the respondent has been convicted on a prior occasion for a violation of this Act, the court shall notify the State medical licensing authority in order to effect the revocation of respondent's medical license, or shall assess a civil penalty against the respondent in an amount not exceeding \$250,000, or both.

(3) **Hearing on penalties:** The State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine penalties under this Title.

(c) **Certification Requirements.** At the time of the commencement of an action under this section, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General shall certify to the court that at least 30 calendar days previously --

(1) he or she has notified in writing to the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision of the alleged violation of this section, as well as the State medical licensing board or other appropriate State agency, and

(2) he or she believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

No woman who has had an abortion after fetal viability may be prosecuted under this section for a conspiracy to violate this section or for an offense under section 2, 3, 4, or 1512 of this title.

Regulations

In the certification to be submitted under subsection (), the physician shall certify that, in his or her best medical judgment, an abortion was medically necessary pursuant to subsection (), and describe the medical indications supporting his or her judgment.

The Department of Health and Human Services shall establish regulations for certification by the physician under subsection (), unless the State has its own certification procedure for abortions after fetal viability.

In addition, Department of Health and Human Services shall establish regulations to ensure the confidentiality of all information submitted pursuant to certification by the physician, as required by subsection ().

Each State shall ensure that the State medical licensing authority develops regulations to effect the revocation or suspension of respondent's medical license under subsection (), or the State shall be subject to loss of funding under title XVIII.

Rule of Construction

Nothing in this chapter shall be construed to prohibit State or local governments from regulating, restricting, or prohibiting post-viability abortions to the extent permitted by the Constitution of the United States.

PB - Letters

Abortion - partial birth -
Letters

THE WHITE HOUSE

WASHINGTON

July 22, 1998

The Honorable Steny Hoyer
House of Representatives
Washington, D.C. 20515

Dear Steny:

I am writing to express my concern over Congress's intention to override my veto of H.R. 1122, the so-called partial birth bill, rather than to pass the legislation I have called for to prohibit this procedure except when necessary to save the life of the mother or prevent serious harm to her health. In taking this approach, Congress is jeopardizing the safety of women and using this painful issue as an opportunity to score political points, rather than to pass appropriate legislation.

The procedure addressed in H.R. 1122 poses a difficult and disturbing issue. I strongly believe that we generally should prohibit the use of this procedure. I have insisted, however, on exempting those few but tragic cases in which this procedure is necessary to save a woman's life or to protect her against serious injury. I again call upon Congress to add such a narrow, tightly drawn exception to this bill, so that I can sign the legislation and put an end to all other uses of this procedure.

As you know, I have long opposed late-term abortions regardless of the procedure used, and as Governor of Arkansas, I signed into law a bill that banned them, with an appropriate exception for the life or health of the mother. The legislation that you have sponsored with Representative Greenwood -- which prohibits all late-term abortions, except those necessary to save the life of a woman or prevent serious harm to her health -- is consistent with my principles. If Congress were to pass your bill, I would sign it immediately.

Congress's refusal to consider such constructive proposals -- proposals that would put an end to inappropriate abortions while protecting women from death or serious injury -- prevents us from resolving these issues and moving forward. Similarly, Congress's recent votes restricting safe medical choices and access to family planning information and services stand in the way of progress on these issues. I urge Congress once again to move beyond ideology and political maneuvering, to protect women's lives and health, and to reduce the need for abortions.

Sincerely,

Bill Clinton

As - partial birth

Letters
Letters

THE WHITE HOUSE
WASHINGTON

July 22, 1998

The Honorable James C. Greenwood
House of Representatives
Washington, D.C. 20515

Dear Representative Greenwood:

I am writing to express my concern over Congress's intention to override my veto of H.R. 1122, the so-called partial birth bill, rather than to pass the legislation I have called for to prohibit this procedure except when necessary to save the life of the mother or prevent serious harm to her health. In taking this approach, Congress is jeopardizing the safety of women and using this painful issue as an opportunity to score political points, rather than to pass appropriate legislation.

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As you know, I have long opposed late-term abortions regardless of the procedure used, and as Governor of Arkansas, I signed into law a bill that banned them, with an appropriate exception for the life or health of the mother. The legislation that you have sponsored with Representative Hoyer -- which prohibits all late-term abortions, except those necessary to save the life of a woman or prevent serious harm to her health -- is consistent with my principles. If Congress were to pass your bill, I would sign it immediately.

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Sincerely,

Bill Clinton

Abortion - partial birth -
letters

EXECUTIVE OFFICE OF THE PRESIDENT



FACSIMILE TRANSMITTAL SHEET

Number of pages including cover 5Date 5/23/97To ElenaFAX Number 62878

Notes #
Comments: Phil + Todd want to send this up today, as POTUS
will be out next week. Does this work? Should we address
Carter's concern re: "90% issue"? Thanks. Jim D.

(Please call me ASAP at 65420 or page me at 4491.
Jim D.)

From Jim D.

OFFICE OF THE DIRECTOR
Presidential Correspondence
The White House
Washington, DC 20500
Phone: 202-456-7610
Fax: 202-456-7993

FROM : AIRD - CARTER

PHONE NO. :

May. 21 1997 12:33PM P2

5/22/97



Yale Law School
127 Wall Street
New Haven, Connecticut 06511

STEPHEN L. CARTER
William Nelson Cromwell
Professor of Law

(203) 432-4839
(203) 432-4871 (fax)

May 21, 1997

The President
The White House
Washington, D.C. 20500-2000

Dear Mr. President:

Some time ago, you asked me to feel free to get in touch with you if I had any ideas or suggestions. I have not presumed upon that privilege until now. But I believe we have reached a singular moral moment.

I am writing, Mr. President, to ask you -- to plead with you -- to sign the just-passed legislation banning what has come to be called "partial-birth abortion."

Mr. President, you have shown yourself admirably ready to act as a "New Democrat" across so many important areas of American life: race, religion, welfare, crime, and foreign affairs, to name a few. You have rejected the ready instinct of so many liberals (and conservatives) to do at once what powerful constituencies have demanded. You have reminded Democrats that the soul of the Party belongs not to liberal interest groups, but to the middle class that is the backbone of the nation. In consequence, you have managed to lead an often unwilling Democratic Party back to its roots and thus back to a near-majority status. Moreover, you have demonstrated to the nation that it is possible for us to have a politics that is driven by a mix of moral judgment and practical compromise, rather than by adherence to the narrow agendas of particular organizations.

But by refusing to compromise on the "partial-birth abortion" question, you risk this significant accomplishment. For abortion, too, is an issue on which the Democratic Party needs a leader who will help it to claim the center. A ban on this abortion method is both a very sensible and a very moral place to start.

FROM : AIRD - CARTER

PHONE NO. :

May. 21 1997 12:34PM P3

Letter to the President
May 21, 1997
Page 2

I know that you are aware of the lack of medical necessity for this gruesome procedure, and of the remarkable endorsement of the ban by the American Medical Association -- hardly a bastion of pro-life activism.

I know that you are aware of the moral arguments against the procedure, and I will not repeat them in detail here, other than to point out that it is difficult to explain how a fetus that is entirely born except for its head can be considered anything other than a human being. Pro-choice Democrats, I fear, did not cover themselves with glory during congressional debate on this issue when, pressed by pro-life members, they refused to say what would happen if (by accident) the fetus was born alive in the midst of the "partial-birth" procedure. A few of them implied (and some pro-choice advocates have echoed this view) that, even were the fetus inadvertently born alive, the abortion right would still allow the woman to have the doctor kill it.

The absurdity of the moral position in favor of the procedure becomes apparent from this example. If (as I suspect you would agree) it is wrong for the physician to kill the fetus if it has emerged alive from the womb, it is difficult to see why it is right to do so when a mere 80 or 90 percent of the body has emerged.

The pro-choice response, that the choice even of this particular abortion procedure must be left as a private matter between a woman and her doctor, is incoherent. It suggests that there *never* comes a point at which the fetus enjoys a right to life -- even once the fetus has emerged almost entirely from the womb. But it is both profoundly anti-democratic and profoundly amoral to propose that the status of being pregnant (or of facing a difficult decision within the pregnancy) frees one from the normal human requirement of possessing a moral justification for an action.

Like many Americans, I appreciate the compassion that leads you to insist on a broad exception to guard the health of the woman who is pregnant. Yet, as a Christian, I remain wary of state policies that choose the health of a woman over the life of what is, for every other purpose, a human being. Moreover, as I am sure you are aware, it is an unfortunate fact, but a fact nevertheless, that if an exception is granted for the health of the pregnant woman, many abortion providers will take the position that *all* abortions are necessary for the health of the pregnant woman. (Many obstetricians evidently share the view that one stated on a televised panel a few years ago: "Abortion is always safer for a woman than childbirth.")

The moral rule here should be simple and clear: no matter how pro-choice we as a society may be, the choice must be exercised before the fetus has placed a single foot out of the womb and into our world. We might argue long and hard about the point at

FROM : AJRD - CARTER

PHONE NO. :

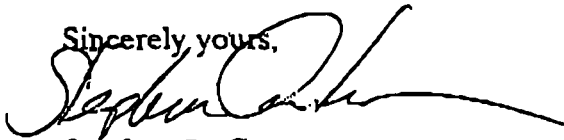
May. 21 1997 12:34PM P4

Letter to the President
May 21, 1997
Page 3

which life begins, but we should be able to agree that at the moment when it takes its first symbolic step into the material world, the fetus is no longer a fetus -- it is a human child, and thus inviolable.

With respect and gratitude for all that you have done and continue to do for the nation, I remain,

Sincerely yours,



Stephen L. Carter

THE WHITE HOUSE
WASHINGTON

May 23, 1997

Dr. Stephen L. Carter
Yale Law School
Post Office Box 208215
New Haven, Connecticut 06520-8215

Dear Stephen:

Thank you for your thoughtful and heartfelt letter.

As you know, I vetoed H.R. 1833 because Congress would not include a limited exception in the bill for those few but tragic cases in which the procedure is necessary to save the life of a woman or prevent serious harm to her health.

I have never contended that this procedure, today, is always used in circumstances falling within this exception. To the contrary, the procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and, as I have stated repeatedly, I would sign appropriate legislation banning them.

I know that you believe that any health exception will be so broad as to eviscerate the ban. That is not the kind of exception I support; instead I am asking for an exception that takes effect only when a woman faces real, serious adverse health consequences. I remain confident that Congress and this Administration, working together, could craft such an exception, and I regret the failure of recent good faith efforts to reach a workable compromise.

I appreciate your counsel on this complex and important issue.

Sincerely,

Abortion - partial birth -
letters

Planned Parenthood®
of Maryland, Inc.

May 21, 1997

John Podesta
Assistant to the President/ Deputy Chief of Staff
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear John:

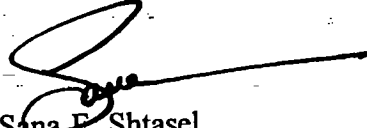
As you know, 36 Senators (including Senators Sarbanes and Mikulski), a number sufficient to sustain a veto, voted against the so called "Partial Birth Abortion Ban" yesterday afternoon. Now, we are counting on President Clinton to honor his commitment to veto this radical legislation that does not protect the rights and health of women.

I attach Planned Parenthood of Maryland's May 14th letter to President Clinton urging him to veto the bill. If there is anything PPM can do institutionally, or I can personally, do to assist this effort, please let me know (410-576-2152).

Thanks, as always, for your help.

Sincerely,

Planned Parenthood of Maryland


Sana F. Shtasel
President & CEO

(call to you) soon!

610
North
Howard
Street
Baltimore
Maryland
21201
410/576

Planned Parenthood®
of Maryland, Inc.

May 14, 1997

The Honorable William J. Clinton
President
The White House
Washington, D.C.

Dear President Clinton:

As providers of reproductive health and education services to more than 35,000 Maryland men and women, Planned Parenthood of Maryland is fundamentally concerned with women's health. We have been inspired and greatly reassured by your unwavering commitment to women's reproductive freedom. You have consistently demonstrated throughout your first and second term in office a sincere understanding and compassion for women, their families and their physicians' ability to decide what is medically best for them.

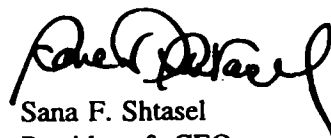
We do not take your commitment for granted, however, as we realize that efforts to restrict a physician's best medical judgment continue unabated. Those in Congress who do not trust women and their doctors wish to dictate appropriate medical practice. We trust that you will maintain your publicly stated intention to veto legislation, like H.R. 1122, that fails to protect women from serious threats to their health.

We do appreciate that many thoughtful elected officials are trying to find a responsible, constitutional resolution to this issue. But we remain secure in our belief that women who need abortions after fetal viability do so in compelling cases when there is a threat to their lives or health, including cases of severe fetal anomaly. While the "compromise" proposal developed by Senator Tom Daschle provides exceptions for a woman's life and health, the health exception is too narrow and significantly erodes the protections guaranteed to women by *Roe v. Wade*. It only protects women at risk of grievous physical harm, but provides no medical options for women with severe mental and emotional conditions. Without that essential provision, we cannot support the Daschle proposal.

Again, Mr. President, we appreciate your commitment to women's health and privacy. We hope we can continue to count on your leadership and courage.

Sincerely,

Planned Parenthood of Maryland


Sana F. Shtasel
President & CEO

610
North
Howard
Street
Baltimore
Maryland
21201
410/576

Abortion -
partial birth
letters

THE PRESIDENT HAS SEEN

617196

THE WHITE HOUSE

WASHINGTON

June 6, 1996

✓
MR. PRESIDENT:

Alexis and Flo McAfee received a letter today from Jim Henry and 10 former Presidents of the Southern Baptist Convention sharply criticizing your veto of the partial birth abortion bill. (A few past Presidents of the SBC, including Dr. Wayne Dehoney, declined to sign the letter. Dr. Dehoney fully supports your position.)

Alexis and Flo understand that the letter will be released at the Annual Conference, which begins Tuesday, June 11. (The SBC's Board Meeting will be held June 6-9 and a Preacher's Meeting will be held June 10.) In addition, Flo has learned that Henry's office released the letter to the press this afternoon.

I have prepared a response for you, slightly modifying the letters I originally drafted for Rev. Browning and David Matthews' friend Robert Brothers. A copy of the SBC letter and my draft response is attached.

If you approve the letter, we will send it to Henry and then release it early tomorrow. Moderates in the SBC are also prepared to distribute it at the Annual Conference. Alexis and Flo concur in this approach, as do Leon and George.

✓

Todd Stern

Abortion - partial birth -
letters

THE WHITE HOUSE
WASHINGTON

June 7, 1996

Dr. James Henry
President
The Southern Baptist Convention
First Baptist Church
3701 L.B. McLeod Road
Orlando, Florida 32805-6691

Dear Dr. Henry:

I have received the June 5 letter that you and a number of past Presidents of the Southern Baptist Convention sent me concerning H.R. 1833, legislation banning a certain abortion procedure, commonly referred to as partial birth abortion. I understand that you are distressed about my veto of that bill. Indeed, I realize that a great many people of good faith -- and of all faiths -- are sincerely perplexed.

Regrettably, my views on this legislation have been widely misrepresented and misunderstood. Therefore, I want to take this opportunity to set forth my position as clearly and directly as I can.

Let me say first that I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health, and I would sign a bill to do the same thing at the federal level if it were presented to me.

The particular procedure aimed at in H.R. 1833 poses a difficult and disturbing issue, one which I studied and prayed about for many months. Indeed, when I first heard a description of this procedure, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that this rarely used procedure is justifiable as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

In April, I was joined in the White House by five women who desperately wanted to have their babies and were devastated to learn that their babies had fatal conditions and would not live.

These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to bear children. These women gave moving, powerful testimony. For them, this was not about choice. It was not about choosing against having a child. Their babies were certain to perish before, during or shortly after birth. The only question was how much grave damage they were going to suffer. One of them described the serious risks to her health that she faced, including the possibility of hemorrhaging, a ruptured cervix and loss of her ability to bear children in the future. She talked of her predicament:

"Our little boy had...hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well."

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer comes from the medical community, which broadly supports the continued availability of this procedure in cases where a woman's serious health interests are at stake. In those rare cases, I believe a woman's doctors should have the option to determine, in the best exercise of their medical judgment, that the procedure is indeed necessary.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure only when a doctor is convinced that a woman's life is at risk, but not when the doctor is sure that she faces real, grave risks to her health.

Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard. The procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

At the same time, I cannot and will not countenance a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health. Some may believe it morally superior to compel a woman to endure serious risks to her health -- including the possible loss of her ability to bear children -- in order to deliver a baby who is already dead or about to die. But I am not among them.

I also understand that many who support this bill believe that any health exception is, as you suggest, a "loophole...to include any reason the mother so desires," such as youth, emotional stress, financial hardship or inconvenience.

That is not the kind of exception I support. I support an exception that takes effect only where a woman faces real, serious adverse health consequences. Some have cited cases where fraudulent health reasons are relied upon as an excuse -- excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure should be allowed.

Further, I reject the view of those who suggest that it is impossible to draft a bill imposing real, stringent limits on the use of this procedure -- a bill making crystal clear that the procedure may be used only in cases where a woman risks death or serious damage to her health, and in no other case. I know that it is not beyond the ingenuity of Congress, working together in a bipartisan manner, to fashion such a bill.

That is why I implored Congress, by letter dated February 28 and in my veto message, to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. Congress ignored my proposal and did so, I am afraid, because too many there prefer creating a political issue to solving a human problem. But I repeat my offer: if Congress will produce a bill that meets the concerns outlined in this letter, I will sign it promptly.

In short, I do not support the use of this procedure on demand or on the strength of mild or fraudulent health complaints. But I do believe that it is wrong to abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury. That, in my judgment, would be the true inhumanity.

I continue to hope that a solution can be reached on this painful issue. I hope as well that the deep dialogue between my Administration and people of faith can continue with regard to the broad array of issues on which we have worked and are working together. Thank you again for your letter. I hope that you now have a better understanding of my position.

Sincerely,



THE SOUTHERN BAPTIST CONVENTION

Jim Henry, President

Abortion - partial
birth -
letters

June 5, 1996

The President
The White House
1600 Pennsylvania Ave.
Washington, D.C. 20500

Dear Mr. President,

It is with heavy hearts and profound disappointment that we express our united and unambiguous opposition to your veto of the Partial-birth Abortion Ban Act. This grisly procedure cannot be morally justified.

We appeal to you not only as religious leaders, but as many of the former presidents of the Christian denomination you claim as your own, the Southern Baptist Convention. You should know that our concern is felt very deeply, as evidenced by the fact that this is the only time in the 150-year history of our denomination that such a letter has been sent to a United States President.

Partial-birth abortion is, by any civilized moral measurement, inhumane and unconscionable. With no sound for guidance, a doctor uses forceps and hands to deliver an intact baby feet first until the head remains in the birth canal. The doctor pierces the base of the baby's skull with surgical scissors. He or she then inserts a canula into the incision and suctions out the brain of the baby so the head can be collapsed. That you could countenance this procedure, and with one stroke of your pen, veto a ban on partial-birth abortions is unimaginable to us.

Your often-repeated rationale for an exception "for the mother's health" is a discredited, catch-all loophole which has been demonstrated to include any reason the mother so desires.

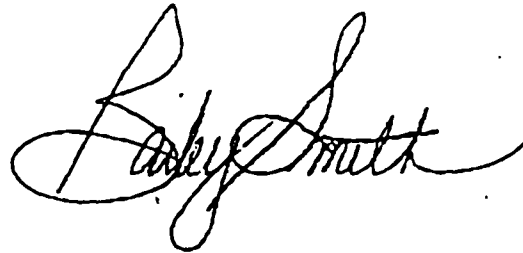
You stated that you had prayed about this issue before deciding to veto the Partial-birth Abortion Ban. It is difficult for us to understand that God somehow would condone this procedure in the light of what the Bible says about unborn human life, or perhaps, you were gravely misinformed about the barbaric nature of the procedure.

The Old Testament scriptures demonstrate that every human being is made in the image of God (Genesis 1:27). Furthermore, God told the prophet Jeremiah that he was known intimately from even before he was formed in the womb (Jeremiah 1:4-5). Every human life is sacred and possesses unique dignity. Jesus our Lord showed special love and regard for children during His earthly ministry and cursed those who would despise His little ones (Mark 10:14-16). Partial-birth abortion is not defensible in light of God's revelation. As our friends, the American Roman Catholic Cardinals, said in their April 16, 1996 letter to you, partial-birth abortion is "more akin to infanticide than abortion."





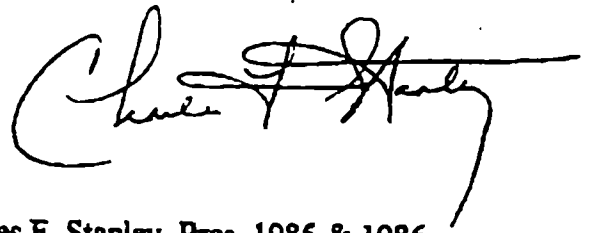
Dr. Adrian Rogers, Pres. 1980, 1987, 1988



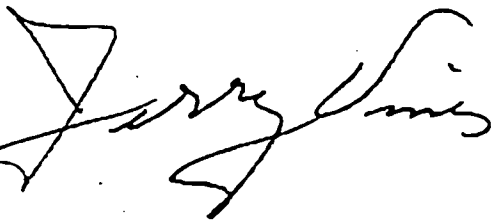
Dr. Bailey Smith, Pres. 1981 & 1982



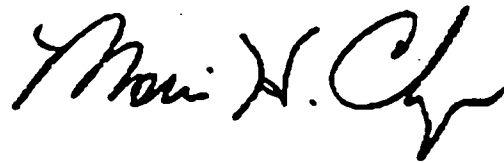
Dr. James T. Draper, Jr., Pres. 1983 & 1984



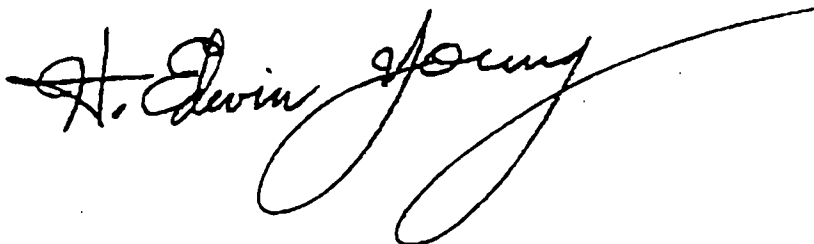
Dr. Charles F. Stanley, Pres. 1985 & 1986



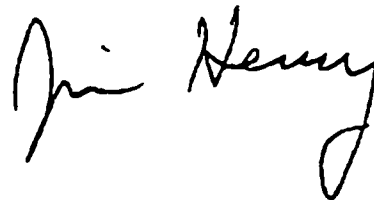
Dr. Jerry Vines, Pres. 1989 & 1990



Dr. Morris Chapman, Pres. 1991 & 1992



Dr. H. Edwin Young, Pres. 1993 & 1994



Dr. James Henry, Pres. 1995 and 1996

Abanti - - per kind bi-TH -
Lotters

SENT TO PERKINS

Great letter ~~THE PRESIDENT HAS SEEN~~
5-22-96

CC David Matthews
This is what we should
send out - but I've seen
Tro

Can Betty Currie
have a copy? ..

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Bill Clinton to Robert Brothers re: address (partial) (1 page)	05/16/1996	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Heather Howard (Subject Files)
OA/Box Number: 21196

FOLDER TITLE:

Abortion - Partial Birth [Binder] [2]

2012-0254-S

rc653

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

THE WHITE HOUSE

WASHINGTON

May 16, 1996

Mr. Robert V. Brothers

P6/(b)(6)

[001]

Dear Rob:

David Matthews recently forwarded your heartfelt letter to me. I want you to know that I deeply appreciate the support you have given me over the years. I understand that you are distressed about my veto of the bill banning the procedure commonly known as partial birth abortion. Inasmuch as my position on this bill has been widely misunderstood, I'd like to set it forth for you as clearly and directly as I can.

Let me say first that I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. You may recall that, as Governor, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health, and I would sign a bill to do the same thing at the federal level if it were presented to me.

The particular procedure aimed at in H.R. 1833 -- generally referred to by doctors as dilation and evacuation -- poses a difficult and disturbing issue, one which I studied and prayed about for many months. When I first heard a description of this procedure, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that this rarely used procedure is justifiable as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

Last month, I was joined in the White House by five women who desperately wanted to have their babies and were devastated to learn that their babies had fatal conditions and would not live. These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have

included an inability to bear children. These women gave moving, powerful testimony. For them, this was not about choosing against having a child. Their babies were certain to perish before, during, or shortly after birth. The only question was how much grave damage they were going to suffer. Here is what one of them had to say:

"Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger as well. If I carried to term, he might die in utero, and the resulting toxins could cause a hemorrhage and possibly a hysterectomy. The hydrocephaly also meant that a natural labor risked rupturing my cervix and my uterus."

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer to this question comes from the medical community, which broadly supports the continued availability of this procedure in cases where a woman's serious health interests are at stake. In those rare cases, I believe the woman's doctors should have the ability to determine, in the best exercise of their medical judgment, that the procedure is indeed necessary.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure only when a doctor can be certain that a woman's life is at risk, but not when the doctor is sure that she faces real, grave risks to her health.

I do not, incidentally, contend that this procedure, today, is always used in circumstances that meet my standard. The procedure may well be used in situations where a woman's serious health interests are not at issue. But I do not support such uses, and I would sign appropriate legislation banning them.

At the same time, I cannot accept a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health.

I also understand that many who support this bill believe that any health exception is untenable. In a letter sent to me on April 16 by our leading Catholic Cardinals, they contend that a "health" exception for the use of this procedure could be stretched to cover almost anything -- for example, youth, emotional stress, financial hardship, or inconvenience.

That is not the kind of exception I support. I support an exception that takes effect only where a woman faces real, serious adverse health consequences. Some have cited cases where fraudulent health reasons have been relied upon as an excuse -- excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure must be allowed.

That is why I implored Congress, in a letter in February, to add a limited exception for the small number of compelling health consequences. Congress ignored my proposal, but I have continued to make it absolutely clear that if Congress will produce a bill that meets my concerns, I will sign it.

In short, I do not support the use of this procedure on demand, or on the strength of mild health complaints. But I do believe that we cannot abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury.

I continue to hope that a solution can be reached on this painful issue. Again, thank you for writing and letting me know where you stand. I hope you have a better understanding now of my own position.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Clinton", with a long horizontal flourish extending to the right.

Abortion - partial birth -
letters

April 30, 1997

The Most Reverend Anthony M. Pilla
and Colleagues
National Conference of Catholic Bishops
3211 Fourth Street, N.E.
Washington, D.C. 20017-1194

Dear Friends:

I want to thank you for your thoughtful letter of March 7.

As you know, I vetoed H.R. 1833 because Congress would not include a limited exception in the bill for those few but tragic cases in which the procedure is necessary to save the life of a woman or prevent serious harm to her health.

I have never contended that this procedure, today, is always used in circumstances falling within this exception. To the contrary, the procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and, as I have stated repeatedly, I would sign appropriate legislation banning them.

I know that you believe that any health exception will be so broad as to eviscerate the ban. That is not the kind of exception I support; instead I am asking for an exception that takes effect only when a woman faces real, serious adverse health consequences. I remain confident that Congress and this Administration, working together, could craft such an exception.

I appreciate your continued counsel on this complex and important issue.

Sincerely,

BILL CLINTON

BC/KMB/RSM/JAD/JAD/JAD/efr-ws-efr-efr (Corres. #3424092)
(3.pilla.am)

cc: John Hart, 106 OEOB
cc: Elena Kagen, 125 OEOB
cc: Jim Dorskind/TDS, 94 OEOB
cc: Scott Michaud, 94 OEOB

Xeroxed copy of personally signed original to NH through Todd Stern

CLEAR THRU TODD STERN
PRESIDENT TO SIGN

Howie - partial birth -
letters

March 10, 1997

His Eminence Bernard Cardinal Law
Archbishop of Boston
2101 Commonwealth Avenue
Brighton, Massachusetts 02135

Dear Cardinal Law:

I want to thank you for your thoughtful letter of January 16. I share your belief that people from all sides of the debate must engage in a constructive dialogue on this most sensitive issue so that the realities of the discussion are not lost amid the shouting.

As you know, I vetoed H.R. 1833 because it did not contain an exception for those few but tragic cases in which the procedure is necessary to save the life of a woman or prevent serious harm to her health. I implored Congress to add this limited exception to the bill, but Congress declined to do so.

Let me be clear, I do not contend that this procedure, today, is always used in circumstances falling within this exception. To the contrary, the procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

I understand that many who support this legislation believe, as you do, that any health exception will be so broad as to eviscerate the ban. That is not the kind of exception I support. I support an exception that takes effect only when a woman faces real, serious adverse health consequences. I am confident that Congress and this Administration, working together, could craft such an exception.

I welcome the opportunity to work with your offices on this issue, and I have directed John Hart, my liaison to the Catholic community, to follow up on your desire to discuss it further. I understand that he has been in contact with Gail Quinn of your staff, and I hope that it will be possible for them to arrange for a serious exchange of ideas.

I look forward to your continued counsel on this important issue during the coming weeks and months.

Sincerely,

Abortion - partial birth
letters

THE WHITE HOUSE

WASHINGTON

May 13, 1996

The Most Reverend Edmond L. Browning
Presiding Bishop
The Episcopal Church
815 Second Avenue
New York, New York 10017

Dear Bishop Browning:

Thank you for your letter of May 8 concerning H.R. 1833, legislation banning a certain abortion procedure, commonly referred to in the press as partial birth abortion. I appreciate your explication of the Church's position on this matter. As you know, in late March, Congress passed that bill and on April 10, I vetoed it because of its failure, in certain rare and compelling cases, to prevent serious threats to women's health.

My own position on this bill has been widely misrepresented and misunderstood. Some, including those more interested in creating a political issue than in putting real, meaningful limits on the use of this procedure, have deliberately distorted my views. But I know that a great many people of good faith -- and of all faiths -- are sincerely perplexed about the veto. That is why I would like to take this opportunity to explain the basis for my decision.

Let me begin with a word of background. I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health, and I would sign a bill to do the same thing at the federal level if it were presented to me.

The particular procedure aimed at in H.R. 1833 poses a most difficult and disturbing issue, one which I studied and prayed about for many months. Indeed, when I first heard a description of this procedure, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that this rarely used procedure is justifiable as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

Last month, I was joined in the White House by five women who desperately wanted to have their babies and were devastated to learn that their babies had fatal conditions and would not live. These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to bear children. These women gave moving, powerful testimony. For them, this was not about choice. This was not about choosing against having a child. Their babies were certain to perish before, during or shortly after birth. The only question was how much grave damage they were going to suffer. One of them described the serious risks to her health that she faced, including the possibility of hemorrhaging, a ruptured cervix and loss of her ability to bear children in the future. She talked of her predicament:

"Our little boy had...hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well."

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer comes from the medical community, which broadly supports the continued availability of this procedure in cases where a woman's serious health interests are at stake. In those rare cases, I believe the woman's doctors should have the ability to determine, in the best exercise of their medical judgment, that the procedure is indeed necessary.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure only when a doctor can be certain that a woman's life is at risk, but not when the doctor is sure that she faces real, grave risks to her health.

Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard -- namely, that the procedure must be necessary to prevent death or serious adverse health consequences. The procedure may well be used in situations where a woman's serious health interests are not at issue. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

At the same time, I cannot and will not countenance a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health. I recognize that there

are those who believe it appropriate to force a woman to endure real, serious risks to her health -- including, sometimes, the loss of her ability to bear children -- in order to deliver a baby who is already dead or about to die. But I am not among them.

I also understand that many who support this bill believe that any health exception is untenable. In a letter sent to me on April 16 by our leading Catholic Cardinals, they contend that a "health" exception for the use of this procedure could be stretched to cover most anything -- for example, youth, emotional stress, financial hardship or inconvenience.

That is not the kind of exception I support. I support an exception that takes effect only where a woman faces real, serious adverse health consequences. Those who oppose this procedure may wish to cite cases where fraudulent health reasons are relied upon as an excuse -- excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure must be allowed.

Further, I flatly reject the view of those who suggest that it is impossible to draft a bill imposing real, stringent limits on the use of this procedure -- a bill making absolutely clear that the procedure may be used only in cases where a woman risks death or serious damage to her health, and in no other case. I know that it is not beyond the ingenuity of Congress, working together with this Administration, to fashion such a bill.

Indeed, that is why I implored Congress, by letter dated February 28, to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. Congress ignored my proposal and did so, I am afraid, because there are too many there who prefer creating a political issue to solving a human problem. But I reiterate my offer now: if Congress will produce a bill that meets the concerns outlined in this letter, I will sign it the moment it reaches my desk.

I recognize that many people will continue to disagree with me about this issue. But they should all know the truth about where I stand: I do not support the use of this procedure on demand. I do not support the use of this procedure on the strength of mild or fraudulent health complaints. But I do believe that we cannot abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury. That, in my judgment, would be the true inhumanity.

I continue to hope that a solution can be reached on this painful issue. I hope as well that the deep dialogue between my Administration and people of faith can continue with regard to the broad array of issues on which we have worked and are working together. Again, thank you for your letter and for the opportunity to set forth my own views.

Sincerely,

Bin Clinton

Abortion - partial birth -
letters

THE WHITE HOUSE

WASHINGTON

April 10, 1996

His Eminence Bernard Cardinal Law
Archbishop of Boston
Cardinal's Residence
2101 Commonwealth Avenue
Brighton, Massachusetts 02135

Dear Cardinal Law:

I want to thank you for your letter on H.R. 1833. I appreciate and considered the strong moral convictions you expressed.

This is a difficult and disturbing issue, one which I have studied and prayed about for many months. I am against late-term abortions and have long opposed them, except where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health, and I would sign such a bill now if it were presented to me.

Indeed, when I first heard the procedure referred to in H.R. 1833 described, I thought I would support the bill. But as I studied the matter and learned more about it, I came to understand that this is a rarely used procedure, justifiable as a last resort when doctors judge it necessary to save a woman's life or to avert serious health consequences to her.

In the past months, I have learned of several cases of women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice. This was not about having a headache or fitting into a prom dress, as some have regrettably suggested. This was not about choosing against having a child. These babies were certain to perish before, during or shortly after birth. The only question was how much grave damage was going to be done to the woman.

In short, I do not support the use of this procedure on an elective basis where it is not necessary to save the life of the woman or prevent serious risks to her health.

That is why I implored Congress to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. The life exception in the current bill fails to cover cases where the doctor believes not that the mother's death is probable, but rather that, without the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I want to say again that if Congress will amend the bill as I have suggested, remedying its constitutional and human defect, I will sign the bill.

Again, I thank you for your concern. These are painful and sobering issues. I understand your desire to eliminate the use of a procedure you see as inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be, in my judgment, even more inhumane.

Although I know you disagree with me on this matter, I hope we can continue our dialogue and continue to work together on the broad array of issues on which we do agree. I need your help and your insight.

Sincerely,

Bill Clinton

File-Monti - partial birth - letter

THE WHITE HOUSE

WASHINGTON

March 10, 1997

His Eminence Bernard Cardinal Law
Archbishop of Boston
2101 Commonwealth Avenue
Brighton, Massachusetts 02135

Dear Cardinal Law:

I want to thank you for your thoughtful letter of January 16. I share your belief that people from all sides of the debate must engage in a constructive dialogue on this most sensitive issue so that the realities of the discussion are not lost amid the shouting.

As you know, I vetoed H.R. 1833 because it did not contain an exception for those few but tragic cases in which the procedure is necessary to save the life of a woman or prevent serious harm to her health. I implored Congress to add this limited exception to the bill, but Congress declined to do so.

Let me be clear, I do not contend that this procedure, today, is always used in circumstances falling within this exception. To the contrary, the procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

I understand that many who support this legislation believe, as you do, that any health exception will be so broad as to eviscerate the ban. That is not the kind of exception I support. I support an exception that takes effect only when a woman faces real, serious adverse health consequences. I am confident that Congress and this Administration, working together, could craft such an exception.

I welcome the opportunity to work with your offices on this issue, and I have directed John Hart, my liaison to the Catholic community, to follow up on your desire to discuss it further. I understand that he has been in contact with Gail Quinn of your staff, and I hope that it will be possible for them to arrange for a serious exchange of ideas.

I look forward to your continued counsel on this important issue during the coming weeks and months.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Clinton", with a large circular mark to its left.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. letter	Brandt Ayers to the President (partial) (1 page)	03/11/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Heather Howard (Subject Files)
OA/Box Number: 21196

FOLDER TITLE:

Abortion - Partial Birth [Binder] [2]

2012-0254-S

rc653

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Abortion - partial birth - letters

M. ...

cc
Bj
200

The Anniston Star

"Alabama's Largest Home-Owned Newspaper"

Office of the Editor and Publisher

March 11, 1997

The President
The White House
Washington, DC 20500-2000

Dear Mr. President:

Knowing you face another excruciating decision about late-term abortion, I wanted you to have the enclosed story from a young woman, [REDACTED] P6/(b)(6) [002]

[REDACTED] P6/(b)(6) is an extraordinarily bright and caring person. Bravely, she is willing for you to use her story in any way you find helpful to women facing similar dilemmas.

Cordially,


H. Brandt Ayers

HBA: bjh

Enclosure

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. letter	Constituent to the President (3 pages)	03/04/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Heather Howard (Subject Files)
OA/Box Number: 21196

FOLDER TITLE:

Abortion - Partial Birth [Binder] [2]

2012-0254-S

rc653

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.



Office of the President

3211 Fourth Street NE Washington DC 20017-1194 (202) 541-3100 FAX (202) 541-3166

Most Reverend Anthony M. Pilla, D.D., M.A.
Bishop of Cleveland
President

March 7, 1997

3413576

Abortion - partial birth -
letters

The Honorable William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President,

We write to you again about one of the most urgent moral issues of this day--partial-birth abortion. We do so in the wake of recent revelations corroborating the arguments of those who seek a ban on this practice and contradicting the arguments of its proponents. Fortunately, the public has learned a great deal through these disclosures.

The public has learned that partial-birth abortions are performed not a few hundred times a year, but thousands of times each year. It has learned that partial-birth abortion is used primarily in the fifth and sixth months of pregnancy, and that restrictions confined to the third trimester would therefore be inadequate. The public has also learned that the vast majority of these procedures are performed on the healthy babies of healthy women.

Disclosures have also made clear, as those who seek to ban this practice have testified, that there are no published data to support a claim that partial-birth abortions may ever be necessary to preserve a woman's life, health or future fertility. To the contrary, hundreds of doctors, most specialists in maternal and fetal medicine, have explained why partial-birth abortion itself poses, not avoids, significant risks to women's health and future fertility. Clearly, any claim that partial-birth abortion must be available to protect a woman's health has no basis in fact.

The American College of Obstetricians and Gynecologists (ACOG) recently reversed itself in this regard. ACOG had said that partial-birth abortion "may be" the safest procedure in a particular circumstance, but one of its spokespersons now says "it may not be." The College is clear in saying that partial-birth abortion is *never* the only procedure that will preserve a woman's health or fertility in *any* situation.

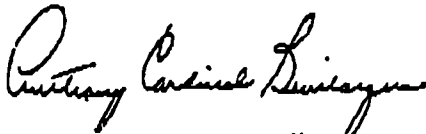
Mr. President, you are in a unique position to ensure respect for all human rights, including the right to life which is denied to infants who are brutally killed in partial-birth abortion.

March 7, 1997
Page Two

We urge you to seize the opportunity before you to explain that you were misled, as were most Americans. We urge you to ask Congress to pass a bill banning partial-birth abortions, and let it be known that you will sign it into law. For our part, we will continue to urge that such a bill is passed in both Houses of Congress with sufficient votes to ensure that it will become the law of the land.

Hoping we will be together on this issue, we are,

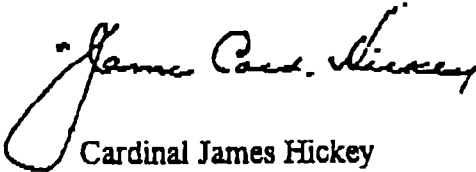
Sincerely yours,



Cardinal Anthony Bevilacqua
Archbishop of Philadelphia



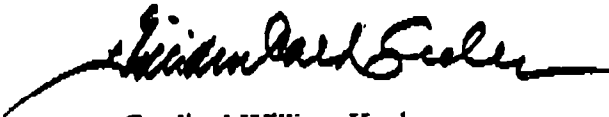
Adam Cardinal Maida
Archbishop of Detroit



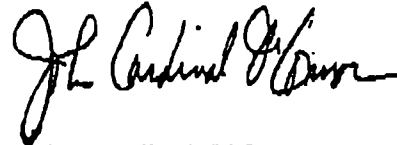
Cardinal James Hickey
Archbishop of Washington



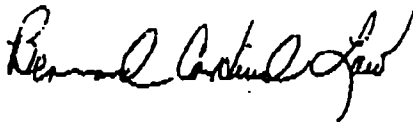
Roger Cardinal Mahony
Archbishop of Los Angeles



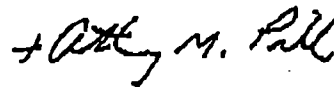
Cardinal William Keeler
Archbishop of Baltimore



John Cardinal O'Connor
Archbishop of New York



Cardinal Bernard Law
Archbishop of Boston



Most Reverend Anthony M. Pilla
Bishop of Cleveland
President, NCCB/USCC



Secretariat for Pro-Life Activities

3211 Fourth Street, N.E. Washington, DC 20017-1194 (202) 541-3070 FAX (202) 541-3054

January 16, 1997

The Honorable William J. Clinton
The White House
Washington, D.C. 20500

'97 JAN 17 AM 11:35

Dear Mr. President:

As you begin your second term, I wish to assure you of my prayers. Good counsel and wisdom will be needed to resolve the difficult issues facing our nation.

One such issue is partial-birth abortion. It is my understanding that Congress is likely to consider this matter again. It is my sincere hope that the forthcoming discussion will avoid the worst aspects of last year's debate. I pray that time will not be wasted debating claims that have been proven to be false.

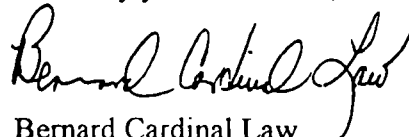
It is reported that Senator Daschle, with your approval, is crafting a bill to ban third-trimester abortions with exceptions for "life or health." Such a bill would prevent neither partial-birth abortions, nor late-term abortions in general. The vast majority of partial-birth abortions are performed in the second trimester of pregnancy, a fact confirmed by independent investigations and by the doctor whose paper initiated this debate.

In regard to third-trimester abortions, an exception for "health" (or "serious adverse health" or any similar formulation) eviscerates the ban. The Supreme Court has interpreted "health" so broadly in the abortion context that it includes abortions for almost any social or emotional reason. Those who perform partial-birth abortions have admitted publicly that they have done so for reasons of the woman's "youth" or "depression" or even the child "cleft palate."

Furthermore, the evidence that partial-birth abortion is *never* necessary to preserve a woman's health or fertility is overwhelming. I urge you to consult with the Physicians' Ad-Hoc Coalition for Truth (PHACT), a group of nearly 400 physicians who have spoken out on this.

Mr. President, I believe it would be beneficial if you and I, perhaps with a doctor from PHACT, were to discuss this matter. I would welcome such an opportunity.

Sincerely yours in Christ,



Bernard Cardinal Law
Chairman

1/23 msg
Suzanne Dale
6-2896-
1/29
Called Harp
left msg noon

Abortion - part birth - letters

THE WHITE HOUSE

WASHINGTON

Congress and

65557

February 14, 1997

*that this Administration, working together could
draft such an exception.

His Eminence Bernard Cardinal Law
Archbishop of Boston
2101 Commonwealth Avenue
Brighton, Massachusetts 02135

Dear Cardinal Law:

I want to thank you for your thoughtful letter of January 16.
I share your belief that people from all sides of the debate must
engage in a constructive dialogue on this most sensitive issue so
that the realities of the discussion are not lost amid the shouting.

I agree that definitions of the "health" of women seeking third-term
abortions can be too loosely interpreted. That is why I pleaded with
Congress to include highly restrictive language on this procedure.
I wanted Congress to make it clear that the risk to the woman had to
involve serious, adverse health consequences. But Congress failed to
do so. If Congress will work with me in good faith, I will certainly
sign such a bill.

I welcome the opportunity to work with your offices on this issue,
and I have directed John Hart, my liaison to the Catholic community,
to follow up on your desire to discuss it further. I understand that
he has been in contact with Gail Quinn of your staff, and I hope that
it will be possible for them to arrange for a serious exchange of
ideas.

I look forward to your continued counsel on this important issue
during the coming weeks and months.

Sincerely,

As you know, I vetoed H.R. 1833 because it did not
contain an exception for ^{those few but tragic} cases in which the procedure is
necessary to save the life of a woman or prevent serious harm
to her health. ~~As I have said~~ I implored Congress to add this
limited exception to the bill, but Congress declined to do so.

as you do, I understand that ^{OVER} many who support this legislation
believe that ~~any~~ health exception will be so broad as to
eviscerate the ban. That is not the kind of exception I support.
I support an exception that takes effect only when a woman
faces real, serious adverse health consequences. I am confident *

Let me be clear. I do not contend that This procedure, today, is always used in circumstances falling within This exception. To the contrary, the procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such use, I do not defend them, and I would sign appropriate legislation banning them.

ABORTION / PB / 1999 CURRENT

1999 CURRENT

Total Pages: 5

LRM ID: RJP195

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, October 14, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Robert J. Pellicci
E-Mail: Robert_J_Pellicci@omb.eop.gov
PHONE: (202)395-4871 FAX: (202)395-8148

SUBJECT: Executive Office of the President Statement of Administration Policy on
S1692 Partial Birth Abortion

DEADLINE: 3:00 P.M. Friday, October 15, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Senate floor consideration of S. 1692 could occur as early as next week.

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URGENT

LRM ID: RJP195 **SUBJECT:** Executive Office of the President Statement of Administration Policy
on S1692 Partial Birth Abortion

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT - NOT FOR RELEASE

DRAFT

October 14, 1999
(Senate)

S. 1692 - Partial-Birth Abortion Ban Act of 1999
(Sen. Santorum (R) PA and 43 cosponsors)

S. 1692 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996 and October 10, 1997, respectively.

The President will veto S. 1692 for the reasons he expressed in his veto message of April 10, 1996, which is attached.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

April 10, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in Roe v. Wade protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

2

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1832 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996.

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GPO's PDF version of this bill	References to this bill in the Congressional Record	Link to the Bill Summary & Status file.	Full Display - 5,532 bytes.[Help]
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Partial-Birth Abortion Ban Act of 1999 (Placed on the Calendar in the Senate)

S 1692 PCS

Calendar No. 300

106th CONGRESS

1st Session

S. 1692

To amend title 18, United States Code, to ban partial-birth abortions.

IN THE SENATE OF THE UNITED STATES**October 5, 1999**

Mr. SANTORUM (for himself, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BROWNBACK, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. ENZI, Mr. FRIST, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HUTCHINSON, Mr. KYL, Mr. MACK, Mr. MCCONNELL, Mr. NICKLES, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. THURMOND, Mr. WARNER, Mr. BENNETT, Mr. LOTT, Mr. ALLARD, Mr. BOND, Mr. BUNNING, Mr. COCHRAN, Mr. CRAPO, Mr. DOMENICI, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mr. INHOFE, Mr. LUGAR, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SHELBY, Mr. THOMAS, Mr. VOINOVICH, and Mr. COVERDELL) introduced the following bill; which was read the first time

October 6, 1999

Read the second time and placed on the calendar

A BILL

To amend title 18, United States Code, to ban partial-birth abortions.

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 1999'.

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.

'Sec. 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. 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.

'(3) As used in this section, term 'vaginally delivers a living fetus before killing the fetus' means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

'(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)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

'(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

(e) 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:

1531'.

Calendar No. 300

106th CONGRESS

1st Session

S. 1692

A BILL

To amend title 18, United States Code, to ban partial-birth abortions.

October 6, 1999

Read the second time and placed on the calendar

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Bill Summary & Status for the 106th Congress

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S.1692SPONSOR: Sen Santorum, Rick (introduced 10/05/99)

STATUS: Detailed Legislative Status**Senate Actions****Oct 5, 99:**

Introduced in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time.

Oct 6, 99:

Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 300.

93-ADMIN-LEG / ACTION / PB

VETO OF H.R. 1122

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 1122, A BILL TO AMEND TITLE 18, UNITED STATES CODE, TO BAN PARTIAL-BIRTH ABORTIONS



OCTOBER 21, 1997.—Message and bill referred to the Committee on the Judiciary and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

59-011

WASHINGTON : 1997

To the House of Representatives:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill. H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in *Roe v. Wade* protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, October 10, 1997.

One Hundred Fifth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and ninety-seven*

An Act

To amend title 18, United States Code, to ban partial-birth abortions.

*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. 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.

"(3) As used in this section, the term 'vaginally delivers a living fetus before killing the fetus' means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

H. R. 1122-2

"(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)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) 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".

NEWT GINGRICH,
Speaker of the House of Representatives.
STROM THURMOND,
President pro tempore of the Senate.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.
ROBIN H. CARLE, *Clerk.*

THE WHITE HOUSE

WASHINGTON

October 7, 1997

Dear Rosa:

The House of Representatives will soon vote on accepting the Senate Amendment to H.R. 1122, legislation that will ban a certain late-term abortion procedure. As you know, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, neither H.R. 1122, nor the Senate Amendment which will be pending before the House, contains an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury. Consequently, I urge you to vote against H.R. 1122 when it comes before the House. Should the House agree to the Senate Amendment and send H.R. 1122 to me for signature, I will veto the legislation.

I have asked Congress repeatedly, for almost two years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again tomorrow, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe that Congress should work in a bipartisan manner to fashion such legislation.

Although I continue to hope that this painful issue can be resolved, enactment of H.R. 1122 is not the answer. I urge you to vote against this measure.

Sincerely,



The Honorable Rosa L. DeLauro
House of Representatives
Washington, D.C. 20515



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 1997 (SENT)
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1122 - Partial-Birth Abortion Ban Act of 1997 (Solomon (R) NY)

H.R. 1122 contains the same serious flaws as H.R. 1833, an identical bill that was passed during the 104th Congress and vetoed by the President on April 10, 1996.

The President will veto H.R. 1122 for the reasons he expressed in his veto message of April 10, 1996, which is attached.

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with Associate Director Min.

OMB/LA Clearance: Nancy Ann (OMB), Elena Kagan (DPC), Peter Jacoby/John Hilley (WHLA).

H.R. 929

As reported by the House Judiciary Committee on March 12th, H.R. 929 would ban under most circumstances a certain type of late-term abortion procedure, which the bill calls a "partial-birth abortion." H.R. 929 defines the term "partial-birth abortion" to mean any "abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

H.R. 929 would allow a "partial-birth abortion" in cases where it is needed to "save the life of a mother whose life is endangered by a physical disorder, illness, or injury . . ." This exception, however, is permitted only when no other procedure would suffice. This bill does not include an exception for cases in which the woman's health is threatened.

H.R. 929 would subject doctors and others who perform the procedure to criminal fines and/or up to two years of imprisonment. The bill would exempt women who obtain such abortions from any criminal penalties.

Because of the criminal fines provisions, H.R. 929 is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of the criminal fine receipts under this bill is zero.

Congressional Action on H.R. 1833

Last year the House passed H.R. 1833 by a vote of 288-139 and the Senate passed the bill by a vote of 54-44. The House voted to override the President's veto by a vote of 285-137; the Senate failed to override the President's action by a vote of 57-41.

LEGISLATIVE REFERENCE DIVISION DRAFT
3/18/97 - 3:45 P.M.

96-ADMIN-LEG / ABOLITION / PB
ACTION

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

April 10, 1996

REMARKS BY THE PRESIDENT
ON HOUSE RESOLUTION 1833

The Roosevelt Room

5:22 P.M. EDT

THE PRESIDENT: Good afternoon. I have just met with five courageous women and their families, and I want to thank the Lines, the Stellas, the Watts, the Costellos, and the Ades all for meeting with me. They had to make a potentially life-saving, certainly health-saving, but still tragic decision to have the kind of abortion procedure that would be banned by HR 1833.

They represent a small, but extremely vulnerable group of women and families in this country, just a few hundred a year. Believe it or not, they represent different religious faiths, different political parties, different views on the question of abortion. They just have one thing in common: They all desperately wanted their children. They didn't want abortions. They made agonizing decisions only when it became clear that their babies would not survive, their own lives, their health, and in some cases, their capacity to have children in the future were in danger.

No one can tell the story better than them, and I want to call on one of them. But before I do, I want to say that this country is deeply indebted to them for being willing to speak out and to talk about the real facts, not the emotional arguments that, unfortunately, carried the day on this case.

So I'd like to ask Mary Dorothy Line to come up here and introduce herself and say whatever she'd like to say about why we're all here today.

MRS. LINE: My name is Mary Dorothy Line. My husband, Bill, and I are honored to be here today to speak for the many women and families who have also come forward to tell their stories in opposition to this terrible legislation.

Last April we were overjoyed to find out that I was pregnant with our first child. Nineteen weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor diagnosed a condition called hydrocephalus. Every person's head contains fluid to protect and cushion the brain. But if there is too much fluid, the brain cannot develop.

As practicing Catholics, when we have problems and worries, we turn to prayer. As we waited to find out more from the doctors, our whole family prayed together. My husband and I were very scared, but we are strong people and believe that God would not give us a problem if we couldn't handle it. This was our baby. Everything would be fine. We never thought about abortion.

But the diagnosis was as bad as it could be. Our little boy had a very advanced textbook case of hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him.

This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well. If I carried to term, he might die in utero, and the resulting toxins could cause a hemorrhage and possibly a hysterectomy. The hydrocephaly also meant that a natural labor risked rupturing my cervix and my uterus.

Several specialists recommended that we terminate the pregnancy. I thank God every day that I had this safe medical option available to me, especially now that I am pregnant again and expecting a baby in September.

I pray every day, I really do, that this will never happen to anyone else. But it will. Those of us unfortunate enough to have to live this nightmare need a procedure that will give us hope for the future.

And I thank God for President Clinton; we all do here. the people who promoted this bill do not understand the real issues, but he does. It is about women's health, it's not about abortion, and certainly not choice. These decisions belong to families and their doctors, not the government. President Clinton listened to us and protected families like ours by vetoing legislation that would hurt so many people.

Thank you, Mr. President.

THE PRESIDENT: Thank you.

I'd like to ask Coreen Costello to come up and speak a little bit about her experience.

MRS. COSTELLO: My name is Coreen Costello, as you heard. I found out when I was seven months pregnant that my daughter was dying. She was dying inside my womb. The complications that she had posed severe health risks to me. One of the conditions she had was polyhydramnia, where the amniotic fluid puddles into the uterus.

I had over nine pounds of excess amniotic fluid. My daughter's body was rigid and it was stuck in a position that was as if she was doing a swan dive inside my womb. Her head and -- the back of her feet were touching the back of her head at the top my uterus. There was no way to deliver her.

My husband and I have always been extremely opposed to abortion. We consider ourselves very, very much pro-life, conservative Republicans. For us, terminating this pregnancy was not an option. For three weeks we attempted to turn my daughter so that I could deliver her vaginally and naturally. We had one hope, and that was that we would be able to hold our daughter alive for possibly an hour, maybe two.

Over the three weeks that we carried her we realized that that was not a possibility. She was dying and she would likely not survive any labor and there was no way I could deliver her. We had her baptized in utero. We named her Katherine Grace. We then realized that our only safe option was the procedure that is being

outlawed -- is being attempted to be outlawed.

I am so grateful because today I am standing here before you pregnant again with a healthy child. I have two children. I have my health. I don't know how to tell you how important that is. This was such a tragedy, such a personal family tragedy. Our daughter will always be a part of our lives. There will always be someone missing in our family, and that's Katherine Grace. But I am so grateful for the ability to be able to go on and enjoy the two children that I do have, to be with my husband, to be with my family, and to be here today.

And that's what this is about. This is not about choice. We made a very different choice than what we ended up having to have. This is not about abortion, and it's not about choice. It's a medical issue. And I am so grateful for President Clinton and his ability to hear our stories, because we have been telling them for a long time and a lot of people haven't listened. But this is the truth, and this is what happened to us. And as painful as it is, we are all here to share that with you.

Thank you.

THE PRESIDENT: Thank you.

I would also like to thank Jim and their children, and William.

Would you tell them what you told me in the office? Can you do it? This is Tammy Watts.

MRS. WATTS: Hi, my name is Tammy Watts. I live in Tempe, Arizona. I simply told our dear President that my story is not so different from everyone else's. I have the heartache, I have the same tragic story. I have the loss in my heart, as does my husband and the rest of my family and friends.

The fact is this: I would have given my life and traded placed with my daughter, Mackenzie. And in fact, with my pastor, that is exactly what I prayed for for the three days we tried desperately to find something that could cure her. You simply look for a magic wand and it's not there.

I am so thankful to our doctors, who were able to perform this very safe medical procedure, save our health, save our families. And I am particularly thankful to our President, without whom we would not be here. And he is a true blessing in all of our lives.

Thank you.

THE PRESIDENT: Thank you, Mitchell -- and those are the prints of your baby, right?

MS. WATTS: Yes, this is my daughter Mackenzie's handprints and footprints. This is something that is very special to us, and is something that we would not have if we did not have this very safe procedure.

THE PRESIDENT: Vikki, do you want to say anything?

MRS. STELLA: My name is Vikki Stella, and I'm from Chicago, Illinois. My story is basically the same thing. We're like a family now. And at 32 weeks I found out that my son wasn't growing properly, and when everything was all done and said and the

ultrasounds were in and I had the answer, I found out my son had nine major anomalies, one including no brain. It did not show up on the amnio because it was a closed neural tube defect, so those things don't show up. That's for genetic research.

And I miss my son. But the one part I want to stress is I needed this for health reasons. I'm a diabetic. Other procedures would not have been what I needed. I don't heal as well as other people, so other procedures just were not the answer. I could have gone on and maybe tried to give birth to a child that would not live.

I didn't make the decision for my child to die; God made the decision for my child to die. I had to make the decision to take him off life support.

THE PRESIDENT: Thank you. And you have a baby here.

MRS. STELLA: Yes, I have a little boy here.

THE PRESIDENT: You have a three-month-old little boy here.

MRS. STELLA: Nicholas.

THE PRESIDENT: Claudia, would you like to talk?

MRS. ADES: Much like everyone else -- we've all had similar circumstances -- I was six months pregnant, 26 weeks into my pregnancy and happier than I had ever been in my entire life when, in a routine ultrasound, we found out that there was something terribly wrong with our son. He had fluid in his brain that was keeping his brain from developing. He had a hole in his heart, a hole between the chambers of his heart so that there was no normal blood flow.

He had -- I won't go on with the details, but horrible, horrible anomalies, and he stood no chance of survival. It was something -- it was a chromosomal abnormality, called Trisomy-13. It was actually the same condition that Tammy Watts's baby had.

Again, like everyone else, we begged for a cardiologist or a neurosurgeon or someone that could fix my baby's brain or the hole in his heart. And when we got the news -- I say this for the people that say that we don't care and for the people who say we don't want our children, and for the people that say we have no spirit or no soul or no religion.

My husband and I are Jewish and we got the news on Rosh Hashana. And when we finally had the procedure, the third day of this grueling procedure, it was Yom Kippur, the holiest day of the Jewish year. And Yom Kippur is the day that you mourn those that have passed, and it's the day that you pray that God will inscribe them in the Book of Life.

We'll forever, and for the past four years and forever we will mourn our son. We are very -- since that pregnancy, unfortunately lost five more, but we are very blessed that in July we're going to adopt a baby and we're going to be parents, and we're going to have the child we so desperately wanted.

And we are all here, my husband, myself and all of the other people standing behind me, we are all here as we have been for months, fighting in Congress. I just actually came back with Mary Dorothy from Sacramento, where we were testifying, where it is now in the State of California. And we are all here for the women that

follow us, because all women deserve the finest medical care that exists. And we are the blessed ones and we want that for them.

And like everyone else, I just want to thank the President, because it's an enormous, enormous responsibility that he's taken. And we're all here to back him up -- it's so, so important what he's doing.

Thank you.

THE PRESIDENT: Thank you very much.

Thank you. Thank you, Richard. Thank you, Mitchell.

Ladies and gentlemen, I asked these families to come here today to make a point that I think every American needs to understand about this bill. This is not about the pro-choice/pro-life debate. This is not a bill that ever should have been injected into that.

This terrible problem affects a few hundred Americans every year who desperately want their children, are trying to build families, and are trying to strengthen their families. And they should not become pawns in a larger debate, even though it is a serious and legitimate debate of profound significance.

I hope that we can continue to reduce the number of abortions in America. When I was governor I signed a bill to restrict late-term abortions, consistent with the Supreme Court decision of Roe v. Wade, only cases where the life or health of the mother is at risk. When I asked the supporters of the bill here to try to take account of this, they said, well, if we have a health exception you know you could -- the doctor and the mother could say anything -- they can't fit in their prom dress, that's a health exception -- some terrible things like that.

And I said, no, no, no, I will accept language that says serious, adverse health consequences to the mother. Those three words. Everyone in the world will know what we're talking about. We're talking about these families. I implored them. I said, if you want to pass something on this procedure, let's make an exception for life and serious adverse health consequences so that we don't put these women in a position and these families in a position where they will lose all possibility of future child-bearing, or where the doctor can't say that they might die, but they could clearly be substantially injured forever.

And my pleas fell on deaf ears. The emotional power of the description of the procedure -- which I might add did not cover the procedure these women had and did not cover all the procedures banned by the law -- but the emotional power was so great that my plea just to take a decent account of these hundreds of families every year that are in this position fell on deaf ears. And, therefore, I had no choice but to veto the bill. I vetoed it just a few minutes ago before I met with these families.

I will say again, if the Congress really wants to act out of a sincere concern that some of these things are done, which are wrong, in casual ways, then if they will meet my standards to protect these families, they could pass a bill that I would sign tomorrow. But these people have no business being made into political pawns.

As I said, and as they said, they never had a choice. This affects staunchly pro-life families as well as people that are pro-choice. They never had a choice. And I cannot in good

conscience see their lives damaged and their potential to build good, strong families damaged.

We need more families in America like these folks. We need more parents in America like these folks. They are what America needs more of. And just because they happen to be in a tiny minority to bear a unique burden that God imposes on just a few people every year, we can't forget our obligation to protect their lives, their children, and their families' future.

That is what this veto is all about. And let me say again how profoundly grateful I am to them for coming here today and having the courage to tell their stories to the American people.

Thank you. Thank you all very much.

END

5:40 P.M. EDT

VETO OF H.R. 1833

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 1833, A BILL TO AMEND TITLE 18, UNITED STATES CODE, TO BAN PARTIAL-BIRTH ABORTIONS



APRIL 15, 1996.—Message and accompanying bill referred to the Committee on the Judiciary and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1996

29-011

To the House of Representatives:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe v. Wade* protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice—not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances—because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command

that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, April 10, 1996.

ONE HUNDRED FOURTH CONGRESS
AMERICA, AT THE SECOND SE
CITY OF WASHINGTON ON WEI
ARY, ONE THOUSAND NINE HU

To amend title 18, United States

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 1995".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTION"

"Sec.

"1531. Partial-birth abortions prohibited."

"§ 1531. Partial-birth abortion; prohibition"

"(a) Any physician who, in the course of his or her practice of medicine, knowingly performs a procedure that kills a human fetus shall be fined under this title or imprisoned not more than two years, or both, if the procedure is performed to a partial-birth abortion that the physician knows or has reason to believe is necessary to a mother whose life is endangered or injury: *Provided*, That no other person shall be liable for that purpose. This paragraph shall not apply after enactment.

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

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy, a nurse practitioner, a nurse midwife, and surgery by the State, or any other individual who is licensed to perform abortions: *Provided*, That the individual is not a physician or not otherwise licensed to perform abortions, but who performs a partial-birth abortion, shall be liable under this section.

"(c)(1) The father, if married, shall not be liable under this section if he receives a partial-birth abortion if he has not attained the age of 18 years or if the maternal grandparents of the fetus are not liable under this section.

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 nstances in which its use may be
 humane.
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 d leaving women unprotected
 result of this Congressional indif-
 ot, in good conscience and consist-
 old the law, sign this legislation.

WILLIAM J. CLINTON.

96.

ONE HUNDRED FOURTH CONGRESS OF THE UNITED STATES OF
 AMERICA, AT THE SECOND SESSION, BEGUN AND HELD AT THE
 CITY OF WASHINGTON ON WEDNESDAY, THE THIRD DAY OF JANU-
 ARY, ONE THOUSAND NINE HUNDRED AND NINETY-SIX

An Act

To amend title 18, United States Code, to ban partial-birth abortions.

*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 1995".

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 medi-
 cine 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

H. R. 1833—2

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".

BILL EMERSON,

Speaker of the House of Representatives pro tempore.

STROM THURMOND,

President of the Senate pro tempore.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

ROBIN H. CARLE, *Clerk.*

2 25 84

THE WHITE HOUSE
WASHINGTON

The Honorable John Conyers, Jr.
House of Representatives
Washington, D.C. 20515

Dear John:

I understand that the House is preparing to consider H.R. 1833, as amended by the Senate, which would prohibit doctors from performing a certain type of abortion. I want to make the Congress aware of my position on this extremely complex issue.

I have always believed that the decision to have an abortion should be between a woman, her conscience, her doctor, and her God. I strongly believe that legal abortions -- those abortions that the Supreme Court ruled in Roe v. Wade must be protected -- should be safe and rare. I have long opposed late-term abortions except, as the law requires, where they are necessary to protect the life of the mother or where there is a threat to her health. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions except where they were necessary to protect the life or health of the woman, consistent with the Supreme Court's rulings.

The procedure described in H.R. 1833 is very disturbing, and I cannot support its use on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available. As I understand it, however, there are rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to preserve her health. In those situations, the Constitution requires that a woman's ability to choose this procedure be protected.

I have studied and prayed about this issue, and about the families who must face this awful choice, for many months. I believe that we have a duty to try to find common ground: a resolution to this issue that respects the views of those -- including myself -- who object to this particular procedure, but also upholds the Supreme Court's requirement that laws regulating abortion protect both the life and the health of American women.

I have concluded that H.R. 1833 as drafted does not meet the constitutional requirements that the Supreme Court has imposed upon us, in Roe and the decisions that have followed it, to provide protections for both the life and the health of the mother in any laws regulating abortions.

I am prepared to support H.R. 1833, however, if it is amended to make clear that the prohibition of this procedure does not apply to situations in which the selection of the procedure, in the medical judgment of the attending physician, is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.

I urge the Congress to amend H.R. 1833 to ensure that it protects the life and the health of the woman, as the law we have been elected to uphold requires.

Sincerely,

Bill Clinton



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 6, 1995 (SENT)
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1833. Partial-Birth Abortion Ban Act of 1995 (Rep. Canady (R) FL and 115 others)

The President believes that the decision to have an abortion should be between a woman, her conscience, her doctor, and her God. He believes that legal abortions should be safe and rare. The President has long opposed late-term abortions except where they are necessary to protect the life of the mother or where there is a threat to her health, consistent with the law. The Supreme Court has ruled that "Roe forbids a state from interfering with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health." Therefore, the Administration cannot support H.R. 1833 because it fails to provide for consideration of the need to preserve the life and health of the mother, consistent with the U.S. Supreme Court's decision in Roe v. Wade. If the bill is not amended to rectify these constitutional defects, the Attorney General and the White House Counsel will recommend that the President veto the bill.

* * * * *

ABOLITION / PB / CUES 1997

February 27, 1997, Thursday, Final Edition

SECTION: A SECTION; Pg. A04

LENGTH: 750 words

HEADLINE: Head of Abortion Group Admits Lying in Interview; 'Partial-Birth' Statements Were 'the Party Line'

BYLINE: David Brown, Washington Post Staff Writer

BODY:

The head of an organization representing abortion clinics said yesterday that early in the public debate on what critics call "partial-birth" abortions he lied in a television interview about who gets the controversial procedure.

Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said that in the interview he "just went out there and spouted the party line" about the kinds of women -- and fetuses -- that undergo the technique, even though he believed his statements were wrong.

"I'm not proud of it, and the people I represent deserve better," Fitzsimmons said yesterday of the interview he gave to the ABC television program "Nightline." "I felt very disappointed in myself and I vowed to not do it again."

Fitzsimmons was one of several defenders of the procedure featured in a prerecorded news story about the debate over the abortion technique that aired on "Nightline" on Nov. 7, 1995. The deceptive remarks weren't aired in the final, edited piece.

Fitzsimmons's revelations came in a story about the ongoing "partial-birth" abortion debate to be published next week in American Medical News, a weekly newspaper published by the American Medical Association.

Congress passed a bill in its last session that would have banned the abortion technique, which is known technically as "intact dilation and evacuation" (D&E). The debate was graphic and contentious, with some longtime abortion rights supporters in Congress voting to ban the procedure. President Clinton vetoed the bill, saying the measure failed to include exceptions to protect the health of the women involved. Officials expect that bills to ban it will be reintroduced soon.

Intact D&E is used by some physicians to remove a relatively large fetus from the womb in one piece. The fetus's feet are first pulled out of the vagina, and the surgeon then punctures the back of the fetus's head and removes the brain. This permits the skull to be partially collapsed and brought through the cervix, the narrowest part of the birth canal.

Often the fetus is dead before the procedure begins, although occasionally it is alive. Sometimes the procedure is done at a stage in gestation when the fetus has no chance of surviving outside the womb were it born alive. Sometimes it is done later, when the chance of survival, albeit small, exists. The moment in development when that transition to "viability" occurs is not fixed. However, after about 25 weeks of gestation, many premature babies survive.

The most common alternative to intact D&E is "dismemberment dilation and evacuation," in which the fetus is removed in pieces. Some physicians believe the intact technique is safer because it is less physically traumatic to the pregnant woman.

There are no statistics on the number of intact D&E procedures done in the United States each year. Reporting by several newspapers suggests that at least 2,000 are performed. That research also suggests that at least half, and possibly the great majority, of intact D&Es are done on healthy fetuses carried by women who are themselves healthy.

That last impression contrasts with statements made by most abortion rights organizations and their spokesmen. In general, they say that in most cases the procedure is done only when the fetus has severe abnormalities, or when the woman is so ill that ending her pregnancy is imperative.

In an interview yesterday, Fitzsimmons said that when the bill to ban intact D&Es was introduced two years ago, he called many abortion clinics in his organization and asked how common the procedure was and who generally underwent it. He came away with the impression that most of the fetuses were normal, not malformed.

He also said he "got the sense" that "going to the mat" on this issue in the battle for public opinion was "not high on the providers' priority list," he said yesterday. Consequently, he chose not to join other abortion rights organizations in the campaign against the ban.

"I felt very uneasy about it, knowing what I knew . . . I just decided not to interject myself into the debate," he said. Ironically, however, he was one of the abortion rights spokesmen sought out for the television interview.

"Frankly, I can't even tell you why I decided to do 'Nightline,' " he said. "I just went out there and spouted the party line," namely that most intact D&E procedures were done on malformed fetuses very late in pregnancy, which was contrary to his own research.

March 3, 1997, Monday, Late Edition - Final

SECTION: Section A; Page 16; Column 1; Editorial Desk

LENGTH: 544 words

HEADLINE: Reopening an Abortion Debate

BODY:

Republicans in Congress are expected to reintroduce legislation this week to ban the abortion procedure that they describe as "partial-birth abortion" but whose technical name is "intact dilation and extraction." Both houses of Congress passed the bill last year, but it was vetoed by President Clinton after a heated debate that pitted the gruesomeness of the procedure against the right of women to choose the best means of abortion in consultation with their doctors.

The debate last year was marred by distortions and evasions on both sides, and recent comments by Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, have reignited the controversy. Mr. Fitzsimmons now says that he lied in 1995 when he claimed that the procedure was used very rarely and only in cases where the mother's life was in danger or in cases of fetal abnormalities.

The anti-abortion forces will no doubt use his comments to tar pro-choice advocates who fought the bill last year. President Clinton is now in the awkward spot of having to justify last year's veto, which he defended on grounds that the procedure was used only rarely and only for critical health reasons. But no one can claim honesty here. Both sides manipulated the facts.

The procedure is one of a few that doctors use to abort fetuses after 20 weeks of gestation. It involves dilating the cervix, pulling the fetus partially into the birth canal and collapsing the skull. There is no firm count, but it is likely that a few thousand abortions using this method are performed every year on women with healthy fetuses. The great majority of those abortions are done before 24 weeks of gestation -- in other words, in the second trimester -- before the fetus is viable outside the womb. Abortions performed in that time frame are legal and constitutionally protected from undue state intrusion, which would seem to preclude banning an accepted medical procedure.

However, neither anti- nor pro-abortion groups chose to focus on the use of the procedure in the second trimester. Instead, supporters of a ban consistently preached against its use in the eighth and ninth months of pregnancy in blatant attempts to mislead the public into believing that healthy babies were being aborted just before birth with this procedure. They also presumably wanted to downplay the fact that the greatest impact of a ban would occur during the period when women have a constitutionally protected right to an abortion.

The pro-choice groups responded by arguing that only a few hundred of these "late term" abortions -- by which they apparently meant third-trimester abortions -- were done each year, to protect the mother's health or because of fetal abnormalities. They were correct in that respect. But they were silent on the thousands performed in the second trimester, perhaps because they feared that the public would find using this method to abort a 23-week-old fetus equally distasteful.

The less-than-honest quality of the debate has been disheartening. But the squabbling over numbers should not obscure the principle at stake. A ban on the procedure is still an unacceptable political invasion of private medical decisions and an attempt to limit access to abortion.

March 04, 1997, Tuesday, Final Edition

SECTION: EDITORIAL; Pg. A14

LENGTH: 403 words

HEADLINE: Lies and Late-Term Abortions

BODY:

LAST YEAR President Clinton vetoed the bill to outlaw partial-birth abortion, a particularly gruesome procedure in which a fetus is killed after its entire body, except for the head, has emerged from the birth canal. In explaining his decision to veto, the president said that such second- and third-trimester abortions are extremely rare and that this particular procedure was used almost exclusively in cases where the fetus was grossly deformed or the mother's life or ability to bear future children threatened. His arguments were those of the lobbyists opposing the ban on these late-term abortions, which he bought into.

Now Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, has admitted in an interview to be published in the American Medical News that he, and by implication other pro-choice groups, lied about the real reasons women seek this particular kind of abortion. At a taping for ABC's "Nightline," Mr. Fitzsimmons says he "just went out there and spouted the party line" even though he knew from personal research that most of these abortions are elective. They are performed on healthy fetuses and healthy mothers.

This is the position that had been asserted by those favoring the ban at the time and denied by those who opposed it. One of the doctors who had performed hundreds of these abortions said that about 80 percent of his patients had no medical reason for the abortion. Those favoring a ban on such abortions also cited figures greatly at odds with pro-choice claims and argued that the procedure was used thousands of times a year, not 200 to 300, as its defenders asserted.

Mr. Fitzsimmons's revelation is a sharp blow to the credibility of his allies. These late-term abortions are extremely difficult to justify, if they can be justified at all. Usually pro-choice legislators such as Sen. Daniel Patrick Moynihan and Reps. Richard Gephardt and Susan Molinari voted for the ban last year. Opponents of the ban fought hard, even demanding a roll call vote on their motion to ban charts describing the procedure from the House floor. They lost. And they lost by wide margins when the House and Senate voted for the ban. They probably will lose again this year when the ban is reconsidered. And this time, Mr. Clinton will be hard-pressed to justify a veto on the basis of the misinformation on which he rested his case last time.

LANGUAGE: ENGLISH

LOAD-DATE: March 04, 1997

March 4, 1997, Tuesday, Home Edition

SECTION: Metro; Part B; Page 7; Op Ed Desk

LENGTH: 907 words

HEADLINE: COLUMN RIGHT / CHARLES T. CANADY / RICK SANTORUM;
'COMPROMISE' JUST CONTINUES ABORTION LIES;
A proponent admits deliberate falsehood about how often the partial-birth procedure is used.

BYLINE: CHARLES T. CANADY and RICK SANTORUM, Rep. Charles T. Canady (R-Fla.) is chairman of the Judiciary, subcommittee on the Constitution. Sen. Rick Santorum (R-Pa.) is chairman, of the Armed Forces subcommittee on acquisitions and technology

BODY:

The abortion rights folks know it, the anti-abortion folks know it and so, probably, does everyone else." So spoke Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, in an interview about the facts of partial-birth abortion, whereby a living child is pulled from its mother until all but the head is delivered. A scissors is plunged into the skull, a tube inserted and the brains suctioned out. The now-dead infant is then delivered. Partial-birth abortion, Fitzsimmons now says, is performed 3,000 to 5,000 times a year, most often on the healthy mothers of healthy babies.

So two of the most critical and hotly debated components of the partial-birth abortion debate--how many of these abortions are performed and for what reasons--are not in dispute after all. A prominent member of the pro-abortion community has confirmed what opponents of partial-birth abortion said from the beginning.

Fitzsimmons also says that he "lied through my teeth" in a "Nightline" interview when he asserted that partial-birth abortions were performed rarely and only when the life of the mother or the health of the fetus was in question. But Fitzsimmons is by no means the greatest offender. The National Abortion Federation, Planned Parenthood and National Abortion Rights Action League repeatedly have claimed that partial-birth abortion is a rare third-trimester procedure only performed in the most extreme medical circumstances. Just last week, the home page of the National Abortion Federation informed web visitors: "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 problem detected late in pregnancy." President Clinton reiterated these arguments when he vetoed the bill to ban partial-birth abortion last fall.

The revelations by Fitzsimmons, the head of the country's second largest "trade association" of abortion providers, underscore a disturbing truth about the public dialogue on this issue, one that pro-life advocates were stating all along: There was an enormous disparity between what abortion advocates knew and what they talked about. As sponsors of the partial-birth abortion ban, we knew--and publicly maintained--that this procedure was routinely performed in the second trimester--that is, the fifth and sixth months of pregnancy--on the healthy children of healthy mothers. We also knew, as did hundreds of obstetrician/gynecologists and fetal-maternal specialists including former Surgeon General C. Everett Koop, that "partial-birth abortion is never medically necessary to protect a mother's health or her future fertility." Indeed, the doctors say the breech-style delivery used in this procedure can significantly threaten a mother's health or ability to carry future children to term.

Based on the disinformation promulgated by abortion advocates, a phony "compromise" proposal is planned by Clinton and Sen. Tom Daschle (D-S.D.). The proposal is no compromise; it simply does not address partial-birth abortion. The Clinton/Daschle proposal only applies to third-trimester abortions except to save the mother's life or "health." But most partial-birth abortions are in the fifth and sixth months of pregnancy--not the third trimester. With

regard to third trimester abortions, the proposal's "health" exception would effectively permit all abortions. The Supreme Court interprets "health" abortions so broadly as to include all those related to social, psychological, financial or emotional concerns.

The only effective and honest legislative response to partial-birth abortion is one that bans it with a clear life of the mother exception, like the bill that we have proposed. Both the House and Senate passed such legislation with bipartisan majorities in the 104th Congress. The Senate has reintroduced legislation known as the Canady/Santorum Partial-Birth Abortion Ban and the House will reintroduce the same bill Wednesday.

With the acknowledgment by committed abortion advocates that the pro-abortion lobby misinformed the public on the frequency, necessity and timing of partial-birth abortions, we reach a critical juncture in this debate. We will have to openly decide if we want to live with the profound personal and social consequences of partial-birth abortions that are routinely performed in the fifth and sixth month of pregnancy on the healthy babies of healthy mothers.

LANGUAGE: English

LOAD-DATE: December 21, 1998

March 4, 1997, Tuesday, City Edition

SECTION: OP-ED; Pg. A15

LENGTH: 896 words

HEADLINE: The partial-truth abortion debate;
JEFF JACOBY

BYLINE: By Jeff Jacoby, Globe Staff

BODY:

It was news that Ron Fitzsimmons decided to tell the truth. But the truth that he decided to tell was not new.

Fitzsimmons, the executive director of the National Coalition of Abortion Providers, figured prominently in the recent debate over partial-birth abortions. Like other prochoice spokesmen, Fitzsimmons insisted that such abortions take place only a few hundred times a year, and only when the mother is gravely ill or the unborn baby terribly deformed. President Clinton echoed those claims when he vetoed the congressional ban on partial-birth abortions last spring. These abortions, the president said, are "potentially lifesaving, certainly health-saving" measures, restricted to "a small but extremely vulnerable group of women and families in this country, just a few hundred a year."

There was only one thing wrong with that argument. It was false.

Last week, breaking ranks with his pro-abortion allies, Fitzsimmons confessed the truth. He admitted that thousands - not hundreds - of partial-birth abortions take place each year, with the vast majority performed on healthy mothers and healthy fetuses. He acknowledged having "lied through my teeth" when the ban was being debated, recalling one "Nightline" appearance with particular chagrin. "I just went out there and spouted the party line," he told The Washington Post. "I'm not proud of it."

Anyone who repents a lie and embraces the truth deserves credit for his honesty. And there is a measure of bravery in Fitzsimmons's coming clean, for he is sure to be ostracized by prochoice extremists.

But as Fitzsimmons himself makes clear, he is not having second thoughts about the practice of aborting healthy pregnancies. He worries, rather, that by lying about it, pro-choice leaders do a disservice to those who perform abortions.

"When you're a doctor who does these abortions and the leaders of your movement . . . say these procedures are done in only the most tragic of circumstances," Fitzsimmons told American Medical News, the newspaper of the American Medical Association, "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."

Dirty, yes. But secret? Hardly.

Partial-birth abortion, or, in medical jargon, "intact dilation and extraction," is an especially grisly way to end a pregnancy. The nearly fully formed fetus is pulled, feet first, through the birth canal until all but the head has been delivered. The doctor then forces a sharp instrument into the back of the skull. A catheter is inserted, and the brain suctioned out. That allows the skull to be crushed, so the head can be easily extracted. "It is as close to infanticide," US Sen. Daniel Patrick Moynihan observes, "as anything I have come upon."

No wonder the prochoice camp swore up and down that partial-birth abortion is exceedingly rare, resorted to only when a pregnancy has gone heartbreakingly wrong. Had the truth gotten out, Clinton would never have vetoed the ban.

Ah, but the truth did get out. For those who cared to look, it was in plain view.

Prolife activists told anyone who would listen that partial-birth abortion was widely practiced. They circulated the 1993 testimony of Dr. Martin Haskell, an Ohio physician well known for performing late-in-pregnancy abortions: He said that 80 percent of those abortions were "purely elective." C. Everett Koop, the former surgeon general (and a famed pediatric surgeon), decried "the misinformation campaign conducted by the advocates of partial-birth abortion." Even the AMA's council on legislation, an advisory panel, voted unanimously in support of a ban.

But in the nation's newsrooms, the facts were ignored. With rare exceptions, the prestige media recycled the abortion lobby's whoppers unchallenged. Because most mainstream journalists are unshakably prochoice, most of them never thought to question the prochoice line on partial-birth abortions.

There were a few exceptions. Unwilling to take the abortion advocates' claims on faith, David Brown of The Washington Post interviewed doctors and checked the medical literature himself. What he found was "that the majority of these abortions are performed on normal fetuses," and that "in most cases where the procedure is used, the physical health of the woman . . . is not in jeopardy."

Meanwhile, Ruth Padawer of the Bergen Record demolished the prochoice lobby's claim that no more than 500 partial-birth abortions take place in the United States each year. In just one clinic in New Jersey, she reported - Metropolitan Medical of Englewood - 1,500 such abortions are performed annually. "We have an occasional amnio abnormality," one physician told her, "but it's a minuscule amount. . . . Most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were."

In a free society, almost anything is open to debate - even whether the law should permit a healthy fetus, five or six or seven months along, to have its brains sucked out by an abortionist. But of what use is a debate if one side peddles lies, or if the press won't set the record straight? This week, a bill banning partial-birth abortions will be reintroduced in Congress. It would be nice, this time around, if everyone told the truth.

March 6, 1997, Thursday, Home Edition

SECTION: Part A; Page 14; National Desk

LENGTH: 1000 words

HEADLINE: NEW EFFORT LAUNCHED TO BAN 'PARTIAL BIRTH' ABORTIONS;
LEGISLATION: FOES OF PROCEDURE SENSE SHIFT IN MOMENTUM. CLINTON MAY FACE NEW VETO
DECISION.

BYLINE: MELISSA HEALY, TIMES STAFF WRITER
DATELINE: WASHINGTON

BODY:

Riding a new wave of political momentum, abortion foes on Wednesday launched a second effort to ban a late-term abortion procedure and challenged President Clinton, who vetoed the same measure last year, to "see the error of his ways" and sign the bill.

As they pressed the case for outlawing a procedure referred to as "partial birth" abortion, its opponents stopped short of predicting victory. But they said they are buoyed by apparent electoral gains in the Senate and by the recent admission of an abortion-rights advocate that he and others lied during last year's debate over the procedure.

But while the prospects for legislative success remain uncertain, backers of the proposed bill predicted clear rewards for their efforts. They suggested that recent developments will prompt more Americans to rethink their position on abortion and put Clinton and other advocates of abortion rights further on the defensive.

"We're going to hold the president's feet to the fire," said Rep. Steve Chabot (R-Ohio). "Maybe this time, he'll see the error of his ways."

Added Rep. Henry J. Hyde (R-Ill.), chairman of the House Judiciary panel that is expected to vote on and approve the ban on "partial birth" abortions as early as late next week, "We ought to give the president another chance to get it right."

Passage of the measure is virtually certain in both chambers of Congress, meaning Clinton will again face the choice of signing the legislation or vetoing it a second time. While the House is very likely to have the forces to override a presidential veto, it is less certain that abortion foes can muster the forces in the Senate to do the same. Last year, the override effort failed in the upper chamber in a 57-41 vote.

On Wednesday, Rep. Nita M. Lowey (D-N.Y.) told reporters she had received assurances from the White House that the president again would veto a "partial birth" abortion ban if it reached his desk in the same form as it did last year.

In the past, Clinton has said he would sign a bill that provided exemptions for women whose pregnancies would severely threaten their health or future reproductive ability, or in cases where there was a serious fetal abnormality.

In recent weeks, abortion-rights advocates have stressed in addition that neither they nor Clinton could accept a ban on any abortion procedure that applied to pregnancies in which a fetus has not reached the point of viability--a point that is widely thought to occur sometime between 22 and 26 weeks. In a landmark 1973 decision, the Supreme Court ruled

that any restrictions on abortion access before the point of fetal viability would be an unconstitutional infringement on a woman's privacy.

Abortion foes, as they did last year, ruled out on Wednesday accepting any such exemptions. They said such exceptions have been so broadly interpreted by the courts that they have failed to bar late-term abortions for healthy women carrying healthy fetuses.

While the battle lines of the abortion debate have changed little in the past year, some believe the political atmosphere, and possibly American public opinion, either have shifted significantly or are poised to do so.

In November's election, abortion opponents believe that they picked up some strength--as many as three new votes--in the Senate. In the House, where abortion opponents have held a commanding majority for the past several years, they appear to have lost only a small handful of votes.

Moreover, this year's effort to ban "partial birth" abortions comes just a week after the executive director of an abortion-rights group told a medical newspaper that he and his allies "lied" during last year's debate about the numbers of and circumstances under which the controversial procedures were performed.

The abortion rights groups, said Ron Fitzsimmons of the National Coalition of Abortion Providers, never acknowledged that the "vast majority" of the "partial birth" abortions were being performed on healthy mothers carrying healthy fetuses late in the second trimester of pregnancy.

Abortion foes charged that Fitzsimmons' "revelations" had exposed both the deceitful tactics of their opponents and the faulty basis upon which Clinton and many lawmakers opposed last year's bill. On Wednesday, lawmakers backing the new effort to outlaw the procedure urged opponents to reconsider their positions in light of Fitzsimmons' admission.

"The people they trusted have been shown to be not trustworthy," said Sen. Rick Santorum (R-Pa.), the Senate's lead sponsor of the bill. In light of that, he added, "I am hopeful . . . that we will have members of the Senate on both sides to relook at this issue and base their decision on the facts as we now know them."

LANGUAGE: English

LOAD-DATE: December 21, 1998

March 17, 1997, Monday, SOONER EDITION

SECTION: EDITORIAL,

Pg. A-17

LENGTH: 859 words

HEADLINE: PHONY FACTS FUEL DEBATE;
THE SUPPORTERS OF PARTIAL-BIRTH ABORTION HAVE PRESENTED ONE LIE AFTER ANOTHER

BYLINE: CHARLES KRAUTHAMMER

DATELINE: WASHINGTON

BODY:

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, only perhaps 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 abortion.

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 fallback position: the heart-tugging claim that they are merely protecting a small number of women who would be "eviscerated" and their bodies "ripped . . . to shreds and you could never have another baby" (Clinton said) if they did not have this procedure.

At his nationally televised news conference, 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, suck 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 simply 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 woman" 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, explains 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.

Charles Krauthammer is a syndicated columnist for The Washington Post.

LOAD-DATE: March 21, 1997

March 21, 1997, Friday, Home Edition

SECTION: Part A; Page 1; National Desk

LENGTH: 1120 words

HEADLINE: 'PARTIAL-BIRTH' ABORTION BAN AGAIN PASSES HOUSE

BYLINE: MELISSA HEALY, TIMES STAFF WRITER
DATELINE: WASHINGTON

BODY:

Abortion foes in the House on Thursday adopted a ban on a controversial late-term abortion procedure for the third time in a year, challenging President Clinton to again veto a bill that he vetoed last April.

The 295-136 House vote--with 77 Democrats joining Republicans to pass the bill--is large enough to override another Clinton veto. But it was the Senate that last year failed to muster the necessary two-thirds vote to override the president's veto, and it is in the Senate again that abortion foes face the tougher fight.

Senate Majority Leader Trent Lott (R-Miss.) acknowledged Thursday that, while the measure almost certainly will pass in the Senate, it is not likely now to do so by the margin needed to override a veto. But Lott said he is hopeful that growing public awareness of the bid to outlaw the late-term abortion procedure would increase the pressure on some senators to switch sides and back the bill.

With the outcome in the House a foregone conclusion, Thursday's debate began with numerous calls for civility. But in the discussions that followed, lawmakers' acrimonious exchanges of rhetoric reflected the deep divisions that continue to separate them--and the nation--on the abortion issue.

The bill passed Thursday would make a crime a procedure that abortion providers call "intact dilation and extraction," but which is termed "partial-birth abortion" by those who would outlaw it. As described in vivid and repeated detail on the floor, a fetus is pulled feet-first into the birth canal and its head is collapsed by suctioning the skull contents before it is removed. The procedure is used to end some pregnancies after the 20th week of gestation.

Foes of the effort to block the procedure argued that under a landmark 1973 Supreme Court decision, it would be unconstitutional to outlaw access to this or any other abortion technique before a fetus achieves viability--a milestone that may occur anytime between the 23rd and 26th week of pregnancy. They added that, beyond that point, the procedure is used only to end pregnancies that have gone tragically awry.

In such cases, said opponents of the bill, it would be cruel and unwise for Congress to ban a procedure that many doctors choose as a way to protect a woman's life or health from a continued pregnancy that might threaten her.

Proponents of the bill said they pressed for another round of voting on the issue because they believe a new political climate exists in which Clinton might sign the measure. That shift, they said, came after Ron Fitzsimmons, a leading abortion-rights advocate, said that he and others had lied when they claimed that the operation is used rarely and only in cases of severe fetal abnormality or maternal health crisis.

"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 has told us," said Rep. Henry J. Hyde (R-Ill.), one of the chief sponsors of the ban. "Is this House prepared to defend the proposition that infanticide is a constitutional right?"

On several occasions, Clinton has declared that he would veto the bill again if it comes to him without exemptions for pre-viability abortions and those performed to protect the life, health or future fertility of the mother.

Several lawmakers sought to bring such a bill to the House floor for debate Thursday. But House leaders, in an unusual parliamentary procedure, took steps Wednesday night that greatly limited the scope of debate. On Thursday, Republicans repeatedly fought back efforts to have amendments considered that could make the bill acceptable to the White House.

One such proposal would have tightened exemptions adopted by 40 states governing abortions after the fetus has reached viability. Most states have outlawed all post-viability abortions but have provided a broadly interpreted exemption for the health--physical as well as psychological--of the mother.

Rep. Barney Frank (D-Mass.) proposed outlawing post-viability abortions throughout the nation in all cases but those posing "serious physical long-term consequences" to the mother.

The defeat of such amendments caused some lawmakers to charge that backers of the abortion bill were more interested in embarrassing Clinton and swaying public opinion than in ensuring that the late-term procedure is used only in medical emergencies.

"They're baiting President Clinton" to again veto the bill, Rep. Louise McIntosh Slaughter (D-N.Y.) said. "If they really wanted this bill to pass and be signed into law, they would have made the simple adjustment" he called for, she said.

With each round of debate, abortion foes have said that they hope to make new gains with the public, a majority of which appears to support strong restrictions on most late-term abortions. In a recent poll of Californians conducted by the Field Institute, 62% supported a woman's right to an abortion in the first trimester. But approval for later abortions dropped sharply to 26% in the second trimester and 14% in the third.

At the same time, however, 78% agreed with Clinton's position allowing late-term abortions if the mother's health is endangered.

LANGUAGE: English

LOAD-DATE: December 21, 1998

March 22, 1997, Saturday, Final Edition

SECTION: OP-ED; Pg. A27

LENGTH: 784 words

HEADLINE: Partial-Birth Abortion: The Spin

BYLINE: Nat Hentoff

BODY:

New York Gov. George Pataki, who is pro-choice, recently urged that state's senate to vote for a ban on partial-birth abortions. There has been new information, he said. The source of these "revelations" is Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, who has dramatically broken ranks by admitting that he "lied through his teeth" during the previous debate on the procedure.

The party line of the abortion-rights establishment is that partial-birth abortion is very rare, occurring in the third trimester, and done only when the woman's life is in danger or in cases of extreme fetal abnormality -- or when only this procedure would allow the woman to have children again.

This form of abortion involves the delivery of an intact fetus, feet first, until only the head remains in the birth canal. Until then, the fetus, in most cases, is alive. The head is then punctured by a scissors, the brains are sucked out, the collapsed head is pulled out, and the delivery is completed.

According to Fitzsimmons, the facts are that most of these abortions are not required to save the health or fertility of the mother -- or because the fetus is severely deformed. Most of the operations involved, he said, "a healthy fetus 20 weeks or more old, and a healthy mother."

But this is not new information. Ruth Padawer, a reporter for The Record in Bergen, N.J. -- and an adjunct professor at the Columbia Graduate School of Journalism -- reported in September 1996 that more than 1,500 partial-birth abortions take place every year at the one New Jersey abortion clinic authorized to perform them. In The Post, David Brown and Barbara Vobejda disclosed similar information. And the first reporter to break the story of how often partial-birth abortions actually are performed -- and at what stage in the pregnancy -- was Diane Gianelli, a first class reporter for American Medical News (a publication of the American Medical Association.)

Moreover, there were statements and prominent ads by PHACT -- a coalition of obstetricians, gynecologists and specialists in fetal medicine around the country. They kept pointing out that not only are there "absolutely no obstetrical situations requiring the destruction of a partially delivered fetus," but also that the procedure involves serious risks of maternal hemorrhage, uterine rupture and infection. These are provable facts that were not challenged by the abortion rights establishment and were rarely mentioned by the press.

These serious risks for the mother were also ignored by Bill Clinton. Dr. Nancy Romer -- clinical professor of obstetrics and gynecology at Wright State University and chairman of both specialties at Miami Valley Hospital in Ohio -- noted in the Wall Street Journal:

"How telling it is that although Mr. Clinton met with women who claim to have needed partial-birth abortions on account of [certain] conditions, he has flat out refused to meet with women who delivered babies with these same conditions [without partial-birth abortion] -- with no damage whatsoever to their health or future fertility."

Last month, Ruth Padawer wrote another illuminating report for the Record in New Jersey. She noted that a number of abortion providers around the country are disturbed by the distortions disseminated by abortion rights leaders. Said one

of them: "I kept waiting for the National Abortion Federation to clarify it and they never did. What do we do about this secret? Who do we tell and what happens when we tell? But frankly no one was asking me, so I didn't have to worry."

The pro-choice leaders kept the propaganda coming. Padawer notes that in reaction to the reports last September by her and in The Post, the National Organization for Women "issued a release saying such reports were 'planted by abortion opponents' when in fact they were not. They were based on interviews with providers who use the procedure."

Clinton's pledge to sign a bill banning partial-birth abortions only if it includes an exception for the health of the mother is not what it seems. It has been clear since the Supreme Court decision in Doe v. Bolton -- which came down on the same day as Roe v. Wade -- that the court's definition of "health" in this context encompasses "physical, emotional, psychological, familial [considerations] relevant to the well being of the patient." Also included, said the court, is "the woman's age."

This is an exception that is so broad as to be yet another spin by Clinton in this grotesque dance of death. On Thursday the House approved the ban on partial-birth abortion, 295 to 136. It is now up to the Senate and the president.

LANGUAGE: ENGLISH

LOAD-DATE: March 22, 1997

April 2, 1997, Wednesday, Home Edition

SECTION: Life & Style; Part E; Page 1; View Desk

LENGTH: 5467 words

HEADLINE: PARTIAL TRUTHS;
IN THE PR WAR OVER A FORM OF LATE-TERM ABORTIONS, BOTH SIDES ARE GUILTY OF
MANIPULATING THE FACTS. HERE'S WHAT THEY ARE (AND AREN'T) SAYING.

BYLINE: ROY RIVENBURG, TIMES STAFF WRITER
BODY:

In the gut-wrenching debate over "partial-birth abortion," truth has been elusive:

* In 1995, when abortion foes claimed doctors were poking scissors into the skulls of living fetuses being dragged down the birth canal, abortion rights groups scoffed, insisting that anesthesia given to a pregnant woman kills the fetus beforehand. Anesthesiologists promptly blasted abortion rights leaders for spreading scientific bunk.

* Last April, the nation's Catholic bishops ran a newspaper ad suggesting that the reasons women seek late-term abortions include "can't fit into prom dress." A few days ago, a bishops' spokeswoman admitted the line was invented by an ad agency.

* In February, after abortion rights lobbyist Ron Fitzsimmons confessed to lying about there being only 450 partial-birth abortions a year, other activists implied that their similarly low numbers were meant to cover just the final three months of pregnancy. But of the three U.S. doctors known to perform abortions that late, two use another method--and the third died in 1995.

* Haunting illustrations used by antiabortion groups to depict the partial-birth procedure have been attacked by critics for showing "fully developed, Gerber babies" instead of the 5- and 6-month-old fetuses more commonly destroyed by the method. Abortion foes have argued that the drawings are of second-trimester fetuses. But in January, the Catholic bishops had to find a new diagram after their original medical illustrator told them he was "pro-choice" and didn't like the way his art was being used to inflame public opinion. He also said the bishops' ad agency had instructed him to draw a third-trimester fetus.

And so it goes. For almost two years, a phalanx of lawmakers, feminists and theologians has waged bitter war over this unusual medical procedure. They've also spun so many contradictory facts and figures that some observers call it the "partial-truth abortion debate."

Now, as a bill to outlaw the procedure once again moves through Congress (which failed to override President Clinton's veto of a similar measure last year), the claims of both sides are under increasing scrutiny.

But getting to the facts behind the rhetoric is like wandering through a hall of mirrors. Both camps seem willing to fudge and fabricate to gain the public relations high ground.

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The dispute originated in a Dallas hotel in September 1992. There, an Ohio doctor named Martin Haskell presented a how-to paper to the National Abortion Federation on a surgical procedure he called D & X, for dilation and extraction.

Unlike traditional late-term abortions, in which a fetus is dismembered inside the womb and removed in pieces, D & X removes the fetus intact, Haskell wrote. First, the surgeon inserts seaweed-based dilators to expand the woman's cervix, a three-day process that causes painful cramping (the same method is used for traditional late abortions).

Then, guided by sonogram, he reaches into the womb with forceps and grabs a foot. He pulls out the body except for the head, which is too large to pass without injuring the woman. To overcome that obstacle, the doctor punctures the fetal skull, inserts a vacuum tube and suctions out the brain.

Not long after the Dallas seminar, a copy of Haskell's paper found its way to the National Right to Life Committee. And the debate officially drew its first breath.

One of the earliest skirmishes--ignored by most of the media--centered on Brenda Shafer, an Ohio nurse who claimed she witnessed Haskell's operation while assigned to his clinic by a temporary agency.

In gruesome detail, Shafer told Congress about the abortion of a 26 1/2-week-old fetus with Down's syndrome. Shafer, who now charges \$1,500 per appearance on the lecture circuit, said she saw the fetus' fingers "clasping and unclasping, and his feet kicking" as the doctor pulled it from the birth canal. When Haskell stuck scissors into the small skull, she testified, the baby's arms "jerked out in a flinch," then went limp.

In response, Haskell's clinic sent a letter noting several errors in the story. The letter said that the fetus wouldn't have been kicking, that the doctor didn't use ultrasound and that he never terminated pregnancies beyond 24 weeks.

But Haskell's Dallas paper indicated otherwise. It not only described his ultrasound technique, but said he used D & X on "selected patients 25 through 26 weeks."

Antiabortion forces also produced a 1993 interview with the American Medical Assn.'s weekly newspaper, the American Medical News, in which Haskell said two-thirds of the 700 fetuses he had aborted were alive until the very end.

Haskell hinted he was misquoted. But the interview was on tape. It was just a taste of the fact-bending to come.

The biggest distortions--from both camps--revolve around three questions: How many are done? At what stages of pregnancy? And for what reasons?

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Tallying the Numbers

Throughout, supporters of legal abortion have claimed--and most of the media have repeated--that the D & X procedure happens rarely (450 to 600 times a year), mostly in the third trimester and never unless the fetus is deformed or the mother's life is jeopardized.

But last September, the Washington Post and the Bergen County (N.J.) Record found evidence of thousands of cases, usually in the fifth or sixth month of pregnancy (a point at which some fetuses can live outside the womb), and most involving healthy women and babies.

As one clinic physician told the Record, "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."

Based on interviews with abortion providers, the Post estimated several thousand partial-birth abortions a year; the Record reported 1,500 in New Jersey alone.

Kate Michelman of the National Abortion and Reproductive Rights Action League swiftly asserted that the Record reporter "got it wrong." And the National Organization for Women dispatched an Internet memo implying the stories were "planted by abortion opponents."

(When The Times asked NOW for evidence, a spokeswoman said the organization didn't have time to bother responding and suggested that a "right-wing plant" supplied the memo to The Times.)

Even before the articles came out, the abortion rights community was deeply split over D & X, with longtime allies like New York Democratic Sen. Daniel Patrick Moynihan calling it borderline infanticide.

Then lobbyist Fitzsimmons jumped into the fray. As head of the National Coalition of Abortion Providers, Fitzsimmons cuts an unusual figure in the reproductive-rights movement. He has appeared on Pat Robertson's TV show and hosted antiabortion activists in his office, including Paul Hill, who later murdered a Florida abortion provider.

He also subscribes to feminist author Naomi Wolf's controversial strategy of defending abortion by admitting it's a form of killing and honestly discussing the moral ambiguities involved.

Remorseful that he failed to do that in a 1995 interview with ABC's "Nightline," Fitzsimmons told the American Medical News he knew of 3,000 to 5,000 procedures a year, mostly second trimester and usually on healthy fetuses and moms.

Vindication for abortion opponents? Not quite.

Although antiabortion leaders have seized on Fitzsimmons' numbers, they invariably fail to mention one whopping footnote: All the cases he cites would remain perfectly legal, because the clinics he represents supposedly kill the fetus in the womb--by injecting it with poison or cutting the umbilical cord--before starting the procedure. Under the bill, abortions are forbidden only if the fetus is killed outside the womb, in the birth canal.

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The irony of the whole battle over partial-birth abortion, Fitzsimmons says, is how easily the ban could be skirted.

At National Right to Life Committee headquarters, spokesman Doug Johnson acknowledges the loophole. But he also doubts that most clinics kill the fetus in advance: Snipping the umbilical cord, for instance, requires waiting four to 20 minutes for the fetus to die, a delay some doctors might want to skip.

Antiabortion forces also trumpet the Record's report of 1,500 D & X abortions--all involving live fetuses--in New Jersey. But that figure, too, is problematic.

According to the paper, two doctors at Metropolitan Medical of Englewood estimated that their clinic performed 3,000 abortions a year on fetuses 20 to 24 weeks old, half by partial-birth techniques.

Metropolitan, one of only two New Jersey clinics authorized to do abortions that late, fired back with a letter saying that documents it submits to the state health department and medical board "show that the annual number of abortions between 12 and 23.3 weeks is about 4,000, with the majority . . . between 12 and 16 weeks."

Others have questioned the article on statistical grounds. For example, according to federal studies, the percentage of abortions occurring past 20 weeks averages about 1.3% nationwide. If the newspaper's number is correct, New Jersey's percentage of late abortions would be 5.5%, four times higher than almost any other state in the survey.

Then again, Metropolitan's math doesn't inspire great trust.

The abortion numbers it turned over to the health department and medical board last year were completely at odds with each other, say state officials, who after a five-month investigation came up with yet another number. The new total is much lower than the newspaper's, but officials won't release an exact number.

Even some skeptics concede privately that the Record probably quoted the doctors accurately. Which leaves two puzzling possibilities: Either the physicians were independently wrong, or New Jersey (and maybe other states) underreports the number of abortions done later in pregnancy.

And therein lies another flash point in the debate: the number of terminations done after fetuses reach viability.

It's a tricky question. Some states, including California (which is said to have one of every four U.S. abortions), don't count pregnancy terminations of any kind. So the closest thing to a ballpark figure, based on 1992 research by the Centers for Disease Control and Prevention and the Alan Guttmacher Institute (an affiliate of Planned Parenthood), is that 20,000 of the nation's 1.5 million estimated annual abortions occur at 21 or more weeks of pregnancy.

Viability begins several weeks after that cutoff. At 23 weeks, one in four babies survives at least 30 days, says Dr. Valerie Rappaport, professor of maternal medicine at the University of New Mexico. By 25 weeks, which is the national medical standard for viability, about 40% live, but many suffer severe disabilities, usually cerebral palsy, chronic lung problems or blindness.

It's unclear how many abortions fall into the viable range and what percentage of them are by partial-birth methods. It's even more uncertain how many happen in the final trimester of pregnancy. Guttmacher says 600 tops. But former Surgeon General C. Everett Koop estimated, in 1984, about 4,000 abortions of all kinds in the seventh, eighth and ninth months (although he now can't recall his source).

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Fact and Fiction

Perhaps the most explosive facet of the debate is why women abort late in pregnancy. Defenders of D & X have presented a number of women who say tragic fetal deformities or severe health risks forced them to opt for partial-birth abortion, which their doctors advised was the safest method.

Several stood by Clinton as he vetoed the bill last year, and their testimonials made a compelling case for keeping the procedure legal.

Abortion foes have countered in several ways. One of the most visible is the Physicians' Ad Hoc Coalition for Truth, which presents itself as an independent, 400-member group of doctors out to dispel medical myths about the procedure.

In various forums, PHACT's obstetricians and fetal specialists have said D & X is never necessary to preserve a woman's health--and can be potentially dangerous.

To be sure, many of PHACT's claims are grudgingly acknowledged as valid by some defenders of the procedure. But PHACT isn't entirely objective. Co-founder Dr. Pamela Smith is president of the American Assn. of Pro-Life Obstetricians and Gynecologists, and PHACT spokesman Gene Tarne admits that none of the 100 members he's met are "pro-choice."

Antiabortion forces have also run a series of provocative newspaper ads.

"This is infanticide," declares the latest full-pager from the nation's Catholic bishops. Abortion rights groups complain that the accompanying illustration is misleading because the fetus--complete with eyelashes, hair, and tiny fingers and toes--looks full term.

Even the bishops' chief ally at National Right to Life admits the drawing is questionable. "It's at least 29 weeks," Johnson says. Then again, NRLC's illustration, which is said to depict a 22-week fetus, has also come under attack.

So it's possible that no illustration would be acceptable to supporters of legal abortion. Even at 20 weeks, doctors say, a developing fetus appears remarkably full-formed, right down to fingerprints.

Another ad took on Clinton's remark that he would sign the partial-birth act if it included an exception for the "health of the mother."

As defined by the Supreme Court's Doe vs. Bolton case, health covers "all factors--physical, emotional, psychological, familial and the woman's age."

The ad, paid for by the bishops, listed examples of how a "health" exception might apply in real life. Women would seek abortions, it said, because they "hate being fat" or "can't afford a baby and a new car." There was also the infamous "can't fit into prom dress" excuse.

NARAL's Michelman denounced the prom line as a lie. Bishops' lawyer Helen Alvare concedes it was fiction, "inspired by" a file of other, documented frivolous reasons that some women abort. The idea was to shock people into realizing how loose a "health exception" would be, Alvare says.

But the National Abortion Federation's Vicki Saporta vigorously denies that women seek late abortions for anything but medical crises. She points out that 40 states, including California, have laws restricting post-viability abortions.

As a practical matter, that's true. Most doctors won't touch abortions past 24 weeks or so. And contrary to statements from numerous antiabortion politicians, few, if any, women would want to abort a healthy baby in the eighth or ninth month, Saporta says.

From a legal standpoint, however, Alvare and the bishops are right: If a woman can find a doctor who says her emotional health is disturbed by a pregnancy, she can get an abortion at any stage of pregnancy.

States aren't allowed to define when a fetus is viable. The Supreme Court leaves that to the physician.

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Backers of legal abortion insist there is "no evidence" of viable fetuses being aborted for light reasons. Those assertions, however, contradict information from doctors who perform the procedures.

In a 1993 interview with American Medical News, Haskell (who no longer speaks to the press) said, "In my particular case, probably 20% are for genetic reasons and the other 80% are purely elective."

The late Dr. James McMahon, who specialized in third-trimester abortions and helped pioneer partial-birth techniques at his Eve Surgical Center in Los Angeles, submitted documents to Congress analyzing the reasons for nearly 2,000 of his cases.

He said 9% were done for maternal health problems, most commonly depression and rape. Another 54% involved serious fetal defects, ranging from lack of a brain to congenital heart disease. But there were also nine cases of cleft lip, which can be surgically corrected.

Because McMahon died in 1995--and because his partner, Dr. Robert Bitonte, declined to be interviewed--it's difficult to interpret his data precisely.

So both sides have tried to put their own spin on his charts and writings. When asked about the oft-cited cleft lips, for example, the National Abortion Federation says the fetuses had multiple defects, so that was never the sole reason for an abortion.

NRLC's Johnson says that's illogical: If McMahon's breakdown of 2,000 abortions includes many with multiple defects, it stands to reason there would be, say, 4,000 fetal and maternal health problems listed. Instead, there are only 1,358, which leaves about a third of his cases with no apparent health troubles at all.

Even in cases where the fetus is "flawed," antiabortion forces still oppose ending the pregnancy. They argue that some of the abnormalities can be corrected with surgery.

But Dr. Warren Hern, a Colorado practitioner who wrote the most widely used textbook on abortion, dismisses the notion that late termination can be so easily avoided. Hern, who also does later abortions (although he doesn't use the D & X method, which he considers potentially dangerous to the woman), rattles off case after case of doomed fetuses and women who wouldn't survive if they carried to term.

In a 1992 New York Times interview, he said, "The idea that we have to salvage every baby no matter how impaired is really crazy. Some people feel that taking care of an impaired child is ennobling and that's fine for them. But it's not for everybody. It's oppressive to say that everyone has to do this."

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The Move Toward Legislation

Partial-birth combatants also offer conflicting views on the method's safety and legality.

One East Coast physician, who performs about 150 per year and has taught the technique at several medical schools, says he uses it "whenever I can because it's safer." The main alternative, dismembering the fetus in utero and removing the pieces, entails a small risk of having a fetal bone perforate the woman's uterus or cervix, he explains.

On the other hand, Hern, who opposes efforts to ban the method as an attempt to undermine Roe vs. Wade, has said he has "very serious reservations" about the procedure and "would dispute any statement that it is the safest" method until there are peer-reviewed studies to back it up.

During congressional hearings on the subject, abortion-rights leaders wouldn't let Hern testify, he says, because "what I was saying wasn't 'politically correct.' "

D & X backers also argue it's dangerous to let politicians meddle with medical decisions. "Next, they'll start telling you how to do brain surgery," complains the East Coast doctor.

Even if Congress' measure fails, similar bills are on the table in 28 states, including California. And legal challenges are inevitable. Can a partial-birth ban hold up constitutionally?

Some experts note that the Supreme Court has never dealt with a technique quite like partial-birth abortion. Destroying a fetus in the womb is clearly protected, but what happens when the fetus is almost entirely outside the woman's body?

The NRLC says the Roe decision, which legalized abortion in 1973, left undisturbed a Texas law that made it a felony to kill a baby "in a state of being born and before actual birth."

Still, if a ban does stand, it probably won't reduce the number of abortions. Doctors would simply revert to other, legal methods.

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So what's the point?

Alvare, the Catholic bishops' spokeswoman, says it's largely symbolic: "In a moral sense, all abortions are equally awful. But with this particular procedure, we're very clearly moving toward infanticide. It's a perception issue."

Supporters of legal abortion see other motives, namely an attempt to chip away at Roe one method at a time. And they're determined to battle every inch of the way.

As the controversy rages, some doctors on the sidelines complain that it distracts from larger issues.

Dr. Deidre Gifford, a professor of obstetrics at Brown University, says, "Focusing on the particulars of this one procedure is missing the point. Any procedure you use in the second trimester is pretty distasteful.

"But what is the alternative? Women whose lives and health are wrecked, babies with severe disabilities that drain precious medical resources, and children born to families who don't have the psychological or financial means to take care of them. I see the results of unwanted pregnancies daily, and as much as I am saddened by abortion, I am more repelled by a suffering mother and child. Unfortunately, it's really hard to convey that point, that sometimes abortion is the least objectionable option. The only way you can get a feel for that is to be in the field for years and see it firsthand."

And that's what gets lost in this debate, Gifford says: "You can't win an argument in which one side is talking about puncturing a hole in a baby's head."

It doesn't help when the press does so little digging on the subject. A recent PBS show, "Media Matters," found coverage of the issue "abysmal." Most reporters did little more than regurgitate the PR slant put out by lobbyists, especially the supporters of legal abortion, it concluded.

As Bergen Record abortion writer Ruth Padawer puts it: "Journalists always have a responsibility to check and double-check what they're told. In this case, we need to triple-check."

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Issues in Dispute

The proposed ban on partial-birth abortion has produced a confusing series of claims and counterclaims. Some key issues:

The Operation: Usually performed on fetuses at least 20 weeks old, like the one pictured in the sonogram above. The fetus is pulled from the womb by its feet, until the head lodges in the cervix. The skull is then collapsed. Claims that anesthesia kills or puts the fetus to sleep have been debunked.

Numbers: At first, supporters of legal abortion insisted there were just 450 to 600 procedures a year. After newspapers and one abortion rights lobbyist produced evidence of thousands of cases, the groups began saying that any estimates were based on "anecdote and speculation."

Safety: Defenders of the procedure say it's safer and quicker than traditional methods, in which the fetus is dismembered in the womb. But some doctors call the technique medically risky. No studies have been done to support either claim.

What's Next: The House passed the ban in March by a veto-proof margin. The Senate, which failed to override President Clinton's veto of a similar bill last year, is expected to vote this month. In the meantime, several states have outlawed the procedure and others, including California, have measures in the wings.

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No Agreement, Even on a Name

Everything seems to be at issue in this dispute, even the name: "partial-birth abortion."

Critics say the term isn't a medical one but was concocted to arouse public sentiment against the practice.

On the other hand, defenders of the procedure can't seem to agree on a label, either. The National Abortion Federation calls it "intact dilatation and evacuation." Planned Parenthood uses Dr. Martin Haskell's "D & X" (dilation and extraction). And another prominent practitioner coined the phrase "intrauterine cranial decompression."

None of those terms appears in any medical literature, says Dr. Warren Hern, who wrote the most widely used textbook on abortion.

Helen Alvare, a lawyer who represents the National Conference of Catholic Bishops, adds that if a specific procedure were named, abortion clinics might figure out a slight variation and evade the ban. As written, the proposed federal legislation bars any termination in which "the person performing the abortion partially vaginally delivers a living fetus before killing it and completing the delivery."

Critics of the measure contend--and even some antiabortion leaders concede--that the wording could be applied, in isolated instances, to other common (and otherwise legal) methods.

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The Groups Rallying the Troops

Among the key players who favor abortion rights:

- * National Abortion Federation; represents clinics and doctors who perform more than half the nation's abortions.
- * National Abortion and Reproductive Rights Action League; lobbies in favor of legalized abortion and related issues.
- * National Coalition of Abortion Providers; a 6-year-old group also representing abortion clinics. NCAP stayed out of the debate until Executive Director Ron Fitzsimmons challenged the honesty of fellow lobbyists. Many members also in NAF.
- * Planned Parenthood; provides abortion and birth-control services at clinics throughout the country.

On the antiabortion side:

- * National Conference of Catholic Bishops; represents U.S. bishops.
- * National Right to Life Committee; lobbies against abortion and euthanasia.
- * Physicians' Ad Hoc Coalition for Truth; a group of obstetricians, gynecologists and other doctors opposed to partial-birth abortion.

GRAPHIC: PHOTO: (...) PHOTOGRAPHER: Tony Stone Images PHOTO: Thursday: Meet Janet Folger, the 34-year-old firebrand who has pushed Ohio to chip away at abortion rights.

LANGUAGE: English

LOAD-DATE: December 21, 1998

April 3, 1997, Thursday, Late Edition - Final

SECTION: Section A; Page 21; Column 2; Editorial Desk

LENGTH: 1236 words

HEADLINE: Pro-Choice and Pro-Life

BYLINE: By Naomi Wolf; Naomi Wolf is the author of "The Beauty Myth," "Fire With Fire" and the forthcoming "Promiscuities: The Secret Struggle for Womanhood."

DATELINE: WASHINGTON

BODY:

From a pro-choice point of view, things look grim. Last month, came accusations that abortion-rights advocates had prevaricated about how frequently "partial birth" or "intact dilation and evacuation" abortion is performed. Then the House of Representatives voted overwhelmingly to ban the procedure. The Senate may soon address the issue, but even if it fails to override President Clinton's promised veto, the pro-choice movement is staring at a great symbolic defeat.

This looks like a dark hour for those of us who are pro-choice. But, with a radical shift in language and philosophy, we can turn this moment into a victory for all Americans.

How? First, let us stop shying away from the facts. Pro-lifers have made the most of the "partial birth" abortion debate to dramatize the gruesome details of late-term abortions. Then they moved on to the equally unpleasant details of second-trimester abortions. Thus, pro-lifers have succeeded in making queasy many voters who once thought that they were comfortable with *Roe v. Wade*.

Unfortunately, we set ourselves up for this. Our rhetoric has long relied on euphemism. An abortion was simply "a woman's choice." We clung to a neutral, abstract language of "privacy" and "rights." This approach was bound to cede the moral high ground to our opposition and to guarantee an erosion of support for abortion rights. Thirty percent of Americans support abortion based on the "woman's choice" argument alone, but when people are asked whether abortion should be a matter between "a woman, her doctor, her conscience and her God," 70 percent agree.

By ignoring this hunger for a moral framework around legal abortion, we inadvertently played into the drama that was performed before Congress. When someone holds up a model of a six-month-old fetus and a pair of surgical scissors, we say, "choice," and we lose.

Some pro-choicers have recently resorted to heartless medicalese to explain away the upsetting details of late abortions, pointing out that no major surgery is pretty. Such responses make us seem disconnected from our own humane sensibilities. We should acknowledge what most Americans want us to: that abortion at any stage, since it involves the possibility of another life, is a grave decision qualitatively different from medical choices that involve no one but ourselves.

What if we transformed our language to reflect the spiritual perceptions of most Americans? What if we called abortion what many believe it to be: a failure, whether that failure is of technology, social support, education, or male and female responsibility? What if we called policies that sustain, tolerate and even guarantee the highest abortion rate of any industrialized nation what they should be called: crimes against women?

If we frankly acknowledged abortion as a necessary evil, a more effective and ethical strategy falls into place. Instead of avoiding pictures of mangled fetuses as if they were pro-life propaganda, we could claim them as our own most eloquent testimony.

Rolling back abortion rights would merely ease lawmakers' consciences, while many women, and more late-term fetuses than are aborted now, would die in back alleys, deaths as agonizing as those that pro-lifers have been so graphically describing. No woman, we should argue, should have to make the terrible choice of a late abortion if there is any alternative. And these late abortions are more likely to occur when 80 percent of women have to travel outside of their counties to end a pregnancy.

The moral of such awful scenes is that a full-fledged campaign for cheap and easily accessible contraception is the best antidote to our shamefully high abortion rate. Use of birth control lowers the likelihood of abortion by 85 percent, according to the Alan Guttmacher Institute. More than half of unplanned pregnancies occur because no contraception was used. If we asked Americans to send checks to Planned Parenthood to help save hundreds of thousands of women a year from having to face abortions, our support would rise exponentially.

A year of sexual responsibility can easily cost someone \$200 or more (and that someone is likely to be female). To those who oppose access to contraceptives, yet hold up images of dead fetuses, we should say: This disaster might have been prevented by a few cents' worth of nonoxynol-9; this blood is on your hands.

For whatever the millions of pro-lifers think about birth control, abortion must surely be worse. A challenge to pro-choicers to abandon a dogmatic approach must be met with a challenge to pro-lifers to separate from the demagogues in their ranks and join us in a drive to prevent unwanted pregnancy.

The Common Ground Network for Life and Choice has brought activists together from both sides. They are working on insuring better prenatal care; making adoption easier; reducing the rate of teen pregnancy through programs that give girls better opportunities and offer them mentors; and rejecting violent means of protest. They have teamed abortion clinics with prenatal care and adoption clinics to give desperate women real choices. The network has even found that half of the pro-lifers in some of its groups would support a campaign to improve access to birth control.

The pro-choice movement should give God a seat at the table. For many good reasons, including the religious right's often punitive use of Scripture and the ardently anti-abortion position of the Roman Catholic Church, the pro-choice movement has been wary of God-based arguments.

But on issues of values like abortion and assisted suicide, the old Marxist-Freudian, secular-materialist left has run out of both ideas and authority. The emerging "religious left" is where we must turn for new and better ideas. We should call on the ministers, priests and rabbis of the religious left to explain their support of abortion rights in light of what they understand to be God's will.

America is a religious country -- and a pluralistic one. Even in debate about "partial birth" abortion, unspoken religious assumptions and differences play a part. While Judaism generally maintains that in a choice between the fetus and the mother, the mother's life, with its adult obligations, must always come first, traditional Catholic teaching holds that you cannot directly kill a fetus to save the life of the mother. Americans must be reminded that people of faith can reach different conclusions about abortion.

Finally, we must press Congress to work with the Clinton Administration to take this approach at the national level. On Jan. 22, Hillary Rodham Clinton, Vice President Al Gore and Tipper Gore took the extraordinary step of calling on abortion providers and their opponents to reject extremism, support efforts to lower the abortion rate and talk with those who do not share their views.

Now lawmakers must follow through with sweeping policies to give that sentiment substance. Congress and the Administration should champion the "common ground" approach, and add to it bipartisan support for financing far more research, development and distribution of contraceptives.



We have all lived with the human cost of our hypocrisies for too long. It is time to abandon symbolic debates on Capitol Hill in favor of policies that can give women -- who have been so ill-served by the rigid views on both sides -- real help and real choice.

GRAPHIC: Drawing (Benoit Jacques)

LANGUAGE: ENGLISH

LOAD-DATE: April 3, 1997



April 24, 1997, Thursday, Final Edition

SECTION: OP-ED; Pg. A25

LENGTH: 786 words

HEADLINE: The Abortion Coverup

BYLINE: George F. Will

BODY:

The accusation that President Clinton cares deeply about nothing is refuted by his tenacious and guileful battle to prevent any meaningful limits on the form of infanticide known as partial-birth abortion. However, that battle proves that his professed desire to make abortion "rare" applies only to the fourth trimester of pregnancies.

Soon -- probably in the first half of May -- the battle will be rejoined in the Senate, where the minority leader, South Dakota's Tom Daschle, will offer what he will advertise as a compromise. Truth-in-advertising laws do not apply to legislators.

Daschle has not published his language yet, but presumably it will be congruent with Clinton's real, as distinct from his rhetorical, position. And judging by previous legislative maneuverings, a "compromise" measure will be craftily designed for the convenience of "pro-choice" legislators who are kept on a short leash by the abortion-maximizing lobby.

The aim will be to enable such legislators to adhere to that lobby's agenda while casting a cosmetic vote that will mollify a public repelled by partial-birth abortion, the practice of sucking the brains from the skull of a baby delivered feet first and killed while only the head remains in the mother's uterus. Senators should consider this issue in the light cast by the case of Stephanie and Sandra Bartels of Hull, Iowa.

They are twins born in a South Dakota hospital 88 days apart by what is called "delayed-interval delivery." Stephanie, born Jan. 5 when her mother went into premature labor in the 23rd week of her pregnancy, weighed 1 pound, 2 ounces. Sandra, weighing 7 pounds, 10 ounces, was born April 2, by which time Stephanie weighed 4 pounds, 10 ounces.

For 88 days, while her twin sister's life was protected by the law, Sandra could have been, under the probable terms of the Daschle "compromise," aborted by any abortionist. This is because under any language acceptable to the abortion movement and hence to Clinton and Daschle, a baby does not warrant legal protection merely because she is medically "viable," referring to the point at which she can survive with good medical assistance, a point that now begins at about 23 weeks. Location is the key factor: Unless she is completely outside the mother, she is fair game for the abortionist.

Daschle has at times said his measure will not put any restrictions on abortions in the second trimester of pregnancy, when about 90 percent of partial-birth abortions occur, involving thousands of babies a year, many of them potentially less precariously viable than Stephanie was. And Daschle's language will contain a provision pertaining to "health," perhaps even an apparent limitation to considerations of "physical" health. However, this will be meaningless if the language grants the abortionist an unreviewable right to determine when the exception applies.

During the 1996 campaign, Clinton, who had vetoed a ban on partial-birth abortions, said he would support the ban if there were a "minor" amendment creating only a "very stringent" exception. It would allow such abortions to prevent "severe physical damage" to the mother. Note the word "physical."

However, the White House reportedly has told congressional Democrats that Clinton's views are compatible with "compromise" language proposed last month by Maryland Rep. Steny Hoyer, co-chairman of the House Democratic

Steering Committee. Hoyer's language would permit post-viability abortions whenever, "in the medical judgment of the attending physician" (the abortionist), not performing the abortion would have "serious adverse health consequences."

Does that include "mental health" consequences? Said Hoyer, "Yes, it does."

To allay suspicions that this might be an infinitely elastic loophole, he said, "We're not talking about a hangnail, we're not talking about a headache." However, a suspicion unallayed by such flippancy is this: The abortionist will be free to decide that not performing an abortion will cause, say, distress and depression sufficient to constitute serious health consequences.

Daschle, following Hoyer's precedent, may leave the definitions of "viability" and "health" up to the abortionist. If so, this will be, says Douglas Johnson of the National Right to Life Committee, akin to a law that ostensibly bans "assault weapons" but empowers any gun dealer to define an assault weapon.

So the Daschle "compromise" probably will aim to confer on the supposedly restricted person, the abortionist, an uncircumscribed right to define the critical terms of the supposed restrictions. If enacted, such a "compromise" would be a remarkable confection, a law that is impossible to violate.

LANGUAGE: ENGLISH

LOAD-DATE: April 24, 1997

May 11, 1997, Sunday, Late Edition - Final

SECTION: Section 4; Page 15; Column 1; Editorial Desk

LENGTH: 730 words

HEADLINE: Journal;
'Partial Birth' Baloney

BYLINE: By FRANK RICH

BODY:

As the Senate assumes its fetal positions this week for yet another bout of posturing about "partial-birth" abortion, here's the only fact pro-choice and pro-life partisans alike can bank on: Almost every "fact" spouted by either side will be a sham.

Last week, for instance, Tom Daschle, the Senate's pro-choice Democratic leader, earned cries of "sham" from the pro-life troops when he proposed a new "compromise" that would ban all abortions after a fetus is viable, with some exceptions for a woman's health. The critics have a point. Under *Roe v. Wade*, any state can already enact its own post-viability ban -- as 41 states have. Since Mr. Daschle says that his law would not take precedent over those of the states, why bother? Mainly to allow nervous pro-choice Senators to cast a symbolic fence-sitting vote.

But an even bigger sham is the pro-life bill itself -- the "partial-birth" ban that the Senate will pass, as the House already has. (After that, it will be derailed by a Clinton veto.) Far from stamping out "infanticide," as its proponents purport, this bill would not stop a single abortion. It would merely force women who have late-term abortions -- a small group by any of the unprovable figures bandied about -- to use another, equally gruesome and possibly more dangerous procedure.

And it might not even do that. As vaguely written, the bill is unconstitutional; it outlaws second-trimester abortions protected by *Roe v. Wade*. It's also unenforceable: In Michigan, where a look-alike "partial-birth" ban has just become law (and is under challenge in court), authorities doubt that evidence could ever be found to make a case stick. Even Mark Crutcher, the head of Life Dynamics, a hard-line pro-life litigation firm, told *The Detroit Free Press*: "You are never going to see a prosecution of a partial-birth abortion. There is physically no way to enforce that law. The whole issue is a scam being perpetrated by people on our side . . . for fund-raising purposes."

More scams or shams, anyone? Remember Ron Fitzsimmons, the abortion-provider lobbyist who announced he had "lied" about the number of "partial-birth" abortions? Well, Roy Rivenburg of *The Los Angeles Times* has since reported that Mr. Fitzsimmons's revised number -- 3,000 to 5,000 -- is also misleading because it mixes apples and oranges, counting abortions that don't fit the "partial-birth" bill's definition of the procedure. Mr. Rivenburg also uncovered another sham: Helen Alvare, the lawyer for the National Conference of Catholic Bishops, conceded that a much-quoted assertion her organization made in a full-page *Washington Post* ad -- that some women get abortions because they "won't fit into a prom dress" -- was an ad agency's fiction.

Much as journalists overplayed Mr. Fitzsimmons's recantation, so they do with Daniel Patrick Moynihan's supposedly unexpected opposition to "partial-birth" abortion. The press repeatedly describes Senator Moynihan as a pro-choice stalwart who did a sudden about-face when this issue came up. In fact, Mr. Moynihan's pro-choice voting record was already mixed: the National Abortion and Reproductive Rights Action League's analysis of '96 senatorial votes shows that he voted for abortion rights less often than 35 other Democrats -- and less often than a half-dozen pro-choice Republicans, too.

The net effect of a debate built on a pileup of false premises and dubious facts is a prolonged exercise in doubletalk -- all about a "partial-birth" bill that won't be enacted and wouldn't accomplish its ostensible aims even if it were. So what's the point? No one has stated it more plainly than John Jakubczyk, the general counsel of Arizona Right to Life, who said last fall that "partial birth" abortion isn't "what we care most about. Our goal is to stop the killing of unborn children at any stage of development." In other words, even its advocates don't expect a ban on "partial birth" abortion to stop any abortions; the anti-choice hope is to demonize abortion in general to pave the way for more plausible legislation that really would restrict a woman's abortion rights.

Our Congressmen, pro-life and pro-choice alike, could save a lot of time if they just cut to the chase and voted on the only real issue at stake in the entire "partial-birth" sham: Who is in favor of rolling back Roe v. Wade and who is not?

LANGUAGE: ENGLISH

LOAD-DATE: May 11, 1997

May 14, 1997, Wednesday, Southland Edition

SECTION: Part A; Page 1; National Desk

LENGTH: 1374 words

HEADLINE: CLINTON ABORTION STANCE REIGNITES FIERCE DEBATE;
HEALTH: DASCHLE'S PLAN IS ALTERNATIVE TO PROPOSED HALT TO 'PARTIAL-BIRTH' PROCEDURE.
FOES CALL IT A SHAM.

BYLINE: MELISSA HEALY, TIMES STAFF WRITER
DATELINE: WASHINGTON

BODY:

President Clinton on Tuesday reignited an incendiary debate over late-term abortions, appearing to embrace a Senate Democrat's proposal that would outlaw all third-term abortions except those performed to avert "grievous" harm to a mother's health.

Just as abortion foes were preparing to launch a new legislative assault on the grisly late-term procedure they call "partial-birth" abortion, Clinton caused them to delay floor action by indicating he was close to throwing his support behind a Democratic alternative crafted by Senate Minority Leader Tom Daschle (D-S.D.).

Daschle's proposal could theoretically bar virtually all late-term procedures conducted after a fetus reaches "viability," a milestone usually achieved between the 24th and 26th weeks--or third trimester--of pregnancy. The "partial-birth" abortion ban, by contrast, would outlaw a single procedure, but one that is performed as early as the 20th week of gestation, well within the second-trimester time period protected by the Supreme Court's Roe vs. Wade decision.

While the Daschle proposal appears to have the potential to outlaw more abortions, it in fact would affect only the 600 total third-trimester procedures performed annually. Abortion opponents have denounced it as a political subterfuge designed to derail the effort to ban "partial-birth" abortions, also known medically as intact dilation and extraction, in which a fetus is killed after partial removal from the womb. They claim many thousands of such abortions occur each year in the second trimester.

Under Daschle's alternative, a doctor could abort a fetus beyond the point of viability only if the mother's physical health were in substantial danger. Daschle and others believe that would narrow the "health exemptions" adopted by the 41 states that so far have limited access to abortions of viable fetuses.

As interpreted by the courts, the broad health exemptions in place in those states come into play if in the opinion of a doctor a woman would suffer emotional distress or depression as a consequence of continued pregnancy. Daschle's proposal would raise that bar by requiring a doctor to attest that a woman's physical health would be "grievously injured" by the continued pregnancy.

But abortion foes called Daschle's exemptions a "sham" that would fail to stop any abortions currently being performed. Doctors providing the abortions would be the ones to determine whether a woman and the fetus she carries have met the standards laid out in the bill, and their judgments would not be subject to review. Under such conditions, say antiabortion activists, few abortion providers would deny a woman the abortion she seeks.

"This empowers the doctor to kill the baby whenever he certifies that it was necessary," said Doug Johnson, legislative director of the National Right to Life Committee. Johnson called Daschle's proposal "phony" and charged that the Democratic leader "has done a masterful job of marketing it."

Indeed, on the battleground of abortion politics, the amendment crafted by Daschle--a lawmaker with a mixed record on abortion--appears to be a flanking maneuver. On Tuesday, it threw sponsors of the "partial-birth" abortion ban into considerable disarray, prompting some to question whether they could continue to hold the political high ground with a bill that might appear to be more limited in scope than Daschle's.

After the Senate's Republican leadership opted to delay the start of debate until at least today, Senate Majority Leader Trent Lott (R-Miss.) allowed that "some aspects" of Daschle's bill "are worth considering," and could be taken up at a later time.

Senate approval of the "partial-birth" abortion ban is not in doubt. The measure, adopted by the House in March, won a majority of Senate votes in 1995, and antiabortion forces picked up at least four additional votes in the most recent election. But Lott and others acknowledged Tuesday they do not have the 67 votes necessary to override an expected veto by President Clinton.

In addition to upending the abortion debate and confounding his opposition, Daschle sought to provide Clinton with political cover on an issue that has deeply divided the American public.

When he vetoed legislation last year that would have banned the "partial-birth" procedure, Clinton said he would back a measure that would make all late-term abortions harder to get if it also provided sufficient exemptions for a woman whose health or future fertility is imperiled by a continued pregnancy.

Daschle, who said Tuesday he worked without direct White House consultations, crafted just such a proposal, aiming for the abortion debate's slim middle ground. He broadened the "partial-birth" measure offered by staunch antiabortion forces and tightened a measure offered by ardently pro-abortion rights lawmakers, including California Sens. Barbara Boxer and Dianne Feinstein. The Boxer-Feinstein amendment would have banned all abortions performed after viability, but kept in place the more broadly defined health exemption that now stands in most states.

Daschle's proposal has raised concerns from abortion-rights groups and drawn angry denunciations from abortion foes. But to the White House, it looked just right.

"We are looking very carefully at Sen. Daschle's proposed language," Clinton spokesman Mike McCurry said Tuesday. "We believe it's possible for the White House to support that language."

Off the Senate floor on Tuesday, Lott told reporters he did not believe Daschle has the votes for Senate adoption--a claim Daschle disputes. At the same time, the Senate majority leader acknowledged that his counterpart had crafted a compromise that could cause some defections from the "partial-birth" abortion ban.

"That's movement from a Democrat, and I don't want to dismiss that," said Lott.

What is clear is that Daschle's proposal likely would affect a smaller number of abortions than would the "partial-birth" ban, set for floor debate today. The Alan Guttmacher Institute, which maintains data on abortion, fertility and sexual activity, estimates that of the 1.5 million abortions performed in the United States annually, about 600 are performed during the third trimester, and virtually all of them are performed under state laws restricting them. Those could be affected by the Daschle measure.

No existing database tracks abortions by procedure, so it is impossible to know how many abortions would be halted by the ban on "partial-birth" abortions.

GRAPHIC: PHOTO: Senate Minority Leader Tom Daschle, who has proposed a Democratic alternative to a ban on "partial-birth" abortions. PHOTOGRAPHER: Associated Press

LANGUAGE: English

May 14, 1997, Wednesday

SECTION: UNITED STATES; Pg. 3

LENGTH: 773 words

HEADLINE: Abortion Battle Shifts To State Legislatures

BYLINE: Linda Feldmann, Staff writer of the Christian Science Monitor

DATELINE: WASHINGTON

HIGHLIGHT: State bans of partial-birth abortions could lead to a challenge of Roe v. Wade.

BODY: As the Senate begins its latest high-octane debate on so-called "partial-birth" abortions, a parallel effort to outlaw the procedure state by state has accelerated.

So far, 11 states have enacted bans covering this controversial form of late-term abortion, eight of them this year alone. In two more states, bills await the governor's signature. And in at least 22 additional states, legislatures are still considering bills.

The move to ban partial-birth abortions represents a profound shift in the abortion debate. For the first time attention has focused on what happens to the fetus during an abortion rather than the woman.

The debate also represents a major public relations victory for the pro-life cause, and is likely to fuel further efforts to ban other forms of abortion.

For now, though, in most states that have enacted a ban on partial-birth abortion, the practical impact is minimal. In Ohio and Michigan, legal challenges have halted the ban fully or partially.

In the other states, where the laws will take effect over the next few months, abortions of viable fetuses are already banned - a right states have under the terms the Supreme Court laid out when it legalized abortion.

But the state-by-state effort is having an impact: The legislatures provide 50 different venues for opponents of abortion to publicize how a partial-birth abortion is performed and, they hope, to swing public opinion away from all abortions.

Abortion-rights advocates are also concerned that the state laws provide their opponents with a legal vehicle with which to challenge the right to abortion in the Supreme Court, as laid out in the 1973 ruling Roe v. Wade.

"These laws are intended to be a direct attack on Roe v. Wade," says Kathryn Kolbert, legal counsel of the Center for Reproductive Law and Policy in New York. Ms. Kolbert predicts that at least one of the state laws will go all the way to the Supreme Court.

A key issue is the fact that some partial-birth abortions are performed before the point when a fetus can survive outside the womb. So if the Supreme Court were to uphold a law banning this procedure, it would effectively be tossing out the crucial finding in Roe - that a state has the right to protect "potential life" only after the fetus is deemed viable. That is left to doctors' discretion.

Some historians on the abortion issue say this outcome is highly unlikely, because the court is an inherently conservative institution that does not toss out precedents as big as Roe v. Wade.

'A statute that in any way impinges on pre-viability abortions will be voided, period by the court,' says legal historian David Garrow. "Viability is the bright line for the court."

But neither side in the abortion war assumes Roe is a permanent part of the legal landscape. Thus, the battle rages.

Interestingly, at least five state legislatures have rejected efforts to ban partial-birth abortion, in most cases because the bills did not allow a health exception for the mother.

In Washington, the bill has passed every time it came up for consideration - a reflection of strong public support for the partial-birth ban.

In the Senate, where a vote may take place May 14, the health exception for the mother is the crucial sticking point. Foes of abortion believe a "health exception" can be broadly applied, effectively allowing any abortion.

The bill under consideration, whose lead sponsor is Sen. Rick Santorum (R) of Pennsylvania, contains no health exception for the mother and is the exact same bill the House passed in March.

In addition, it is the same bill passed by the last Congress and vetoed by President Clinton, who said he would have signed it if it had had a health exception.

At press time, the Republicans looked set to fall a few votes short of reaching the 67 Senate votes needed to win a veto-proof majority. Clinton has promised to veto the bill again.

In a countermove, Senate minority leader Tom Daschle (D) of South Dakota has proposed an alternative version that would include a rigidly defined health exception for the mother. But his bill would also ban all abortions of fetuses that can survive outside the womb.

On May 13, White House officials said Clinton would consider supporting Senator Daschle's version of the bill.

Daschle's amendment is likely to fail, but his gambit has alarmed abortion-rights advocates, who fear he has offered too much to win peace on the controversial issue.

GRAPHIC: PHOTOS: 1) SEN. RICK SANTORUM (R) of Pennsylvania is a leading opponent of late-term abortions. HARRY RUMPH, JR./AP/FILE 2) SEN. TOM DASCHLE (D) has proposed an alternative bill.

LANGUAGE: ENGLISH

LOAD-DATE: May 13, 1997

May 15, 1997, Thursday, FINAL EDITION

SECTION: NEWS;

Pg. 14A

LENGTH: 492 words

HEADLINE: Abortion vote misleads, lets Congress play doctor

BODY:

As the U.S. Senate grapples today with the so-called "partial-birth" abortion issue, the public surely must be confused.

Both sides have lied about the procedure. It's neither partial-birth, as its critics contend, nor as rare as its defenders once claimed.

It is favored by some doctors in some circumstances -- in both the second and third trimesters -- as an alternative to methods that can cause a large loss of blood or risk a woman's child-bearing ability.

More deeply, the vote really isn't about one procedure. It's about getting a foothold to roll back abortion law broadly.

Into this confused scramble for political position, Senate Minority Leader Tom Daschle this week inserted an alternative that scares both sides.

It would prohibit most abortions after 23 to 28 weeks -- roughly the time when a fetus might live outside the womb -- unless the mother's health was in danger. President Clinton, who has said he'd veto the current bill, told Daschle Wednesday he'll accept his version. The Senate may vote as early as today.

There's plenty of reason to fear Daschle's proposal as too restrictive. The circumstances surrounding abortion are so sensitive and personal that the choice is best left to a woman, her doctor and her conscience. But it at least poses a more honest choice than the Senate now faces.

The "partial-birth ban" would stop few if any abortions. But it would set a precedent of lawmakers playing doctor.

Imagine a group of non-physicians prescribing how to perform a heart bypass or whether to remove a cancerous prostate. The idea wouldn't get a hearing.

Yet the House already has declared itself expert on choice of abortion procedures. Voting 295-136, it banned what medicine calls "intact dilation and extraction."

Anti-abortion activists, coining a catchy phrase to advance their cause, misnamed it "partial-birth abortion" -- even though the fetus is usually already dead and often deformed, not the Gerber-baby model portrayed for propaganda purposes.

But that's just part of the sham.

Far from banning abortions, the legislation would just require doctors to use other procedures, some equally gruesome and possibly more dangerous.

Further, it's almost certainly unenforceable. Vaguely defined

and with no exception for women whose health is endangered by a difficult pregnancy, it flies in the face of repeated Supreme Court decisions. And attempting to apply the ban to abortions in the second trimester of pregnancy is contrary to another tenet of established law.

A version passed in Ohio has been thrown out as unconstitutional. Eleven other states have enacted similar laws.

Meanwhile, the American Medical Association has issued a study recommending that the procedure be used rarely, but at the discretion of a physician. That's where the issue belongs -- in the medical community and between a woman and her doctor.

GRAPHIC: GRAPHIC, B/W, Kevin Rechin, USA TODAY, Source: Allan Guttmacher Institute(Bar graph)

LANGUAGE: ENGLISH

LOAD-DATE: May 15, 1997

May 18, 1997, Sunday, Late Edition - Final

SECTION: Section 4; Page 17; Column 5; Editorial Desk

LENGTH: 726 words

HEADLINE: Essay;
Abortion Opportunity

BYLINE: By WILLIAM SAFIRE

DATELINE: ERIE, Pa.

BODY:

A stunning breakthrough took place last week in America's generation-long abortion debate. The center suddenly became very much wider and genuine compromise is possible.

No matter how often or rarely doctors perform partial-birth abortion, most Americans want it outlawed. The moment one foot enters the world, a baby being born in the U.S. should have an inalienable right to life and to all the protections of every human being under our Constitution.

But Pennsylvania Republican Rick Santorum's bill does not concern itself with the health of the mother. Abortion rights advocates say they fear that such an omission is the first step down the slippery slope toward a reversal of *Roe v. Wade*.

To deal with that suspicion held by pro-choicers, Democratic leader Tom Daschle sought to head off the bill outlawing the abhorrent procedure with an unexpected alternative.

He proposed to ban all abortions, regardless of procedure, after doctors determine the fetus is capable of life -- about halfway through pregnancy. That, including a stringent health exception, went beyond anything a pro-choice leader had proposed.

"It shall be unlawful to abort a viable fetus," went Daschle's bill, "unless the physician certifies that continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health."

That's not just any injury, but a "grievous" one, which his bill goes on to specify. And the word "physical" rules out "mental," a reason sometimes abused to justify later-term abortion.

Anti-abortion activists too quickly denounced the Daschle bill as a "sham." Most Republicans chimed in, arguing it was designed only to give cover to those pro-choice senators made uneasy by public revulsion at the partial-birth procedure. Right-to-lifers were further turned off when President Clinton -- coming a long way back from his extreme position -- said he supported Daschle's bill.

When centrists like me point to the tough language in Daschle's health exception -- "risk grievous injury" -- Senator Santorum counters by noting " 'a risk' is a huge loophole. A 1 percent risk?" Because a doctor could always certify some risk in a pregnancy, the language in Daschle's bill would still allow the performer of an abortion to justify it easily -- in Santorum's harsh metaphor, "letting the executioner be judge and jury."

The compromise is obvious: by modifying "risk" with "seriously" or "substantially," lawmakers could pose a real threat of prosecution to any doctor who sought to circumvent the unmistakable intent of the law.

But Republicans, sensing victory, refused to take yes for an answer and voted down the leapfrogging Democratic alternative. This week, they plan to pass the much narrower Santorum bill, which even Daschle may vote for; but Clinton's subsequent veto will probably be sustained. Result: no progress, rising resentment. Some Republicans think they can beat Democrats with partial-birth horrors in the '98 elections.

That would be bad for the country as well as politically obtuse. As long as abortion is a burning issue, the G.O.P. will lose most women voters, no matter what specific procedure is condemned as infanticide. Only when an abortion consensus is struck can Republicans close the gender gap.

That is not to disparage the sincerity of abortion-haters: "There may be a medical need to terminate a pregnancy," Santorum tells me, "but there is never a need to kill the baby." But if the promised veto holds, will he work toward some alternative this year? "I won't walk away from the table."

Daschle, for his part, is open to suggestions about his fresh start. "It's not so bad that both sides came out in opposition," he says, seeing the center enlarging. "And some people won't ever feel comfortable with a health exception. But we have to work within the confines of the Court decisions."

Most Americans agree that the rights of the individual woman come first until the potential child she carries becomes viable -- capable of life on its own. When pro-lifers exploited the shock of one kind of abortion, moderate pro-choicers reacted creatively with a change of position that now reflects the majority view.

Not all slopes are slippery. Daschle's proposal is no sham. Congress and the President should turn into law the consensus the people have reached.

LANGUAGE: ENGLISH

LOAD-DATE: May 18, 1997

May 21, 1997, Wednesday, FINAL EDITION

SECTION: NEWS;

Pg. 4A

LENGTH: 1038 words

HEADLINE: Ban on late-term abortion gains Democratic support

BYLINE: Jessica Lee

DATELINE: WASHINGTON

BODY:

WASHINGTON -- New information about the procedure, public opinion and basic politics seem to have combined to persuade some Democratic senators to switch their votes this time around on a GOP bill that would largely ban one late-term abortion procedure.

Senate Minority Leader Tom Daschle voted Tuesday for a Republican bill that would ban "partial birth" abortions except to save a woman's life. That put him squarely at odds with the president. Sens. Robert Byrd, D-W.Va., and Fritz Hollings, D-S.C., also voted with the GOP.

All had been reliable in their support for abortion rights until Tuesday. What changed their minds is a curious mix of medical information, public perception and politics.

That mix has altered the political center of gravity on the abortion issue, says Ralph Reed, director of the Christian Coalition. "When you get the American Medical Association's endorsement and when the Democratic substitute would ban an entire category of abortion, it gives you a sense of how much" things have changed, he says.

A little more than a year ago, when the Senate last voted on the ban, it passed 58-40. Tuesday, the bill passed by a vote of 64-36, which is still three votes shy of being enough to override a promised veto by President Clinton.

Along with Daschle, Byrd and Hollings, the ban's sponsors picked up votes because Republicans gained two Senate seats in elections last year and because of retirements by some longtime advocates of abortion rights. The House has already passed the ban by a veto-proof margin.

Daschle says he voted for the GOP bill "because I still desire to find common ground with those outside the extremes who truly hope to resolve the issue in a constructive and meaningful way." He had drafted the Democratic alternative that broadened the GOP exceptions to a ban to include cases where the procedure is necessary to prevent "grievous injury" to a woman. That bill won Clinton's support.

Byrd says he came around to support the GOP bill, sponsored by Sen. Rick Santorum, R-Pa., because of new information provided by the AMA. The AMA said Monday that "partial birth" abortion is never the only medically necessary procedure available to terminate

a late-term pregnancy. That procedure involves partly removing a fetus feet-first, then suctioning the brain from the skull so it collapses and the head can pass through the birth canal.

Supporters of a ban say the procedure is often used to abort healthy fetuses, sometimes by teen-agers who tried to hide their pregnancies then made a late decision to have an abortion. Opponents of a ban say the procedure is sometimes necessary when tests have shown a fetus is severely deformed or when a woman's life and health are in grave danger.

But, "in light of the fact that it is not as rare as some claimed and that there appear to be other alternatives, I cannot in good conscience continue to oppose a ban," Byrd says.

Daschle says he learned how unpopular the procedure is among the public from the "harsh rhetoric and vitriolic characterizations" of his alternative expressed by the Catholic Church hierarchy in South Dakota. "It was most instructive," he says.

Hollings' change of heart was prompted by different instructions. He is facing a close re-election race in South Carolina, which recently passed its own ban on late-term abortions. Besides, South Carolina was one of the most heavily Republican states in the 1996 election.

Sen. Russ Feingold of Wisconsin has been targeted in a recall drive mounted by Christian evangelicals. But he hasn't been moved by the AMA statement. "The AMA is not the same as any woman's doctor. The AMA is a lobbying group. They have a legislative agenda."

Abortion vote roll call

The Senate voted 64-36 Tuesday to approve a bill that would ban a late-term abortion procedure. A 'yes' vote was a vote for the ban. Voting 'yes': 13 Democrats, 51 Republicans. Voting 'no': 32 Democrats, 4 Republicans.

Ala.: Sessions (R), Yes; Shelby (R), Yes.
Alaska: Murkowski (R), Yes; Stevens (R), Yes.
Ariz.: Kyl (R), Yes; McCain (R), Yes.
Ark.: Bumpers (D), No; Hutchinson (R), Yes.
Calif.: Boxer (D), No; Feinstein (D), No.
Colo.: Allard (R), Yes; Campbell (R), Yes.
Conn.: Dodd (D), No; Lieberman (D), No.
Del.: Biden (D), Yes; Roth (R), Yes.
Fla.: Graham (D), No; Mack (R), Yes.
Ga.: Cleland (D), No; Coverdell (R), Yes.
Hawaii: Akaka (D), No; Inouye (D), No.
Idaho: Craig (R), Yes; Kempthorne (R), Yes.
Ill.: Durbin (D), No; Moseley-Braun (D), No.
Ind.: Coats (R), Yes; Lugar (R), Yes.
Iowa: Grassley (R), Yes; Harkin (D), No.
Kan.: Brownback (R), Yes; Roberts (R), Yes.
Ky.: Ford (D), Yes; McConnell (R), Yes.
La.: Breaux (D), Yes; Landrieu (D), Yes.
Maine: Collins (R), No; Snowe (R), No.
Md.: Mikulski (D), No; Sarbanes (D), No.
Mass.: Kennedy (D), No; Kerry (D), No.
Mich.: Abraham (R), Yes; Levin (D), No.
Minn.: Grams (R), Yes; Wellstone (D), No.
Miss.: Cochran (R), Yes; Lott (R), Yes.
Mo.: Ashcroft (R), Yes; Bond (R), Yes.

Mont.: Baucus (D), No; Burns (R), Yes.
Neb.: Hagel (R), Yes; Kerrey (D), No.
Nev.: Bryan (D), No; Reid (D), Yes.
N.H.: Gregg (R), Yes; Smith (R), Yes.
N.J.: Lautenberg (D), No; Torricelli (D), No.
N.M.: Bingaman (D), No; Domenici (R), Yes.
N.Y.: D'Amato (R), Yes; Moynihan (D), Yes.
N.C.: Faircloth (R), Yes; Helms (R), Yes.
N.D.: Conrad (D), Yes; Dorgan (D), Yes.
Ohio: DeWine (R), Yes; Glenn (D), No.
Okla.: Inhofe (R), Yes; Nickles (R), Yes.
Ore.: Smith (R), Yes; Wyden (D), No.
Pa.: Santorum (R), Yes; Specter (R), Yes.
R.I.: Chafee (R), No; Reed (D), No.
S.C.: Hollings (D), Yes; Thurmond (R), Yes.
S.D.: Daschle (D), Yes; Johnson (D), Yes.
Tenn.: Frist (R), Yes; Thompson (R), Yes.
Texas: Gramm (R), Yes; Hutchison (R), Yes.
Utah: Bennett (R), Yes; Hatch (R), Yes.
Vt.: Jeffords (R), No; Leahy (D), Yes.
Va.: Robb (D), No; Warner (R), Yes.
Wash.: Gorton (R), Yes; Murray (D), No.
W.Va.: Byrd (D), Yes; Rockefeller (D), No.
Wis.: Feingold (D), No; Kohl (D), No.
Wyo.: Enzi (R), Yes; Thomas (R), Yes.
GRAPHIC: PHOTO, B/W, C-SPAN

LANGUAGE: ENGLISH

LOAD-DATE: May 21, 1997

May 21, 1997, Wednesday, Late Edition - Final

SECTION: Section A; Page 22; Column 1; Editorial Desk

LENGTH: 483 words

HEADLINE: Veto the Abortion Ban

BODY:

The Senate once again approved a ban on so-called "partial-birth" abortions yesterday. But despite a last-minute endorsement of the ban by the American Medical Association, the 64-to-36 vote fell short of a veto-proof margin. President Clinton should follow through with his promised veto. Despite minor changes, the bill would unduly interfere with a woman's access to a procedure that may be the best and safest in her circumstances.

The intervention by the board of the Medical Association provides a glaring example of the wrong way to handle a delicate medical issue in the political arena. The A.M.A. recently completed a study of late-term abortion techniques. But its report, while suggesting that partial-birth abortion should not be used unless other alternatives are too risky, concludes that a final decision on what abortion procedure to use should rest with the doctor -- a position diametrically opposed to the legislation. Even so, the A.M.A. board decided on the eve of the vote to let politicians ban the procedure in exchange for language designed to better protect physicians from criminal prosecution.

The cave-in has raised questions as to whether the Medical Association board's stance is an accurate reflection of medical opinion, or whether it was guided by other motives, including perhaps a desire to gain Republican support for other goals. Both the American College of Obstetricians and Gynecologists and the American Medical Women's Association opposed the measure in its final form.

The specific procedure at issue, known technically as intact dilation and extraction, is generally used to abort fetuses after 20 weeks of gestation. But a majority of abortions that would be affected by the ban, according to some counts, are performed before 24 weeks of gestation or before the fetus is considered viable outside the womb. Under the Supreme Court's decision in *Roe v. Wade*, abortions are constitutionally protected from undue state intrusion during that period. That has not stopped Congress from meddling in a sensitive area of medical and personal judgment.

In March, the House voted to ban the procedure by a veto-proof margin. The bill did not include any exception for a woman's health. Last week the Senate rejected two amendments that tried to carve out health exceptions. Then the main Senate sponsor, Rick Santorum, a Pennsylvania Republican, made what he called technical changes to the House bill in an effort to attract the A.M.A. and enough senators to override a veto. The changes included a narrower, clearer definition of the outlawed procedure and some protection from criminal penalties if doctors ended up performing the procedure because of unforeseen circumstances.

Those changes hardly justify Congressional interference in medical procedures and decisions. The Senate version, like the House bill, deserves Mr. Clinton's veto.

LANGUAGE: ENGLISH

LOAD-DATE: May 21, 1997

May 24, 1997, Saturday, Late Edition - Final

SECTION: Section 1; Page 19; Column 2; Editorial Desk

LENGTH: 732 words

HEADLINE: Abortion Bill Skips the Fine Print

BYLINE: By Warren M. Hern; Warren M. Hern is the director of Boulder Abortion Clinic.

DATELINE: BOULDER, Colo.

BODY:

As I watched the Senate debate on late-term abortions this week, I was struck by the surreal quality of the remarks. The oratory from both sides had nothing to do with the anguish faced by my patients and their families, yet the results will profoundly affect their lives.

Families sometimes ask me to do things that might be illegal if the bill the Senate passed on Wednesday or anything like it ever becomes law. The bill's sponsors say it would only ban a procedure that abortion foes call "partial birth" abortion, in which a living fetus is partially delivered and its skull collapsed so it can be delivered intact. But the legislation is so vaguely worded that doctors have little idea of what would really be banned under it.

It is true that the Senate does not have the votes to override a likely Presidential veto. But the foes of abortion will keep sponsoring legislation that keeps doctors guessing about what they are allowed to do.

Many families that come to me for late-term abortions -- after 24 to 26 weeks of pregnancy or later -- want the fetus to be delivered intact. I never make a guarantee; my first objective is to make the procedure as safe as possible for the woman. But having the fetus delivered intact is safer at some stages of pregnancy than performing an abortion with forceps and dismembering the fetus in the womb. And sometimes there are other reasons to keep the fetus intact.

A couple came to me recently in despair. The woman's fetus was missing both arms and most of one leg and had other deformities indicating that if it were born alive at term it would be severely impaired, physically and mentally, and would likely never gain consciousness. The woman and her husband wanted the fetus to be delivered intact. I was able to do so.

After the abortion, my staff and I wrapped the fetus in a baby blanket and presented it to the couple. It was now their stillborn baby. The woman gently and lovingly stroked it with her fingers. She wept a little. Her husband held his head in his hands and was silent. After five or 10 minutes, she folded the blanket and covered her baby, and I took it away.

If the bill to ban "partial birth" abortion were to become law, could I be prosecuted in a case like this? Absolutely. Could I be convicted? I don't think so, but I don't know. One reason is that the term "partial birth" abortion does not occur anywhere in medical literature -- the Senate wants to ban a procedure that doctors don't think exists.

One might also think I would be safe because the fetus was already dead when I delivered it. But the legislation is so vague that there is no way to find out except to see if the sheriff arrested me. If I were nervous about being arrested, I would be better off not performing any late-term abortions at all.

That, of course, is the intent of the bill: to keep doctors from performing any abortion. All the various Congressional proposals to ban "partial birth" abortion have shared this unconstitutional vagueness. "This legislation leaves doctors unable to determine whether the medical care they are providing is a criminal act," says Janet Benshoof, president of the

Center for Reproductive Law and Policy. "Moreover, it prohibits second-trimester abortion in violation of the Supreme Court's guarantee that women can make these private choices free of governmental interference."

But one part of the bill is not vague: It makes no distinction between second-trimester abortions and those performed after the fetus is viable. "Partial birth" abortions would be banned even when the woman's health is jeopardized and when there is a serious fetal abnormality.

The American Medical Association's support of the bill -- after the sponsors made a few "compromises" in language intended to better protect doctors from criminal prosecution -- was misguided and cynical. The bill, as amended, protects only doctors who are performing complicated term deliveries; the A.M.A.'s sham protections would leave doctors who perform abortions vulnerable to prosecution. That's why the American College of Obstetricians and Gynecologists still opposes it.

President Clinton is right to object to this dangerous measure. And he would do well to be suspicious of all such attempts to limit late-term abortion -- even those "compromise" proposals from legislators who claim to support abortion rights.

LANGUAGE: ENGLISH

LOAD-DATE: May 24, 1997

May 25, 1997, Sunday, Late Edition - Final

SECTION: Section 4; Page 5; Column 1; Week in Review Desk

LENGTH: 1215 words

HEADLINE: The Nation;
A Partial-Victory Abortion Vote

BYLINE: By KATHARINE Q. SEELYE

BODY:

THERE was a bizarre moment last week in the otherwise grim debate over "partial birth abortion." The Senate had just voted to ban the procedure but had fallen three votes shy of the number needed to override a promised veto from President Clinton. At a news conference, Senator Trent Lott, the Republican leader, was asked if he would schedule the override vote close to next year's midterm elections.

"This is not a political issue," the majority leader asserted, using a line frequently trotted out on Capitol Hill but rarely so inappropriately.

Until a couple of years ago, no one had ever heard of "partial birth abortion." The term befuddled even doctors who knew the procedure -- in which the fetus is partially born before having its brains vacuumed out and its skull collapsed -- as intact dilation and extraction. But then, abortion opponents came up with the name to incite a new legislative battle after losing for two decades in the courts.

It is precisely because "partial birth" has always been more of a political strategy than a real issue that it has been successful. Even the people supporting the ban on the procedure admit that a ban would not necessarily eliminate a single abortion. (Doctors would still be free to use other methods.) Nonetheless, the matter has upended the political landscape. It has forced virtually all the players in the debate into corners they would rather not be defending.

Abortion opponents, who argue that this one procedure is so grisly it must be banned, seem to be implying that other methods of abortion are somehow acceptable.

Abortion-rights advocates find themselves defending something that really is grisly, which makes them seem like extremists and has cost them enormous political capital.

And abortion-rights lawmakers are casting anti-abortion votes -- votes that may make them vulnerable every time an abortion vote comes up.

The American Medical Association, on the eve of the vote last week, endorsed the ban -- an endorsement that raised questions about what the organization might have got in return for violating one of its fundamental precepts -- never to support Congress' attempt to dictate medical practice.

Even President Clinton was pushed into an uncomfortable position. He was determined to stand tall against a ban that he had vetoed once. But to show that he wasn't intransigent on the issue, he supported a proposal by Senator Tom Daschle, the Democratic leader, that would have banned all abortions of fetuses that could live outside the womb -- a bill that carried far broader restrictions on abortion than the bill he plans to re-veto.

The politics have become so convoluted that they seemed to have tied Mr. Daschle up in knots. He switched his vote from last year and voted for the ban, taking the same position as that held by the Catholic Church. Then he rose on the

Senate floor to denounce the Church for "harsh rhetoric and vitriolic characterizations usually more identified with the radical right than with thoughtful religious leadership." Even as he voted for the ban, he declared it unconstitutional.

With that, Mr. Daschle vexed many of his long-time abortion-rights allies and made new conservative friends who perceived his proposal as a great offer that their anti-abortion allies should have jumped at.

And here the politics really got screwy.

Those anti-abortion allies rejected the Daschle proposal because it was not pure enough. While the ban on "partial birth," sponsored by Senator Rick Santorum, Republican of Pennsylvania, allowed an exception only to save the life of the woman, Mr. Daschle's ban on all abortions of viable fetuses allowed exceptions both for the life of the woman and to protect her from "grievous" physical harm. Abortion opponents said the health exception was a loophole and said the ban would be impossible to prosecute.

And as proof that Senator Daschle's proposal was a paltry concession, abortion opponents pointed to the apparent acquiescence of abortion-rights advocates.

In fact, though, those abortion-rights advocates were silent in part because they had already damaged their credibility.

David Garrow, the author of "Liberty and Sexuality," a book about the abortion -rights movement, said the abortion-rights advocates did not dare criticize Mr. Daschle, "because to criticize Daschle is to criticize Clinton, who has endorsed the Daschle bill, and they need Clinton to veto Santorum."

Mr. Garrow added: "The only thing saving the pro-choice groups from a major defeat, and preventing the defection of a pro-choice President, is the absolutism of the right-to-lifers who won't take the Daschle bill. It's really comic."

So Much Energy, So Little Effect

Rarely has so much energy been expended by so many people over something that, in practical terms, would have so little effect.

But abortion opponents believe that every minute has been worth it. They have demonstrated that they can stage a winning campaign. And for now, they have the upper hand. But where they are going is not entirely clear.

Ralph Reed, who is leaving his job as executive director of the Christian Coalition in September to become a political consultant, said the purpose of the ban was not to reduce abortions but to create a climate where "abortion on demand" would lose legitimacy.

"It's too early to know what strategy will follow this vote," he said. "You put a lot of darts up on the board and see which one lands near a bull's eye."

The bull's eye is coming up with something that captures the public imagination as powerfully as "partial birth" did. In April 1996, the Gallup Organization found that 57 percent of Americans opposed the procedure; by July, after just three months of abortion opponents making it an issue in Congress, 71 percent opposed it, a significant leap. In the last several months, a dozen states have banned the procedure and several more are on the verge of doing so.

Not only did abortion opponents portray "partial birth" as a particularly gruesome procedure, they changed the public focus from the woman to the baby. "The whole ground has shifted," said Gary Bauer, president of the Family Research Council, which lobbied for the ban. "We're not on the theoretical question of choice, which always strikes a responsive chord with the libertarian impulses of the American people but more on what the choice is."

Still, no one can tell how far abortion opponents can travel down that path. Mr. Bauer is feeling so buoyed by their success that he is aiming high: "When this is over, I want to move on to an up-or-down vote on second- and third-trimester abortions," he said.

The question is whether the public's revulsion toward a particular procedure translates into a larger desire to restrict abortion even more broadly. Cheryl Arnedt, a polling analyst with CBS News, said opinion on abortion has been remarkably consistent over the years, with the public wanting to keep it legal but with reasonable restrictions. But abortion opponents are making inroads, she said, because the public is deeply ambivalent about it, and each single restriction sounds reasonable.

"The public doesn't want to make it illegal," Ms. Arnedt said. "But that's different from wanting women to have a choice."

GRAPHIC: Photo: Senator Rick Santorum, Republican of Pennsylvania, the sponsor of the ban on "partial birth" abortions, poses with Donna Joy Watts, of Greencastle, Penn., a poster child of the anti-abortion movement. (Associated Press)

LANGUAGE: ENGLISH

LOAD-DATE: May 25, 1997

June 01, 1997, Sunday, Final Edition

SECTION: OUTLOOK; Pg. C03

LENGTH: 1114 words

HEADLINE: A LOOK AT . . . The New Politics of Abortion; Abortion Realities Overtake the Rhetoric

BYLINE: Wanda Franz,

BODY:

Proponents of unlimited abortion have admitted that the debate over the Partial Birth Abortion Ban Act has changed the terms of the public discussion of abortion. It has done more than that: It has begun the debate.

For 24 years, the abortion debate really has not been about abortion, as such. Until now, supporters of abortion have succeeded in camouflaging the real issue and dominating the discussion with talk about language ("choice"), about religion (of pro-life activists), about politics (conservative vs. liberal) -- everything except what happens in an abortion, how it's done, to whom it's done, why it's done and what it does. Now it's different. Talking about "choice" in the face of the facts revealed during the debate over partial-birth abortions simply proved frivolous.

For the second year in a row, Congress has passed a bill banning partial-birth abortions. The number of votes in favor of the ban increased -- in part, because much of the abortion supporters' campaign had been exposed as so much disinformation. After many in the media uncritically accepted as fact the statements of abortion supporters, the PBS program "Media Matters" said that pro-life groups were "more accurate" in their description of the realities of partial-birth abortion.

The unraveling of 24 years of falsehoods began when the American Society of Anesthesiologists refuted the notion that, in a partial birth abortion, the baby is killed by anesthesia given the mother. Representatives of the National Abortion and Reproductive Rights Action League (NARAL) and Planned Parenthood made this claim. When caught in a falsehood, a Planned Parenthood doctor admitted, "I simplified that for Congress."

No surprise there. Advocates of abortion rights have been "simplifying" things for women for years now. Not that long ago, abortion was often described as simply a matter of a "blob of protoplasm" and the "products of conception" being "evacuated." Discussion of partial-birth abortion made unavoidable the revelation that (1) abortion kills and (2) what is killed is a living, human being who, when aborted, has arms, legs, a brain and a beating heart.

Subsequently, journalists writing in the American Medical News, The Washington Post and the Bergen County Record (N.J.) verified what the National Right to Life Committee had said all along: that partial-birth abortions occur by the thousands -- not hundreds; that most are done during the fifth and sixth months in the second trimester, not the third trimester; and that they are not usually done because of grave threats to the mother or child. They involve mostly healthy babies and healthy women, as statements from abortionists who perform this procedure have shown from the beginning of the debate.

Finally, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, admitted that he "lied through my teeth" during the legislative battle over partial-birth abortions and that he did so because those lies were the "party line" of the abortion lobby.

The reasons that President Clinton gave for vetoing the Partial Birth Abortion Ban Act in 1996 have clearly been proven false. The question now is, having been misled by abortion supporters, will President Clinton veto the bill, or will he sign it, this time for humanitarian reasons?

The act is no ploy. It is about trying to save upwards of 5,000 partially born humans from being stabbed in the head and having their brains sucked out.

Abortion apologists still maintain that banning partial-birth abortions would have no effect because abortionists still have other legal methods available to them. They're wrong. Similar arguments were made against laws requiring the involvement of parents in abortions on minors. Although minors can easily bypass parental involvement via the courts, abortion rates for minors still went down in states with effective parental involvement laws.

Further, those who argue that women now obtaining partial-birth abortions will be "switched" to other abortion methods if the act becomes law assume that women have little say in the matter and that they have been totally oblivious to the debate. It would be strange indeed if any woman remained unaffected by the facts about partial-birth abortion. Why should any pregnant woman trust those who "simplify" the truth for Congress (and anyone else) and "lie through [their] teeth" for the sake of the "party line?" Certainly some -- hopefully many -- women will choose life. Since the law helps teach us what society regards as acceptable and unacceptable, a ban on partial-birth abortion would certainly help reduce the comfort level for allowing abortion in our society.

Americans will reject the illogic inherent in such cold-blooded and chilling statements as that of "pro-choice" Rep. Barbara Kennelly (D-Conn.) who said of the partial-birth abortion procedure: "It is brutal. It is inhuman. And it should never be used. However, may I say, that is not my decision. Under *Roe v. Wade*, the law of the land, it is the decision of the mother and the doctor."

The pro-life movement, for its part, will continue to focus on partial-birth abortion in the immediate future, both in Washington and in state capitals. Already 11 states have enacted bans and two other states have bills waiting for signatures of their governors. The issue is not going away.

The core issue remains, as always, the fact that abortion kills a child. This fact the pro-life movement has always proclaimed. This fact is evident to every parent who proudly shows an ultrasound picture of the child developing in the mother's womb. And this fact has now been reluctantly, but convincingly, demonstrated by the documentation and information from none other than those who perform abortions. What they have published, submitted as testimony, or admitted to in interviews with reporters is now an indelible part of the record.

And although the partial-birth abortion ban has a narrow focus, it has shown that most Americans oppose the basic abortion "rights" tenet of an unlimited "right" to a dead child. The era of successfully lying about abortion is over. The real discussion has begun.

Wanda Franz, a professor of child development at West Virginia University, is president of the National Right to Life Committee Inc.

NOTE TO READERS

In news stories about abortion, The Washington Post avoids the use of terms such as "pro-life" and "pro-choice" unless they are part of an organization's formal name. This policy does not apply to opinion pieces because it is clear that such usage reflects the views of the writers and not The Post.

GRAPHIC: Illustration, janusz kapusta; Photo, charlie rollins--wichita eagle via ap

LANGUAGE: ENGLISH

LOAD-DATE: June 01, 1997

October 09, 1997, Thursday, Final Edition

SECTION: A SECTION; Pg. A08

LENGTH: 684 words

HEADLINE: House Again Votes to Ban Abortion Procedure

BYLINE: John E. Yang, Washington Post Staff Writer

BODY:

The House renewed a confrontation with President Clinton on an emotionally and politically charged issue yesterday by overwhelmingly approving legislation that would outlaw a controversial abortion procedure, sending the measure to the White House for a promised veto.

Lawmakers voted 296 to 132 largely along party lines to agree to relatively minor changes the Senate made nearly five months ago to the identical legislation that Clinton rejected last year. The House voted to overturn Clinton's veto last year but Senate leaders failed to muster the necessary two-thirds majority.

In letters to Democratic lawmakers earlier this week, Clinton reaffirmed his vow to reject the bill. "Should the House agree to the Senate amendment and send [the bill] to me for signature, I will veto the legislation," he wrote Tuesday.

Congressional officials are expected to quickly deliver the bill to the White House but probably will not attempt a veto override until next year, according to Rep. Charles T. Canady (R-Fla.), the bill's prime sponsor.

One reason for waiting until next year is to give Senate leaders time to try to round up enough votes to overturn the veto.

While the margin of yesterday's House vote -- the fifth time the body has voted on the issue in two years -- was well above what would be needed to overturn a veto, the Senate fell three votes short of a two-thirds majority when it approved the measure May 20. Senate Majority Leader Trent Lott (R-Miss.) told reporters yesterday there was a "good chance" bill supporters would prevail. "We believe the Senate is within a vote or two of being able to override a veto," he said.

In addition, pushing an override attempt into 1998 would put it closer to the congressional elections. Canady rejected suggestions that the timing of the votes was intended to maximize the political impact. Public opinion polls show Americans strongly opposed to the procedure, which antiabortion forces have dubbed "partial-birth" abortion.

"There's no magic time to do it," Canady said. "This is the kind of issue that has some staying power. Whether we're voting in March or September will not have much of an impact."

Abortion rights supporters complained that the congressional push on this issue has more to do with politics than with banning the procedure. Last year, they noted, Clinton vetoed the legislation in April but congressional leaders did not schedule an attempt to reverse him until September, as the presidential campaign was beginning in earnest.

"Why are we voting on this piece of legislation again and again?" asked Rep. Diana DeGette (D-Colo.). "The reason is clear -- in the 1998 elections, the Republicans think they can saddle people with this."

"They're not interested in getting legislation, they're interested in getting a political weapon," said Joanne S. Blum, lobbyist for the National Abortion and Reproductive Rights Action League, an abortion rights advocacy group.

The measure would outlaw an abortion procedure in which a fetus is pulled out of the birth canal feet first. The surgeon punctures the back of the fetus's head and removes the brain, permitting the skull to be partially collapsed and brought through the cervix, the narrowest part of the birth canal.

The bill would subject physicians who perform the procedure to fines and up to two years in prison. In addition, it would allow the father of the fetus and, if the woman is younger than 18, the woman's parents to sue the doctor. The only exception in the bill is if no other procedure would save the woman's life.

In May, the Senate adopted modest changes intended to add protections for physicians who may be liable for prosecution under the legislation. Afterward, the American Medical Association backed the measure.

Rep. Constance A. Morella (Md.) was one of only eight Republicans, all of them moderates, to vote against the measure. Virginia Reps. James P. Moran, Virgil H. Goode Jr. and Norman Sisisky were among the 79 Democrats to support it.

Staff writer Helen Dewar contributed to this report.