ABORTION / PB / CLIPS 1996

Los Angeles Times

January 23, 1996, Tuesday, Home Edition

SECTION: Part A; Page 1; Metro Desk

LENGTH: 908 words

HEADLINE: CATHOLIC BISHOPS OPEN NEW DRIVE TO HALT ABORTION

BYLINE: By LARRY B. STAMMER, TIMES RELIGION WRITER

BODY:

Using the 23rd anniversary of the Roe vs. Wade ruling to step up their campaign against abortion, the nation's Roman Catholic bishops on Monday unveiled an intensive lobbying effort to weaken or strike down a woman's right to terminate a pregnancy.

Speaking from pulpits and in public forums from Boston to Pasadena, the bishops said they will push to ban all human embryo research, to give medical schools and teaching hospitals the right not to teach abortion techniques, and to permit states not to fund abortion services that are funded by the federal government. Currently, states must cover all services the federal government allows.

The bishops also said they will seek to place the same ban on abortions in civilian hospitals that Congress imposed on overseas military hospitals.

Under the so-called Hyde amendment, abortions are prohibited at military hospitals except in cases of rape or incest, or when the mother's life is endangered. Although that language is not as strong as the bishops want, they see it as an opening.

While bishops have raised many of the same issues in years past, 1996 is a presidential election year in which opponents of abortion rights hope to have an impact.

In addition, unlike in previous years, the bishops this year are moving to join in initiatives by a Republican-controlled Congress. Congressional leaders have for the first time promised hearings on when life begins, and efforts are also underway to cast into law limitations on human embryo research that until now have been contained in less permanent presidential executive orders.

"It obviously is an important election year," Cardinal Roger M. Mahony of Los Angeles said. "We're hoping pro-lifers will become more visible and more vocal at all levels of elections . . . throughout 1996."

The opening salvos in the latest anti-abortion campaign were fired Monday as the National Conference of Catholic Bishops took out full-page newspaper advertisements.

At the same time, the bishops announced that they have nearly put in place a computerized national database of voters opposed to abortion, which will allow targeting of individual politicians in state and congressional districts. The bishops also said they are initiating a "rapid response" fax system to rebut "misstatements and distortions" by abortion-rights advocates.

The Roman Catholic leaders also urged the national Democratic and Republican parties to include strong "pro-life" planks in the party platforms to be adopted at presidential nominating conventions later this year.

Cardinal Bernard Law of Boston on Monday urged Americans "not to abandon the struggle to provide legal protection to the unborn."

"Abortion advocates face a growing crisis of credibility," said Law, who is the new chairman of the National Conference of Catholic Bishops Pro-Life Activities Committee.

In Washington, an estimated 60,000 people marched on the U.S. Supreme Court building to protest the 1973 Roe vs. Wade decision that legalized abortion.

As they demonstrated, however, the Supreme Court dealt a new blow to efforts to enact new abortion curbs. Without comment, the justices refused to let Pennsylvania set strict reporting rules that must be satisfied before Medicaid funds can be paid for abortions sought by victims of rape or incest, or by women whose lives would be endangered by giving birth.

Speaking Monday in Pasadena at a "Commitment to Life" conference, Mahony, the Roman Catholic archbishop of Los Angeles, broadened the campaign to include euthanasia as well as abortion.

"We must help people to look beneath the often well-meaning motives of those who think they are fighting for a 'right to die,' " Mahony said.

"At the root of the euthanasia movement is a deeply pessimistic and dismissive idea about the value of sick, elderly, and disabled people's lives."

But most of the focus Monday was on abortion. Mahony singled out controversial legislation that would ban partial-birth abortions, which President Clinton has said he would veto.

"In my opinion, nothing more concretely identifies the moral bankruptcy of the pro-abortion movement than their support for this dreadful procedure," Mahony told the Pasadena audience. "How anyone could justify bringing a baby to within inches and seconds of full birth and life, and then deliberately kill that baby under the fiction of abortion, is impossible for me to comprehend."

Mahony urged abortion opponents to "besiege" the White House with personal notes, faxes and telephone calls to express outrage at the procedure and urge Clinton to sign the bill.

Catholic opposition to abortion has its roots in historic teachings of the church. But it has been buttressed more recently by an encyclical last spring from Pope John Paul II entitled "The Gospel of Life," and by a pastoral letter from the nation's bishops entitled "Faithful for Life."

Mahony urged participants at Monday's Pasadena conference to read both documents and to engage in prayer.

"The changing of people's hearts and souls does not occur primarily through the political process." he said. "Rather it occurs through intense and prolonged prayer."

Mahony said the church does not oppose abortion without offering alternatives.

More than 3,500 crisis pregnancy centers are operating in the country, he said. Staffed by anti-abortion volunteers, the centers offer, at no charge, counseling and referral services for adoptions.

GRAPHIC: Photo, CAUSE: Catholic bishops vowed to step up their campaign against abortion. Above, Washington protesters decry legalized abortion. Associated Press

LANGUAGE: ENGLISH

LOAD-DATE: January 24, 1996

The New York Times

March 28, 1996, Thursday, Late Edition - Final

SECTION: Section A; Page 1; Column 6; National Desk

LENGTH: 923 words

HEADLINE: POLITICS: ABORTION;
HOUSE VOTES BAN ON A METHOD USED IN LATE ABORTIONS

BYLINE: By ROBERT PEAR

DATELINE: WASHINGTON, March 27

BODY:

After two hours of passionate debate, the House tonight gave final approval to a bill to outlaw a specific type of late-term abortion and sent the measure to President Clinton, who has said he intends to veto it.

The vote was 286 to 129, as 72 Democrats joined 214 Republicans in supporting the legislation.

The House had approved an earlier version of the bill in November, and today accepted amendments added by the Senate. The vote was 54 to 44 in the Senate, well short of the two-thirds majority needed to override a veto.

Supporters of the bill said it would prohibit a particularly gruesome form of abortion, and they were clearly eager to put advocates of abortion rights into the uncomfortable position of defending it.

Opponents of the bill said it would unconstitutionally restrict access to abortion, banning procedures that may be needed to preserve the health of some pregnant women. These lawmakers described the bill as the thin edge of a wedge that could later be used to attack abortion rights in general.

President Clinton, while opposing late-term abortions, said he agreed that the bill did not satisfy constitutional requirements imposed by the Supreme Court.

Confusion and uncertainty surround the bill which prohibits a procedure it describes as a "partial birth abortion." Supporters of the bill said the procedure, performed after 20 weeks of gestation, works this way: A doctor partially extracts a fetus, feet first, then forces scissors into its skull, inserts a suction tube and removes the brain, causing the skull to collapse.

None of these clinical details are in the bill itself, which defines a partial birth abortion as one in which the doctor "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

In opposing the bill, the American College of Obstetricians and Gynecologists said it "employs terminology that is not even recognized in the medical community, demonstrating why Congressional opinion should never be substituted for professional medical judgment."

Supporters and opponents of the bill disagreed on how often doctors perform such abortions.

Representative Christopher H. Smith, Republican of New Jersey, said the procedure was "a despicable form of child abuse." Representative Enid Greene Waldholtz, Republican of Utah, praised the bill, saying it would ban a procedure that amounts to "medicalized infanticide."

But Representative Patricia Schroeder, Democrat of Colorado, denounced the bill as unconstitutional and said she could see no reason for sending it to the President other than political gamesmanship. "This is the first medical procedure we will ever have criminalized," she said.

Under the bill, a doctor who performed the procedure could be imprisoned for two years and fined up to $250,000. The bill says the penalties would not apply if the abortion was "necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury," and if no other medical procedure would save her life.

The National Abortion and Reproductive Rights Action League, which lobbies for abortion rights, said the exception in the bill was too narrow. Marcy Wilder, legal director of the league, said that in some cases the life of a pregnant woman was endangered by the pregnancy itself, and that pregnancy is not generally considered a disorder, illness or injury. Moreover, she said, the procedure outlawed in the bill "is, for some women, the safest method of abortion, the one most likely to preserve their future fertility."

In addition, Ms. Wilder said, the bill's definition of partial birth abortion "may be unconstitutionally vague because it does not give fair warning as to what conduct is prohibited."

In the House vote today, 113 Democrats, 15 Republicans and 1 Independent opposed the bill.

Among the Democrats who voted for the bill today were Representative Richard A. Gephardt of Missouri, the minority leader, Patrick J. Kennedy of Rhode Island and James P. Moran of Virginia.

Representative Henry J. Hyde, the Illinois Republican who is chairman of the House Judiciary Committee, said: "A partial birth abortion involves the almost complete delivery of a living baby, who is then killed. The overwhelming majority of partial birth abortions have nothing whatever to do with life-threatening complications of pregnancy, but are purely elective."

The number of abortions in the United States apparently declined each year from 1990 to 1993, the last year for which data are available. The Federal Centers for Disease Control says that 1,330,414 abortions were performed in 1993, a decrease of 2.1 percent from the prior year. Fewer than 1.5 percent were performed after 20 weeks' gestation. But the Government does not tabulate the method of abortion, and the precise number of partial birth abortions is unknown.

Catherine Albisa, a lawyer at the Center for Reproductive Law and Policy, an abortion rights group in New York, said today: "The number of procedures that clearly meet the definition of partial birth abortion is very small, probably only 500 to 1,000 a year. But the bill is so vague it may also apply to other abortion procedures that are often used in the second trimester of pregnancy."

On the other hand, Douglas D. Johnson, legislative director of the National Right to Life Committee, said: "Nobody knows for sure how many partial birth abortions are performed. It is impossible to know how many doctors have adopted the procedure."

LANGUAGE: ENGLISH

LOAD-DATE: March 28, 1996

The New York Times

March 31, 1996, Sunday, Late Edition - Final

SECTION: Section 4; Page 14; Column 1; Editorial Desk

LENGTH: 470 words

HEADLINE: Abortion Politics

BODY:

In a move that seems as much a matter of politics as principle, Congress has voted to outlaw a particular type of late-term abortion method and impose criminal penalties on doctors who use it. Last week's vote in the House sends the bill to President Clinton, who has threatened a veto. The fact that the abortion issue is always volatile in a Presidential election year should not prevent Mr. Clinton from carrying out his threat.

The procedure to be banned, called a "partial birth" abortion in the bill and by anti-abortion groups, is used only after 20 weeks of gestation. While statistics are hard to come by, the method does not seem to be used often. About 13,000 of the nation's 1.5 million abortions each year are performed after 20 weeks, usually because of special circumstances, such as a threat to the mother's health or severe fetal abnormalities. Only a small percentage of these late abortions employ the outlawed method.

As described in the bill, the procedure is one in which the doctor "partially vaginally delivers a living fetus before killing the fetus and completing the delivery." Doctors found guilty of doing this can be imprisoned for two years and fined up to $250,000.

But the description of the procedure is so vague that the American College of Obstetricians and Gynecologists, which opposed the bill, said it "employs terminology that is not even recognized in the medical community . . ." The bill does include one exemption for doctors, co-sponsored in the Senate by the majority leader, Bob Dole. The penalties would not apply if the procedure was necessary to save a mother whose life was endangered by a physical disorder, illness or injury. But opponents of the bill argue that this exception is too narrow, ignoring, for example, cases in which the mother's life is threatened by the pregnancy itself.

Further, the exception may not satisfy the requirements of Roe v. Wade, which articulated the constitutional right to abortion. Roe and subsequent decisions recognized the state's interest in imposing some restrictions during the second and third trimesters, but those decisions did not try to dictate the methods that could be used. They also said that while the state could prohibit abortions after the fetus became viable, exceptions must be allowed to preserve the mother's life or health.

In a letter to Congress a month ago, Mr. Clinton urged that the exception be expanded to allow performance of the procedure if, in a doctor's judgment, it was necessary to "avert serious health consequences" for a woman. Congress clung to its original position, giving Mr. Dole and the anti-abortion forces an issue they hope to use against Mr. Clinton this fall. Mr. Clinton can help himself among the millions who believe in choice if he sticks to his principles.

LANGUAGE: ENGLISH

LOAD-DATE: April 1, 1996

The New York Times

April 1, 1996, Monday, Late Edition - Final

SECTION: Section A; Page 17; Column 2; Editorial Desk

LENGTH: 578 words

HEADLINE: Congress Plays Doctor

BYLINE: By Allan Rosenfield; Allan Rosenfield is dean of the Columbia School of Public Health and a professor of public health and obstetrics and gynecology there. He is former chairman of the Planned Parenthood Federation of America.

BODY:

When the House took the unprecedented step last week of passing a bill that would outlaw a specific and safe surgical procedure, the so-called partial birth abortion, it set a dangerous precedent by inappropriately intruding into the clinical practice of medicine.

Medical decisions should be based on scientific evidence gleaned from laboratory and clinical evaluation. Procedures should be judged on safety, effectiveness, availability and affordability. Such decisions should not fall within the purview of ideology and politics.

In considering abortion, doctors examine the best data available, consider the patient's specific medical circumstances and, in consultation with the fully informed patient, decide on the best procedure. In declaring illegal the so-called partial birth abortion procedure, the House and Senate trampled on these criteria.

Indeed, the bill demonstrates why Congress should never supersede professional medical judgment. As the American College of Obstetricians and Gynecologists, which fought this bill, points out, partial birth abortion is not found in any medical dictionary; foes of abortion coined the term.

The procedure, known medically as dilatation and extraction, is a variant of dilatation and evacuation, the most common abortion method in the second trimester. Dilatation and extraction, rarely performed, is generally limited to pregnancies that are in the 20th to 24th weeks; very few are performed afterward. Dilatation and evacuation is the preferred method because medical data indicate that it has the lowest complication rate of any method usable in the second trimester. In any case, fewer than 1.5 percent of all abortions take place after 20 weeks; most are done within 12 weeks.

The anguished decision to use dilatation and extraction is usually reached when a woman's life or health would be jeopardized if the pregnancy is continued or if there is a fetal abnormality incompatible with life. These abnormalities can be horrific -- for example, a fetus with no brain or with the brain outside the skull.

Although proponents of the legislation described the procedure in luridly graphic terms, the bill is vague in defining a partial birth abortion. The language is so imprecise that many D and E's, as doctors call them, could arguably meet the definition. This could force the small pool of physicians who perform second-trimester abortions to use techniques that are less safe for fear of prosecution.

It is unconscionable for Congress to force a physician to potentially jeopardize a patient's health and ignore his or her best medical judgment. A woman in tragic circumstances should have the right to make her own decision, in consultation with her physician -- not her legislator.

What legislatures and courts can decide is whether a class of practices should be lawful. Thus, in Roe v. Wade and later decisions the Supreme Court established the legality of abortion. To protect Americans from unethical research, Congress has required the establishment of review boards and informed consent. And while Congress requires consent before sterilization for Medicaid patients, it does not ban or mandate a specific procedure.

No issue is more controversial than abortion. But since abortion is legal, perhaps we can at least agree that members of Congress are simply not equipped to make pronouncements about surgical procedures. Wisely, President Clinton has promised to veto the bill.

GRAPHIC: Drawing.

LANGUAGE: ENGLISH

LOAD-DATE: April 1, 1996

USA TODAY

April 2, 1996, Tuesday, FINAL EDITION

SECTION: NEWS;

Pg. 13A

LENGTH: 709 words

HEADLINE: Politics always at issue on abortion

BYLINE: Michael Gartner

DATELINE: AMES, Iowa

BODY:

AMES, Iowa -- Politics, politics, politics.

That's what the front-page abortion news is all about. It isn't about abortion. For the news about abortion -- the news buried in the back pages -- is news that should encourage you, whether you're pro-life or pro-choice or pro any other loaded word.

First, the pseudo news: The House last week passed a Senate-approved bill banning late-term abortions unless the procedure is the only way to save the life of a woman. This led the newspapers on Thursday, even though: First, this procedure is rare and almost always performed to protect the health of a mother carrying a fatally ill baby.

Second, this bill will never become law because President Clinton has said he will veto it and, if a veto were overridden, the Supreme Court would rule the law unconstitutional.

The bill is emotionally labeled the "Partial-Birth Abortion Ban Act of 1995," though doctors have never heard of a "partial-birth abortion." In medical terms, the procedure is an "intact dilation and evacuation." It is considered safe and simple.

No doctor would perform such an operation unless a woman's health was in danger or her baby was going to die. And no woman would request it except for those reasons. It takes place about 500 times a year.

And yet it is front-page news. It is front-page news because the anti-abortion crowd wants to get its one issue back out front. So they mislabeled the bill and misstated the facts and misappropriated family heartbreak and anguish for political gain.

What they are doing is unconscionable.

"Fortunately, most of you will never have to walk the valley we have walked," Coreen Costello told senators in November. Coreen Costello -- married mother, registered Republican, very conservative, deeply religious and anti-abortion -- had an abortion when she was seven months pregnant because otherwise "my daughter would have died an agonizing death."

She went on: "When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors -- lots of doctors. We talk to our families and other loved ones. And we ponder, long and hard into the night, with God."

Indeed, "This isn't a bill about life," Rep. Sam Farr, D-Calif., was quoted last week in USA TODAY. "This is a bill about politics."

If politicians were really interested in the issue, they would be hailing new figures from the Centers for Disease Control and Prevention. It reported the number of abortions continues to decline.

That's real news.

In 1993, there were 1,330,414 legal abortions in the United States, down 2.1% from the 1,359,145 of 1992. The abortion rate -- the number of abortions per 1,000 women ages 15 to 44 -- has held steady for nearly 20 years. But the abortion ratio -- the number of legal abortions per 1,000 live births -- in 1993 was the lowest since 1977.

This could mean that sex education is working better and there are fewer unwanted pregnancies, that attitudes about abortion are changing, or that abortions are more difficult to obtain in some states. Reasons 1 and 2 are most likely.

No one thinks abortion is a great thing. It's simply the best option, at times, for a woman who doesn't want to be pregnant. It's neither a form of birth control nor a form of murder. And the declining number of abortions and the declining ratio should be good news to everyone on all sides of the issue.

But good news for everyone means there's no issue.

No issue means no politics.

No politics means no front page.

And to some politicians, the front page is more important than life itself. Especially if it's your life.

The number of abortions performed in the USA has been dropping steadily. Number per 1,000 births:

1980	359
1985	354
1988	352
1990	345
1991	339
1992	335
1993	334

Source: Centers for Disease Control & Prevention

COUNTERPOINTS' four columnists provide views from diverse perspectives on today's issues. Wednesday: Linda Chavez on why values matter more than money. Thursdays: Susan Estrich. Mondays: Tony Snow. Tuesdays: Michael Gartner.

LANGUAGE: ENGLISH

LOAD-DATE: April 02, 1996

Chicago Tribune

April 2, 1996 Tuesday, NORTH SPORTS FINAL EDITION

SECTION: EDITORIAL; Pg. 14; ZONE: N

LENGTH: 453 words

HEADLINE: A RATIONAL RESTRICTION ON ABORTION

BODY:

Like pro-gun lawmakers straining to rationalize their vote to repeal the assault-weapons ban, many supporters of abortion rights last week found themselves trying to defend the indefensible. The effort failed, as the House joined the Senate in overwhelmingly approving a bill to outlaw a form of abortion that makes even many pro-choicers queasy. President Clinton has threatened to veto the measure, but doing so would make him appear indifferent to some important moral distinctions.

"Partial-birth abortions," as they are known by critics, are done in late-term pregnancies, as late as 26 weeks. They involve removing the fetus' legs and torso from the womb, then puncturing its skull and suctioning out its brain.

You don't have to be a fan of Operation Rescue to feel that this ghastly procedure comes repulsively close to infanticide. No fewer than 72 Democrats joined the 214 Republicans who voted for the ban.

They were not persuaded by the dubious arguments made in favor of this method. One is that it is often necessary to save the mother's life--but the measure makes an exception for such cases.

President Clinton wants an additional exception to protect the mother's health, but "health," under the Supreme Court's rulings, includes emotional health, which has been interpreted so broadly as to have little meaning. In any event, Dr. Pamela Smith, director of medical education in the obstetrics department at Chicago's Mt. Sinai Hospital, told senators that "there are absolutely no obstetrical situations . . . which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother."

The argument has been made that this procedure is used frequently in cases of severe fetal abnormality. But doctors who use it have testified that in the great majority of cases, no defect exists. One doctor said he had done such late-term abortions when the fetus had only a cleft palate.

Opponents of the bill say the government has no business banning an accepted medical procedure. But abortion is not merely a medical issue, and in an extreme case like this, intervention is warranted. They also fear that the ban is worded so that doctors can't be sure what is illegal. But the opponents have shown no interest in helping to refine the language to dispel that alleged worry.

It is appropriate for abortion to be legal and available, but neither moral principle nor public opinion supports making it permissible by any method in the late stages of pregnancy. The congressional ban deserves the support of sensible advocates of abortion rights. By his handling of it, the president will let Americans know if he belongs in that camp.

The New York Times

April 11, 1996, Thursday, Late Edition - Final

SECTION: Section A; Page 24; Column 1; Editorial Desk

LENGTH: 245 words

HEADLINE: A Principled Veto

BODY:

President Clinton's veto yesterday of a bill banning a late-term abortion method not only preserves a woman's constitutional right to use the procedure but protects doctors who perform it from severe criminal penalties, including imprisonment. It also points up the differences in position between Mr. Clinton and Senator Bob Dole.

The bill would have prohibited so-called "partial birth" abortions, performed after 20 weeks of gestation. Although the procedure is used in less than 1 percent of the million-plus abortions performed each year, anti-abortion groups attacked it because -- as described in the bill --it involves killing the fetus after it has been partially delivered. Doctors challenged that description as vague and medically meaningless.

Mr. Dole, the majority leader, co-sponsored an amendment in the Senate that would have allowed an exemption for doctors who proved that the procedure was necessary to save a mother whose life was endangered by a physical disorder, illness or injury.

Pro-choice advocates, including the President, argued that the Dole exemption was excessively narrow -- ignoring, for example, instances where the pregnancy itself threatens the mother's life. They urged Congress to expand it.

Congress would not budge and, in the end, neither would Mr. Clinton. At a time when anti-abortion forces are successfully pushing new and restrictive laws in state legislatures, the President has taken a principled stand.

The New York Times

April 12, 1996, Friday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 1092 words

HEADLINE: A Calculation in Tears

BYLINE: By ALISON MITCHELL

DATELINE: WASHINGTON, April 11

BODY:

President Clinton's decision to dramatize his veto of a bill banning a type of late-term abortion with tearful testimony from women who had undergone the procedure represented a calculation by the White House that it needed to put a human face on a potentially damaging issue.

But the careful choreography of the veto on Wednesday showed something more: the attention the Clinton Administration is paying to women, who it believes could well decide the outcome of the Presidential election.

Democrats say women may be the "angry white men" of this election cycle, and recent polls show President Clinton is leading the presumed Republican nominee, Senator Bob Dole of Kansas, precisely because of his strong support among women.

The most recent New York Times/CBS News Poll, for example, showed that while men split 45 percent to 45 percent between Mr. Clinton and Mr. Dole, the Senate majority leader, women favored Mr. Clinton 52 percent to 34 percent.

"This is a very wide gender gap and if it is this wide by November, there isn't a way in the world that Bob Dole can win," said Curtis Gans, the director of the Committee for the Study of the American Electorate, a nonpartisan group that studies voting patterns.

Last June, the Administration set up an Office of Women's Initiatives and Outreach to help keep the White House focused on how issues affected women, to send Presidential appointees across the country to address groups of women and to tell women about how their Government could serve them.

The office is headed by Betsy Myers, whose sister Dee Dee Myers is Mr. Clinton's former press secretary.

A similar, more overtly political effort is under way at the Clinton-Gore campaign headquarters, where Stephenie Foster is director of women's outreach. Officials there meet every month with a women's kitchen cabinet of advisers and hold weekly strategy sessions with women in the Administration.

The Democrats are also planning a major push in 10 states to encourage "occasional" female voters to go to the polls this year. The effort is in partnership with Emily's List, a fund-raising organization that backs Democratic female candidates who favor abortion rights.

In the process, the White House has tried to frame campaign issues in ways that will appeal to women. For example, much of the White House's emphasis on children's issues -- television violence, teen-age smoking, school uniforms -- is designed to appeal to mothers.

But abortion can be a particularly tricky issue, because it energizes the single-issue voter on both sides of the debate and produces get-out-the-vote troops. While the American public by and large opposes a complete ban on abortion, a large group also supports restrictions on abortion.

A New York Times/CBS News Poll taken this month found that 37 percent of those surveyed said abortion should be available for those who want it; 41 percent said abortion should be available but under stricter limits, and 21 percent thought abortion should not be permitted.

The abortion procedure that Congress voted to outlaw is performed only at 20 weeks of gestation. Opponents of the procedure describe it as a gruesome "partial-birth" abortion in which the fetus is partly extracted feet first and its brain is suctioned out to allow the head to pass through the birth canal.

Opponents of the ban counter, however, that the procedure is safer for women than other methods of performing abortions relatively late in pregnancy.

Even as Mr. Clinton vetoed the ban on the grounds that the bill did not make an exception for the pregnant woman's health, he felt the need to generate emotional images to counter the gory details and diagrams of the procedure produced by its opponents. And so he asked women gathered in the Roosevelt Room to tell their wrenching stories of wanted pregnancies ended after their fetuses suffered rare and dangerous complications.

Mr. Clinton's aides say the President himself made the decision that the women should be there.

Originally, only one woman was to be called on to speak, Presidential aides said, but after Mr. Clinton met with the group in the Oval Office before the public veto ceremony, he decided that more than one woman should tell her story publicly.

The women had spoken out on the issue before, at state legislatures and on Capitol Hill. At least one of them told the story of her late-term abortion at a demonstration on Capitol Hill last November, when the Senate was debating the ban. The White House contacted the women through abortion rights organizations, which flew them to Washington for the veto.

Republicans say they are not ceding the women's vote in the Presidential election, and the Republican National Committee is running a women's speaker and outreach program of its own. It is called "A Seat at the Table."

But the Republicans are also hoping to use Mr. Clinton's veto against him with abortion rights moderates and with another crucial swing group of voters: Roman Catholics.

Republican strategists say the 1994 mid-term elections were the first in which Republican Congressional candidates won a majority of the votes of Catholics, long a Democratic constituency. And several large swing states that will be hotly contested -- Illinois, Michigan and Pennsylvania, for example -- have large numbers of Catholic voters.

Catholic Church leaders have been active in supporting the abortion measure Mr. Clinton vetoed. Three Cardinals immediately denounced his action.

"If we deny the humanity of a child as it is being born, whose humanity will be denied next?" said one, Cardinal James A. Hickey, the Archbishop of Washington. "Thoughtful Americans should keep this in mind as they ponder their choices on Election Day."

Abortion opponents say they will be mounting an effort against Mr. Clinton in both the South and the industrial Midwest. And the political message that they, conservative groups and Mr. Dole were all delivering today was nearly identical: Mr. Clinton is an "abortion rights extremist," despite his 1992 campaign theme that abortion should be "safe, legal and rare."

"He is out there on the extreme edge," Mr. Dole said, characterizing Mr. Clinton's position at a campaign stop in Memphis.

And in a letter to the Bishop Anthony M. Pilla of Cleveland, released today, Mr. Dole wrote, "If we're going to give living children in the process of birth the legal protection they deserve, we will need a President who does not accept the abortion on demand agenda."

LANGUAGE: ENGLISH

LOAD-DATE: April 12, 1996

Los Angeles Times

April 12, 1996, Friday, Home Edition

SECTION: Metro; Part B; Page 9; Op Ed Desk

LENGTH: 661 words

HEADLINE: 'THE ETERNITY WITHIN'--SIGNED AWAY BY A PRO-ABORTION VETO;
ABORTION: CLINTON CYNICALLY USED FIVE FAMILIES' PERSONAL TRAGEDIES TO DEFLECT OUR REVULSION AT THE PARTIAL BIRTH PROCEDURE.

BYLINE: HELEN ALVARE, Helen Alvare is director of planning and information of the, Secretariat for Pro-Life Activities of the National Conference of, Catholic Bishops in Washington

BODY:

On Good Friday, President Clinton visited the scene of the Oklahoma City bombing where so many children were killed one year ago. There, he delivered this message: On Easter, he said, Christians the world over would "bear witness to our faith" that the miracles of Jesus and those of the human spirit seen in Oklahoma City, "only reflect the larger miracle of human nature--that there is something eternal within each of us . . . no bomb can blow away, even from the littlest child, that eternity which is within each of us."

Five days later and Easter past, the president vetoed a bill that would have protected the tiniest child from being killed in the process of delivery by partial birth abortion.

Surrounding himself with five women who had faced tragedy during their pregnancies, and condemning those who would use them as "political pawns," the president proceeded to use them as just that. And fraudulently as well.

The president claimed repeatedly that a partial birth abortion is done only to preserve a woman's life or her future fertility or to end the lives of children so sick that they would likely not live long after being born alive. The president chose to ignore what those who perform partial birth abortions have said again and again: The vast majority of abortions they perform are purely elective. Even those they call "nonelective" would be considered elective by most people. For example, the late Dr. James McMahon called "nonelective" those partial birth abortions that are performed because of the mother's "youth" or because she was "depressed."

We cannot fail to note the disturbing implications of using the aborted children of the five women as political pawns in their own right. The disabilities these children had, the short lives they might have had, were held up only as reasons to perform the most brutal procedure the abortion industry has ever invented. The president chose to mourn these dead children only insofar as it was useful for evoking sympathy.

The president also said over and over again that partial birth abortions are needed to protect a mother's health. The preponderance of medical evidence, supplied by the very people who perform these brutal abortions, says the exact opposite.

So does common sense. It absolutely defies reason to claim that once a child is almost completely delivered vaginally, with only its head remaining inside the mother's body, that it could possibly be essential to her medical health that the child be stabbed and the contents of its head suctioned out. Once delivery is that far along, delivering the child a few more inches does not imperil a woman's health. It does, however, produce a dead child, rather than a live child. Even children with hydrocephalus are able to be safely delivered vaginally after excess fluid is removed from their heads with a needle designed for that purpose. Many live long and happy lives.

Dr. Warren Hern, a late-term abortionist and author of the most widely used abortion textbook, said this about partial birth abortions and their safety for women: "I would dispute any statement that this is the safest procedure to use."

Turning the child into the breech position, he explained, is "potentially dangerous . . . You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Rather than deal with the facts about partial birth abortions, President Clinton chose instead to toe the line drawn by the abortion lobby and to confront the nation with women who had experienced personal tragedies regarding their pregnancies. And in so doing, he dared all of us to judge them. It is not our place to judge them. But, as citizens of the United States, we have every right and every reason to condemn the veto that puts our nation one step closer to legalizing infanticide.

Shame on the president. Congress should vote--overwhelmingly and quickly--to override this inexcusable veto.

LANGUAGE: English

LOAD-DATE: April 12, 1996

The Baltimore Sun

April 12, 1996, Friday, FINAL EDITION

SECTION: EDITORIAL,

Pg. 25A

LENGTH: 694 words

HEADLINE: The abortion issue -- again

BYLINE: Jack W. Germond & Jules Witcover

BODY:

WASHINGTON -- President Clinton, in vetoing the bill that would ban what abortion foes call "partial-birth" abortions, insisted that "this is not about the pro-choice, pro-life debate" and "not a bill that should have ever been injected into that." He should have been so lucky.

Given the degree to which abortion has been politicized before and ever since the landmark 1973 Roe v. Wade decision establishing a women's right to have an abortion, it was inevitable that this bill would be seized upon by the anti-abortion forces to dramatize their side of the argument.

The procedure whereby a fetus is partly extracted by its feet and the brain then suctioned out to permit removal of the remainder is particularly gruesome, and hence is a particularly powerful "Exhibit A" for foes of abortion. The president in announcing his veto said "just a few hundred [women] a year" agree to have the procedure, a contention that is vehemently challenged by abortion foes.

Mr. Clinton said he would have signed the bill had it included an exception for cases in which the life or health of the mother was clearly in peril, and he produced at the White House five women who had undergone the procedure in the face of such risk. Each said their fetuses were severely damaged and faced certain death if taken to delivery.

But the most fervent anti-abortion forces reject any such exception. Many want an absolute ban on all abortions, and others argue that that "health of the mother" is too broad a caveat that easily could become a license for abortion, depending on the assessment of the doctor.

On the abortion-rights side, this bill has been viewed as an attempt to pry open a crack in the door toward eroding Roe v. Wade. No amount of emotional pleading or explanations of the grim procedure with accompanying illustrations is going to change the minds of most defenders of the 1973 Supreme Court decision.

For his trouble in trying to find an acceptable compromise through the "life or health of the mother" exception, President Clinton is likely to reap only more criticism from both sides. Although poll after poll has underscored that a strong majority of Americans support abortion rights to one degree or another, the president's position in harmony with that view does not shield him from considerable political peril on the issue.

Look Christians in the eye

Christian leaders have been particularly direct in pointing out this fact to him. Ralph Reed of the Christian Coalition warned that it would be "very hard if not impossible" for Mr. Clinton to look Christian "voters in the eye and ask for their support in November." And Cardinal Joseph Bernardin of Chicago wrote him recently that a veto would "send a very disturbing message" to voters "as they cast their ballots in November." The Roman Catholic vote, traditionally Democratic but increasingly trending Republican, will be an especially critical one for Mr. Clinton this year.

Also, abortion is one clear-cut defining issue between the president and his prospective Republican opponent, Bob Dole, who quickly said the procedure "blurs the line between abortion and infanticide and crosses an ethical and legal line" where Mr. Clinton stands "on the wrong side." The president can expect that the anti-abortion placards of past campaigns proclaiming that "Abortion is Murder" will be in view again this fall, very likely with sketches of the "partial birth" procedure as well. But such campaigns have failed to stem the growth of the abortion-rights movement, especially among women voters, who as a group are among President Clinton's strongest supporters. Also, extremism in the anti-abortion crusade, most notably demonstrated in the slaying of doctors outside abortion clinics, has severely undermined the efforts of abortion foes.

In the already highly politicized debate over abortion, the president in the end had little choice, once his plea for an exception was rejected, but to take the political position he did -- cast the veto, with clearly expressed regret.

Jack W. Germond and Jules Witcover report from The Sun's Washington bureau.

Pub Date: 4/12/96

TYPE: COLUMN

LOAD-DATE: April 16, 1996

The Atlanta Journal and Constitution

April 13, 1996, Saturday, ALL EDITIONS

SECTION: EDITORIAL; Pg. 12A

Dick Williams

LENGTH: 584 words

HEADLINE: Clinton crosses the line on abortion

BYLINE: Dick Williams

BODY:

He is, in a word, shameless, this President Clinton. His veto last week of the bill banning partial-birth abortions takes him to a new category.

The veto, though expected, was sickening. It is the latest evidence that with Clinton it's not what he says, but what he does.

In his convention address he vowed to make abortion "safe, legal and rare." The record makes a lie of it. Immediately upon taking office, Clinton lifted the ban on abortions at military hospitals, repealed regulations prohibiting workers at federally funded clinics from advising women to have abortions, and supported abortion on demand with taxpayer funds in his socialized health care scheme.

As former Pennsylvania Gov. Robert Casey noted, "He's helped make (abortion) safe, legal and everywhere."

With his veto of the ban on partial-birth abortions, the president has joined the abortion-anytime-for-any-reason crowd. We are far beyond the now-innocent first implications of the U.S. Supreme Court decision in Roe vs. Wade. It envisioned first-trimester procedures performed on things called fetuses a not babies. Now second-and third-trimester abortions have become routine. This in a nation in which the polls show consistently that most Americans oppose most abortions.

Just a decade ago, Clinton was the pro-life governor of Arkansas, opposed to the use of public funds for abortions. Today he stands accused by Cardinal Bernard Law of Boston of "unconditional support for abortion under any circumstances and by any means whatsoever, even those bordering on infanticide."

The partial-birth ban gave Clinton a chance to prove he can hold a moderate position. The bill passed the House with 72 Democratic votes. Among its supporters were the Democratic leader, Richard Gephardt, and the whip, David Bonior. The president had political cover. Most polls show the public supporting the ban by upward of 70 percent. And the bill contained an exception if the procedure were necessary to save the life of a mother.

The testimony before the congressional committees was especially vivid a and horrifying. It is true enough that few of the procedures are performed. The circumstances usually are tragic. But congressional testimony revealed that too often it is performed on teenagers who concealed their pregnancy until the fifth or sixth month.

Particularly compelling was the testimony of Jean A. Wright, an associate professor of pediatrics and anesthesia at Emory University. She told a House subcommittee that by the time a baby could be a candidate for partial-birth abortion the fetus "is more sensitive to pain than a full-term infant would be if subjected to the same procedures."

"This procedure," said Wright, "if it was done on an animal in my institution, would not make it through the institutional review process. The animal would be more protected than this child is."

Still Clinton sided with those who favor abortion at any time for any reason. Just as he has done with a balanced budget, the president tried a few weasel words. He insisted he could not sign a ban unless it included an exception for the "health" of the mother as well the exception for a mother's life. The courts have held, of course, that "health" encompasses any reason a mother might choose to end a pregnancy: age, emotion, family objections, the works.

It is shameless. It is sickening. It is a tragedy.

Dick Williams is an Atlanta writer. His column appears Saturdays and Tuesdays (in the Journal).

LOAD-DATE: July 17, 1996

The Atlanta Journal and Constitution

April 14, 1996, Sunday, ALL EDITIONS

SECTION: EDITORIAL; Pg. 06B

LENGTH: 347 words

HEADLINE: A veto to protect women's health

BODY:

No one is for abortion. And no woman who has ever undergone the rare and dreadful procedure Republicans now want to make into a campaign issue has done so without pain and sorrow.

President Clinton's veto Wednesday of a bill that would have banned a late-term abortion procedure is not about "infanticide" or "partial birth." Those are the inflammatory words presidential hopeful Bob Dole uses to describe what doctors call intact dilation and evacuation a a procedure so rare that it is used in less than four-hundredths of 1 percent of abortions. The medical procedure is done only as a last resort, generally to spare a woman's life or health after doctors have determined she is carrying a fetus that can't survive.

The issue here is not about "abortion on demand," as Dole says Clinton's veto signals. This is about women's health and those who would callously disregard it.

Clinton stood up for women this week by vetoing the extremist legislation. He also stood up for doctors, who could have faced up to two years in prison for doing what they deemed medically necessary and in their patient's best interest. Had Clinton signed the law, for the first time in 23 years doctors who treat women would have had to sacrifice their medical judgment to the political whims of Congress.

The families who bravely stood by the president as he vetoed the bill gave a personal face to this political issue. "I didn't make the decision for my child to die," said Vikki Stella, who underwent the procedure after doctors determined her baby had no brain.

Clinton would have signed the legislation, he said, had Republicans amended it to provide an exception to safeguard women's health. But women's health was never their concern. Their agenda is simply to make an ideological statement to create a campaign issue. The GOP would abolish a woman's right to decide her own reproduction, and return women to an era of dangerous and illegal abortions. They would have the country adopt the doctrine of a religious minority as national law. It is an agenda that may backfire.

GRAPHIC: Photo: At the White House, Vikki Stella, Bill Line and Mary-Dorothy Line (back) stand by President Clinton as he announces his veto Wednesday. / WILFREDO LEE / Associated Press

LOAD-DATE: July 17, 1996

USA TODAY

April 17, 1996, Wednesday, FINAL EDITION

SECTION: NEWS;

Pg. 6A

LENGTH: 795 words

HEADLINE: Clinton's abortion-ban veto risks Catholic vote

BYLINE: Susan Page

BODY:

President Clinton has been making a full-court press for Catholic voters: Pushing for peace in North Ireland. Extolling Mother Teresa. Talking about values. Even endorsing the school uniforms familiar to generations of parochial-school students.

But his veto of the partial-birth abortion ban risks undercutting some of his standing among what may be the most important swing group in the American electorate.

"The Catholic vote is becoming the jump ball of American politics," says Ralph Reed, executive director of the Christian Coalition, which has established a new Catholic Alliance division. "Whoever comes down with that ball usually wins in November."

That's one reason Clinton courts Catholic voters. But in a letter delivered to the White House Tuesday, the nation's Catholic cardinals and bishops called last week's veto "beyond comprehension" and warned of political consequences.

"We will . . . urge Catholics and other people of good will . . to do all that they can to urge Congress to override this shameful veto," it said. "In the coming weeks and months, each of us . . . will do all we can to educate people . . . that partial-birth abortions will continue because you chose to veto" the bill.

It was only the second time all U.S. cardinals and the National Conference of Catholic Bishops joined to lobby a president. The first was in 1994, when they wrote Clinton about U.S. policy at the UN population conference in Cairo.

Catholics, once part of the Democrat's New Deal coalition, now occupy the great middle of American politics. Exit polls show that every winning presidential candidate since 1976 has carried a majority or plurality of the Catholic vote.

"It's not only their numbers but where they're located," notes Thomas Reese, a Jesuit priest and senior fellow at the Woodstock Theological Seminary. "They're in the big-ticket states" like Florida and the industrial Midwest, which are considered crucial in this autumn's election.

"They are the classic swing voters," says political scientist Allen Hertzke.

But the fierce White House debate over the abortion ban pitted Catholics against another important electoral group: women.

Catholics are a key swing group, but women voters provide Clinton with his current lead in national polls. His support of abortion rights has boosted him among some moderate Republican and independent women.

"Pro-choice politicians had to stand up against this assault on women and on their right to choose," argues Kate Michelman, president of the National Abortion and Reproductive Rights Action League.

But she acknowledges the veto will be used in the fall campaign. "I would imagine there will be TV ads," she says.

Clinton said his own deliberations on the issue were anguished. When he announced his veto, he appeared with women who described their wrenching decisions to undergo the procedure. And he offered to sign the ban if it included an exception for the health of the mother.

Its backers refused, calling the exception too broad.

Though rare, the procedure is sometimes used when severe fetal abnormalities are detected too late in a pregnancy for other abortion methods.

The cardinals' letter likened the procedure to infanticide.

Of course, the Catholic church doesn't control the votes of its members, many of whom support abortion rights, and the Catholic vote is neither monolithic nor determined by a single issue.

But the veto may well have created an opening for presumptive Republican nominee Bob Dole. He wrote Bishop Anthony Pilla of Cleveland, president of the bishops' conference, to denounce the veto.

"As president," he wrote, "I will ask Congress to pass the Partial-Birth Abortion Act once again and I will sign this important legislation into law."

Contributing: Lori Sharn

TEXT OF GRAPHIC BEGINS HERE

Catholics support presidential winners

A majority or plurality of Catholic voters have supported the winner in every presidential election since 1976. Catholic voting:

1976
54% Carter
44% Ford
2% Others
1980
50% Reagan
42% Carter
7% Anderson
1% Others
1984
54% Reagan
45% Mondale
1% Others
1988
52% Bush
47% Dukakis
1% Others
1992
44% Clinton
36% Bush
20% Perot

Sources: Exit polls, '92, Voter Research Service; '80-'88, CBS/New

York Times; '76, CBS
Clinton has Catholic edge
White, non-Hispanic Catholic voters

Clinton 46%
Dole 30%
Perot 19%
No opinion 5%
Source: The Pew Research Center, March 28-31; margin of error;
+/- 3 percentage points.
GRAPHIC: GRAPHIC, B/W, Genevieve Lynn, USA TODAY, Sources: Exit polls, 92, Voter Research Service; 80-88, CBS/New York Times; 76, CBS; Source: The Pew Research Center, March 28-31; margin of error; +/- 3 percentage points. (Chart, pie chart)

Los Angeles Times

April 30, 1996, Tuesday, Home Edition

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

LENGTH: 727 words

HEADLINE: COLUMN RIGHT / DAN SCHNUR;
CLINTON GIVES DOLE THE KEY TO THE 'BIG TENT';
The "partial birth" abortion issue gives the GOP a chance to be the party of inclusion.

BYLINE: DAN SCHNUR, Dan Schnur is a visiting scholar at the University of California's, Institute of Governmental Studies and a political analyst at KGO Radio in, San Francisco
BODY:

This is a tale of two swing voters.

There is a man in Long Beach who calls himself a Reagan Democrat. He's a working-class, pro-life Catholic who voted for Ronald Reagan twice and for Ross Perot four years ago. But lately, he's been worrying about the Republicans in Congress and has been thinking about going back to his old party.

There is a woman in Orange County who calls herself a Clinton Republican. She voted for Bill Clinton in 1992 because she felt that the GOP no longer had room for a pro-choice moderate like herself. Now she's disappointed with Clinton but needs a sign from Bob Dole that she's welcome in his Republican Party.

To understand these two voters, and countless others just like them, is to understand the heart of Dole's abortion dilemma. Both voters feel passionately about the issue, yet their passions run in opposite directions. And in order to win in November, Dole needs them both in his corner.

Having secured his party's nomination, Dole's task now is to begin reaching out to the swing votes who will decide this election. But when the topic is abortion, this maneuver becomes more complicated. Does Dole move toward the moderate pro-choice vote or the Catholic pro-life vote?

Both of these key voting blocs are up for grabs this year, and both are there for Dole's taking if he can find the right message to send them. His challenge is to figure out how to send a message of acceptance to both of them simultaneously.

A window of opportunity has now opened for Dole. Clinton's recent veto of legislation that would have banned "partial birth" abortions and the howls of outrage the veto drew from the Catholic Church, present Dole with a chance to reach out to those voters. A majority of Americans who support a woman's right to an abortion also favor some restrictions on that right. Clinton's veto suggests that he does not.

For Dole to take full advantage of this opportunity also requires him to send a signal of inclusion to the moderate pro-choice voters who abandoned George Bush in 1992. A unilateral gesture, though, risks alienating not only his party's hard-line conservatives, but also those same pro-life Catholics Clinton has just left on Dole's doorstep.

The good news is that he has the resources at his disposal to reach both camps: his decisions on a running mate and the content of the party's platform. These are two of the most telling signals that any nominee sends to the electorate, and together they give Dole the means through which to send both groups of swing voters a message of inclusion.

While Dole's single most important decision will be the selection of his vice presidential nominee, the significance of the platform's language is more symbolic. But because the debate over the platform's call to outlaw abortion has become so heated in recent years, its value as a message vehicle increases to a point where Dole's direction can serve as a counterbalance to his choice of a running mate.

Once Dole reaches out to either pro-life or pro-choice voters through his vice presidential selection, he can then reach out to the other group through his decision on the platform. So if his eventual selection opposes abortion, as do most of the rumored candidates, then it is incumbent upon Dole to send a message of acceptance to pro-choice voters by removing the party platform's pro-life plank. Conversely, if he is able to entice Colin Powell to join him on the ticket, or decides on another prominent pro-choicer, then it is imperative that he allow the plank to remain intact.

To completely ignore either bloc in favor of the other forfeits the support of voters that he needs to beat Clinton. But by reaching out in both directions, Dole sends a message that his Republican Party has room for both groups.

Dole's ultimate objective, therefore, must be to redefine the current partisan division of abortion politics. He must convince voters that their choice is not between pro-life and pro-choice parties, but rather between a party that encourages discussion on both sides of the issue and one that allows no debate at all.

Former GOP Chairman Lee Atwater's goal was to identify Republicans as the "big tent" party that welcomed both pro-choice and pro-life voters. Bob Dole can make that goal a reality, and maybe get elected president in the process.

LANGUAGE: English

LOAD-DATE: April 30, 1996

The Washington Post

May 14, 1996, Tuesday, Final Edition

SECTION: OP-ED; Pg. A15

LENGTH: 780 words

HEADLINE: This Way and That on Abortion

BYLINE: E. J. Dionne Jr.

BODY:

The strangest things have been happening as the Republican Party debates what the abortion plank in its platform should say.

Some pro-lifers insist that if a single word or even a comma is changed from the 1992 platform declaration in favor of a constitutional amendment to ban abortion, all hell will break loose. Stranger still, pro-life loyalists are parsing the words of their closest allies for even the slightest hint of backsliding.

Well, you might say, abortion is a very serious subject. People with strong moral objections to it will engage in the most passionate forms of politics. Still, you might also ask whether this hunt for heresy in the Republican Party will do anything to reduce the number of abortions, let alone change the country's mind on the subject.

The edginess in the pro-life movement was brought home by a recent weekend of stories on what changes Ralph Reed, the executive director of the Christian Coalition, would or would not accept in the abortion plank.

On a Saturday, the New York Times reported Reed saying he would "reluctantly" support slightly modifying the antiabortion constitutional amendment to permit exceptions for rape and incest as well as to protect the mother's life.

No, no, no, said Reed, who was so upset that he called the paper between editions. He supported the current language in the Republican platform. His talk about rape or incest exceptions had been misinterpreted. For good measure, he denounced the Times for running a "totally inaccurate" story.

No wonder he was so upset. The hounds were already on his trail. Bay Buchanan, chairman for her brother Pat's presidential campaign, insisted flatly: "No words can be changed, no words can be added.

Sounding positively Churchillian, she declared: "There is no compromise, there is no negotiating, there is no appeasement."

The Times reported all this and properly amended its account. But the real difficulty here is less with journalism than with the exquisite twists and turns of Reed's position on the abortion plank over the years.

In 1993, for example, Reed said flatly that "the language is likely to change in 1996" because Republicans had to grapple with "changing circumstances." Now, such words have been declared politically incorrect on the Republican right. Reed, a shrewd judge of how far his troops will let him go, has adjusted accordingly.

The whole messy controversy underscores a widening gulf within the ranks of Republican pro-lifers. If you think the fights between pro-life and pro-choice Republicans are bad, they are nothing compared with internecine battles among abortion foes themselves.

On the one side are those represented by the Buchanans, Gary Bauer of the Family Research Council and Jim Dobson of Focus on the Family. They see more political calculation than principle in any effort to change the plank. Even though nobody believes that an antiabortion constitutional amendment has any chance of passing, this side would cleave to it as uncompromisable.

On the other side are former education secretary Bill Bennett, Republican strategist Bill Kristol and Catholic social-thinker George Weigel, who favor an "incremental" approach. Right-to-lifers, they say, need to admit that the culture is now against them. While the party's goal should be to end abortion, the urgent priority now is less political action than moral argument aimed at changing America's mind. They would use the law where possible to discourage abortion -- parental consent statutes, waiting periods and a ban on partial-birth abortions, such as the one vetoed by President Clinton.

In an excerpt in Newsweek from his new book, "Active Faith," Reed embraces both sides. "Until public opinion shifts on a political solution to abortion, outlawing all abortions by constitutional fiat would create the same dilemma for pro-lifers that the prohibitionist movement faced."

The pro-life movement should pour its "greatest efforts into education, persuasion and prayer -- not politics alone." But he adds that "the right to life is inalienable, and this is a matter of principle for us which we cannot compromise."

Poor Ralph Reed. He knows where the votes are on this issue inside his wing of the party, and where the votes are in the country. They are not in the same place. He knows that harsh moralism within the right-to-life movement won't help persuade those torn by this issue, and he also knows that anything short of absolutism will be seen as opportunism.

If pro-life Republicans can't settle their own differences, how can the party ever make peace on this issue? Ralph Reed's agony is about to become Bob Dole's.

LANGUAGE: ENGLISH

LOAD-DATE: May 14, 1996May 14, 1996

The New York Times

June 4, 1996, Tuesday, Late Edition - Final

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

LENGTH: 547 words

HEADLINE: Posturing on Abortion

BYLINE: By Robert F. Drinan; Robert F. Drinan, a former Democratic Representative from Massachusetts, is a professor at the Georgetown University Law Center.

DATELINE: WASHINGTON

BODY:

The indignant voices of the pro-life movement and the Republican Party will likely reach new decibels in the campaign to urge Congress to override President Clinton's veto of the bill banning so-called partial-birth abortions. But Congress should sustain the veto. The bill does not provide an exception for women whose health is at risk, and it would be virtually unenforceable.

I write this as a Jesuit priest who agrees with Vatican II, which said abortion is virtually infanticide, and as a lawyer who wants the Clinton Administration to do more to carry out its pledge to make abortions rare in this country.

The bill the President vetoed would not reduce the number of abortions, but would allow Federal power to intrude into the practice of medicine in an unprecedented way. It would also detract from the urgent need to decrease abortions, especially among unwed teen-agers.

The Partial-Birth Abortion Ban Act passed the House by 286 to 129, and 290 votes are required to override the veto. It cleared the Senate by 54 to 44; though it seems unlikely that 13 of the 44 votes would change, all bets are off in an election year.

More than 95 percent of all abortions take place before 15 weeks. Only about one-half of 1 percent take place at or after 20 weeks. If a woman has carried a child for five months, it is extremely unlikely that she will want an abortion.

The three procedures available for later abortions are complicated and can be dangerous. The vetoed bill would have criminalized only one -- a technique called dilation and extraction -- that medical experts say is the safest of the three. The bill calls this procedure a "partial birth," a term that experts reject as a misnomer. Indeed, the American College of Obstetricians and Gynecologists supported the veto.

President Clinton said he would sign a bill regulating late-term abortions if it provided an exception for women whose health might be at risk if they did not have the procedure. As the bill stands, the abortion would be allowed only if a woman might die without it. Mr. Clinton is serious. As Governor of Arkansas, he signed a bill prohibiting late abortions except for minors impregnated by rape or incest or when the woman's life or health is endangered.

In any case, a conviction would be difficult to obtain if the bill became law. Legal experts say that doctors could argue that the language was too vague for a measure that imposed criminal sanctions. And juries might be reluctant to convict a doctor who aborted a fetus that was likely to be stillborn or in cases where the woman's health or ability to have children was in jeopardy.

The bill would also sanction intrusive enforcement by requiring Federal officials to keep informed about doctors who performed late-term abortions. The F.B.I. would be authorized to tell nurses and health aides that they had a duty to tell officials about illegal late abortions.

If Congress were serious about getting a law on the books limiting late abortions, it would include the woman's health as justification for the late-term procedure. But it seems more intent on using Mr. Clinton's veto as a political weapon. This will poison the campaign and inhibit a larger discussion about real strategies to reduce abortions.

The New York Times

August 13, 1996, Tuesday, Late Edition - Final

SECTION: Section A; Page 17; Column 2; Editorial Desk

LENGTH: 1242 words

HEADLINE: A Curse on Both Tents

BYLINE: By Stephen L. Carter; Stephen L. Carter, a professor of law at Yale, is the author of "Integrity."

DATELINE: NEW HAVEN

BODY:

Despite the last-minute compromise that seems to have avoided a floor fight over abortion at the Republican National Convention, Democrats can scarcely conceal their glee at the sight of the Grand Old Party once again shooting itself in the foot in the effort to placate pro-life hard-liners. Republicans have declared their abortion tent to be a big one, but, just as in 1992, they approved a platform last night that on this troubling subject made clear there is only one acceptable view.

The plank calls for a human life amendment to the Constitution and would outlaw abortion in cases of rape, incest or even when a pregnant woman's life is in danger. Pro-choice Republicans have warned, as they did in 1992, that the platform's language implies that the only good Republicans are hard-line pro-life Republicans.

Democrats, however, should not be so swift to celebrate their own open-mindedness. For the embarrassing truth is that both parties hold official positions on abortion that are well out of step with what most Americans think. If the 1996 platform is anything like the 1992 platform, the Democratic tent on abortion will be every bit as small as the Republican, just as exclusive, just as self-righteous and just as dismissive of what most Americans think is the right answer.

The first sentence of the 1992 Democratic abortion plank reads: "Democrats stand behind the right of every woman to choose, consistent with Roe v. Wade, regardless of the ability to pay, and support a national law to protect that right." Because this plank, like the Republican plank, includes no "tolerance" language, we must assume that anybody who is against abortion or against public financing of abortion -- or even just against a statute to protect abortion rights -- cannot be a good Democrat.

It is very old news that the Democrats manifested this lack of tolerance on abortion at their 1992 convention, by denying then Gov. Robert Casey of Pennsylvania, a pro-life Democrat, the chance to speak. If, as seems likely, no pro-life Democrats address the convention on the issue this year, the media probably will not report this as a failure to build a big tent. But that is exactly what it would be.

One year almost to the day after the next Presidential inauguration, Roe v. Wade will celebrate its first quarter-century as the law of the land. But rather than considering what most voters think about abortion rights, both parties are about to use their platforms to placate small coteries who represent few people's views other then their own.

Many on the pro-choice side insist that by protecting every woman's right to make up her own mind, they are more tolerant than the pro-lifers. But this is so only if they are also correct in their belief that the unborn fetus is not a child. If they are wrong -- and millions of Americans, perhaps a majority, think so -- then what is described as tolerance looks more like the abdication of moral responsibility.

Of course, the G.O.P. platform plank represents the views of only a small minority of Americans. Fewer than one in six shares the hard-line position that abortion should not be permitted at all, and only a slightly larger minority agrees that abortion should be limited to rape, incest and life-threatening situations. The public opposes the platform's call for an anti-abortion constitutional amendment by a margin of better than two to one. A tiny tent, indeed!

But the Democratic tent may not be much bigger. Not many Americans share the hard-line pro-choice view that abortion should always, or almost always, be an unfettered choice. To take only the most obvious example, a solid majority of Americans support a ban on "partial-birth" abortions, according to a Roper survey. But pro-choice hard-liners regard this vast majority as an extremist fringe.

Although journalists tend to write as though all the world (that is, all the voting world) is divided into two camps on abortion rights, one implacably for, one implacably against, the reality is simpler. The unseen majority long ago reached its own compromise.

Most Americans believe abortion should be legal, but most also believe that abortion is a moral wrong. Strong majorities support such regulations as waiting periods and parental notification laws -- both anathemas to the pro-choice faction that controls the Democratic platform.

Abortion hard-liners on both sides would respond that leadership does not consist of following the opinion polls, and they would be right. Partisans on either side of the issue are entitled to stand up for whatever policies they think justice demands, and if they can win space for their views in the party platforms, more power to them: that's democracy in action.

But the media should not pretend that only one party, the one that happens to be against abortion rights, is caving in to the hard-line demands and crafting an exclusionary platform. Republicans and Democrats alike are saying, at least on abortion, that the centrist majority has no home in either party.

Maybe none of this should matter. After all, one can view the abortion language in both party platforms as serving the same function as other planks: low-cost give-aways to small but well-organized constituent groups. The Republicans know there is little sentiment in the nation to ban abortion. The Democrats know that Americans will never accept abortion without limits.

Moreover, both parties know that abortion is a litmus test for only a relatively small number of voters. Journalists treat the issue as central, but almost nobody else does. A 1992 survey by The Los Angeles Times found that only one voter in nine particularly cared about the Presidential candidates' positions on abortion. Since then, a number of polls have found that abortion is not a burning issue to most voters.

Why, then, should either party much care whether its tent is big? One reason is that the spectacle of an angry and divided party may itself be worrisome to voters, no matter what the issue. Another is that in a nation reared to love the Declaration of Independence, we care how our political parties treat dissenters. Far more Americans remember the 1968 Chicago street battles than remember what was in Hubert Humphrey's platform.

But a larger reason dwarfs these merely pragmatic considerations. The American majority knows that neither party represents its view on abortion. The cynicism of adopting platforms catering to small but powerful constituencies is not lost on voters who are already significantly alienated from mainstream politics. The cavalier dismissal of opposing views just confirms the public's opinion that neither party actually cares about what ordinary people think.

Perhaps one of our parties will yet come to its senses and actually build a big tent instead of talking about building one. Perhaps one of the parties will adopt platform language that reflects the long-held view of most Americans that abortion should generally be legal but that it is also a moral wrong and should be discouraged.

President Clinton has often expressed the view that abortion should be "safe, legal and rare." Most Americans, men and women alike, plainly agree. If the Democrats want to prove that theirs is really the bigger tent, the platform should reflect the President's view. But if the Democrats, like the Republicans, listen only to the abortion hard-liners, it probably won't.

GRAPHIC: Drawing

The Washington Post

September 17, 1996, Tuesday, Final Edition

SECTION: A SECTION; Pg. A01

LENGTH: 2809 words

HEADLINE: Harsh Details Shift Tenor of Abortion Fight; Both Sides Bend Facts On Late-Term Procedure

BYLINE: Barbara Vobejda; David Brown, Washington Post Staff Writers

BODY:

From the moment the medical paper arrived anonymously at the offices of the National Right to Life Committee three years ago, antiabortion activists knew they had been handed a powerful weapon.

The eight-page, double-spaced document described in precise, straightforward language an abortion procedure sometimes used during the second half of pregnancy, at 20 weeks and beyond. A copy of a medical paper that had been delivered at a recent seminar, it was written by an Ohio doctor who had performed the procedure hundreds of times.

It provided what abortion foes had long believed was crucial in turning public opinion their way: a graphic description of one type of abortion they felt would offend many, perhaps most, Americans. In this procedure, the doctor delivered the body of the fetus -- feet first and sometimes still alive -- into the birth canal before collapsing the skull so that the head could be drawn through the opening of the uterus. The medical world called the procedure "intact dilation and evacuation," but antiabortion activists soon coined a new name for it: "partial-birth" abortion.

The activists believed that publicizing the details of the procedure would fuel a national debate, pull many abortion rights liberals to their side and prompt Congress for the first time to ban a specific abortion procedure.

They were right.

President Clinton vetoed the legislation last April. But Congress is gearing up to vote on it again before adjourning at the end of next week. Although proponents of the ban believe they may have the necessary two-thirds vote in the House to override the veto, they acknowledge they still are at least a dozen short in the Senate.

Ongoing efforts to enact the ban have been aided by the considerable weight of leading Catholic clerics, who visited members of Congress last week to lobby for an override, and whose followers have deluged Capitol Hill with millions of postcards.

The issue also has played a role in the presidential campaign. Robert J. Dole, the Republican nominee who supports a constitutional amendment banning nearly all abortions, has said that Clinton's veto "pushed the limits of decency too far." Ten days ago, he told an audience of Catholics, "whether you're pro-life or pro-choice, there is one thing everyone can agree on: Partial-birth abortion is wrong."

Whatever the bill's ultimate fate, the clash over late-term abortions will be remembered as a benchmark in the decades-old abortion debate.

It has forced members of Congress and the general public to confront what happens during abortion -- and most people find such details grisly, no matter what surgical method is used. It also has ignited a discussion of the ethical justifications for abortions performed when a pregnancy is more than half over. Such procedures -- of which the procedure banned by the legislation is only one of several -- make up only 1.3 percent of the 1.3 million abortions done in the United States each year, but they provoke ambivalence and discomfort even among abortion rights supporters.

"This legislation has so mobilized pro-lifers, that the effect of it . . . will strengthen them for a very long time," said Helen Alvare, spokeswoman for the National Conference of Catholic Bishops. "For years, the best we've been able to do in Congress is preserve some funding restrictions. To get from that into the question of abortion itself was a huge leap."

Those on the other side of the debate view the bill's success in Congress as an ominous precedent, and suggest that, if it were law, abortion opponents would try to expand or broadly interpret the ban to cover other kinds of abortions.

"This is the first time Congress has ever attempted to regulate the practice of medicine and abortion," said Kathryn Kolbert, vice president of the Center for Reproductive Law and Policy in New York, an abortion rights group.

Said Lewis Koplik, a New Mexico physician who performs late-stage abortions using a different method: "They don't want less than 1 percent of abortions stopped. . . . They want all abortions stopped."

Estimates and Anecdotes

There are no reliable statistics on how many abortions are done each year using the technique that would be banned. Nor is there much information about the women who undergo the procedure or about the condition of the fetuses they carry. As a result, both sides of the debate have selectively used estimates and anecdotes to support their positions.

The National Abortion Federation, an organization of abortion providers, believes 400 to 600 cases of "intact D&E," as the procedure is often called, may be done each year. The National Right to Life Committee, which supports the ban, believes it may be several thousand.

Similarly, there are no reliable estimates on how many American doctors use the technique. Interviews with abortion providers suggest that they are fewer than 20, and perhaps fewer than 10.

Opponents of the ban, including President Clinton, have used patients and data drawn chiefly from the practice of one abortion doctor to portray the procedure as an extremely rare one, used almost exclusively in cases where a woman discovers that her pregnancy threatens her own life or that the fetus is severely deformed. They also have implied that in some cases, it is the only abortion technique that can safely be used.

Interviews with physicians, as well as information gleaned from published documents and congressional testimony, paint a different picture of these late-term abortions.

It is possible -- and maybe even likely -- that the majority of these abortions are performed on normal fetuses, not on fetuses suffering genetic or developmental abnormalities. Furthermore, in most cases where the procedure is used, the physical health of the woman whose pregnancy is being terminated is not in jeopardy. In virtually all cases, there are alternative ways to perform the abortion safely, though perhaps not as safely as when intact D&E is used.

Instead, the "typical" patients tend to be young, low-income women, often poorly educated or naive, whose reasons for waiting so long to end their pregnancies are rarely medical. Only in the small subgroup of women whose abortions are done extremely late -- in the last one-third of gestation -- are most of the fetuses malformed, and most of the pregnancies initially desired.

But if abortion rights advocates have painted a misleading picture of intact D&E, so have proponents of banning the procedure.

Much of their campaign has led people to believe that normal, viable fetuses are regularly being aborted very late in pregnancy -- in the eighth or ninth month -- using this technique. "Virtually every pro-choice American and every pro-life American agrees that aborting a child in the eighth or ninth month the way a partial-birth abortion does is wrong," House Speaker Newt Gingrich (R-Ga.) said in supporting a veto override on "Meet the Press" Sunday.

Most fetuses aborted by the "intact D&E" method are less than 24 weeks gestation; the number done later, when the chances of viability are greater, is very small.

There is no clear-cut moment in pregnancy when a fetus becomes "viable," or capable of surviving outside the womb. Of infants born at 24 weeks gestation, about one-third survive; at 23 weeks, fewer than one-quarter. Most abortion providers will not perform abortions of any type on a normal fetus, carried by a healthy woman, beyond the 24th week of pregnancy; many practitioners set the boundary even earlier.

Antiabortion groups also have cited the fact that the fetus, in some cases, is still alive when part of its body is outside the womb during the procedure. "The difference between the partial-birth abortion procedure and homicide is a mere three inches," Rep. Charles T. Canady (R-Fla.) said last year. Proponents also have argued that fetuses may suffer pain during the procedure.

The usual alternative to intact D&E is "dismemberment D&E," in which the fetal limbs are pulled off the body in utero, sometimes while the fetus is still alive. Proponents of the "partial-birth" abortion ban have not made clear why intact D&E should be outlawed, while "dismemberment D&E" -- used to abort a fetus of similar age while still inside the uterus -- is not. And, if the fetus has sensation -- which is far from certain -- then arguably dismemberment D&E is the more painful procedure.

What's indisputable is that public discussion of this method of ending pregnancy has thrown a spotlight on the anguish and ambivalence that lurks below many -- if not all -- abortions. It has forced doctors, patients and the public to face the "livingness" of the fetus in a way that abortion techniques used early in pregnancy do not.

Visual Imagery

Abortion opponents have always relied on visual imagery. They have carried posters depicting the tiny feet of aborted fetuses, and jars with the fetuses themselves. A 1986 antiabortion film, "The Silent Scream," showed an ultrasound image of the supposed agony of a 12-week fetus being aborted. But it was not until they provided drawings of the intact D&E procedure that were descriptive enough to make the point, but not so graphic they couldn't appear in the mass media, that they reached a wider audience.

Within weeks of Martin Haskell's description of the intact D&E procedure at a 1992 National Abortion Federation seminar in Dallas, his paper had been sent to the National Right to Life Committee, said its legislative director, Douglas Johnson. The committee took Haskell's paper, along with some rough sketches of the procedure that had appeared in an antiabortion publication, to an artist who produced more sophisticated drawings. These were circulated within the antiabortion community.

"I was horrified that such a procedure existed," said Canady, who was sent a copy of the paper and later introduced the ban. "It occurred to me that this was something the American people would overwhelmingly oppose if they were aware of it."

In 1993, Haskell said in interviews in two medical publications that he had discovered the procedure by accident, and had performed it more than 700 times. In most cases, he said, the abortions were not done because of a birth defect or a severe maternal illness.

Haskell is no longer granting interviews, "given the harassment he's under," said his lawyer, Kolbert.

The issue landed on Capitol Hill as Congress was debating the 1993 Freedom of Choice Act, a bill that would have prohibited many state restrictions on abortion. Canady argued that the bill would prevent states from banning even late-term abortion techniques, like the procedure described by Haskell, and offered an amendment banning the intact D&E method. But abortion rights supporters had long outnumbered abortion foes in Congress, and Canady's amendment failed by a narrow margin. A procedural fight kept the bill from ever coming up for a vote.

With Republican victories in the 1994 elections, however, more than 40 new antiabortion legislators arrived on Capitol Hill, and the abortion balance changed. And proponents of the "partial-birth" abortion ban believed their chances for a major antiabortion victory were further enhanced by the distastefulness of the late-term procedure.

Antiabortion leaders correctly suspected the issue could split the abortion rights opposition. Sen. Daniel Patrick Moynihan (D-N.Y.), who traditionally had voted for abortion rights, called the procedure "as close to infanticide as anything I have come upon in our judiciary." Previously dependable abortion rights supporters like House Minority Leader Richard A. Gephardt (D-Mo.) and Rep. Susan Molinari (R-N.Y.), similarly decided to support the ban.

It passed 286 to 129 in the House, and 54 to 44 in the Senate.

The emotion that marked the congressional debate has accompanied the issue into the presidential campaign. Dole has pledged that, as president, he would sign the ban on "partial-birth" abortion. He has attacked Clinton's veto, charging it represented his lack of "moral vision."

Clinton has countercharged that his decision was based on defending the health of women whose babies were seriously deformed. "I fail to see why [Dole's] moral position is superior to the one that I took," he said.

Polls suggest that, while Americans generally support a woman's right to an abortion, there is also considerable support for the ban on the "partial-birth" procedure.

Respondents to a Gallup Poll last July were asked if they would favor "a law which would make it illegal to perform a specific abortion procedure conducted in the last six months of pregnancy known as a 'partial-birth abortion,' except in cases necessary to save the life of the mother." Seventy-one percent said yes.

Supporters of the ban argue that public opinion is shifting as they continue to place advertisements describing the procedure in newspapers and on television. Among the ads is one from a new group of 300 physicians, including former surgeon general C. Everett Koop, which argues that the procedure is never medically necessary.

The quest for public support has shaped strategies on both sides. Abortion opponents focus on the fetus and on the medical details of the procedure. Abortion rights supporters emphasize the rights and health of women and portray the proposed ban as an unwarranted government invasion of privacy.

Shaping Strategies

A contentious subtext in this war of images has been the question of why women seek late-term abortions.

"The anti-choice community has done a very good job at painting a picture of a woman who has an abortion as frivolous, irresponsible, one who engages in sex without responsibility," said Kate Michelman, president of the National Abortion and Reproductive Rights Action League.

She and others cited an advertisement run by the National Conference of Catholic Bishops listing examples of reasons a woman could use to obtain a "partial-birth" abortion if the legislation made an exception to preserve the health of the mother. The list included such examples as "won't fit into prom dress," "hates being fat," and "can't afford a baby and a new car."

But the women who have spoken out publicly about their experiences with the procedure have told a different story.

"We are not women popping up in the eighth month saying, 'I don't think I'll be a mom,' " Claudia Ades told a congressional hearing last November. Ades said she learned from a sonogram when she was 26 weeks pregnant that her fetus had a severely malformed brain and numerous other serious defects.

"These were desperately wanted children, where something went terribly wrong," she said.

In a recent interview, Ades said she and her husband, Richard, who live in Los Angeles, "begged for . . . someone that could fix my baby's brain or the hole in his heart," but were told their child had no chance of survival. She opted for abortion, she said, because she believed her fetus was in pain.

Four different doctors told her intact D&E was the safest way, Ades said. "We knew other options existed," including a Caesarean section, "but they were not considered as safe, as healthy or as appropriate for us. . . . What bothers me is that we have to defend what we did. We believe it was such a humane thing."

Johnson, of the National Right to Life Committee, and others argue that even in the case of severe developmental defects like the Ades fetus, the baby should be allowed to be born. "The premise that in some cases it is necessary to kill the baby to complete a delivery . . . there are no such cases," he said.

Clinton said he would have signed the legislation if it had included an exception for women who faced serious health risks without the procedure. But foes of such an exception argued that it "would gut the bill," in Johnson's words.

While the immediate future of the abortion debate clearly hangs on the November elections, it seems likely that this will not be the last time Congress focuses on a specific procedure.

Rep. Christopher H. Smith (R-N.J.), a leading abortion opponent in the House, said after the House approved the ban late last year that antiabortion lawmakers "would begin to focus on the methods and declare them to be illegal."

For abortion rights supporters, that is a daunting prospect.

"There is no abortion procedure when described that is aesthetically comforting, whether at six weeks or 32 weeks," said Frances Kissling, president of Catholics for a Free Choice. "This is exactly the kind of abortion issue that people don't want to think about. . . . They want women to be able to have this option in such extreme and terrible circumstances, but they know it's not pretty. It has to happen, but it shouldn't be in the newspaper."

GRAPHIC: Photo, joel richardson; Photo, frank johnston; Photo, todd bigelow for The Washington Post; Photo, craig herndon; Illustration, The Washington Post, BENCHMARKS IN THE DEBATE 1973: The Supreme Court ruled in Roe v. Wade and Doe v. Bolton that the U.S. Constitution protects a woman's right to abortion before the fetus is viable. The court also said a state can prohibit abortions after viability unless the mother's life or health is at risk. 1976: Congress adopted the Hyde amendment, prohibiting the use of federal funds for abortions. 1976: In Planned Parenthood v. Danforth, the Supreme Court struck down Missouri provisions that required a married woman to obtain her husband's consent to an abortion, required a physician to preserve the life and health of the fetus and prohibited use of saline amniocentesis as a method of abortion. 1989: In Webster v. Reproductive Health Services, the Supreme Court upheld the major provisions of a Missouri law that prohibited the use of public facilities or public employees to perform abortions and required physicians to test the viability of the fetus before performing an abortion in pregnancies of 20 weeks or more. 1992: The Supreme Court, ruling in Planned Parenthood v. Casey, reaffirmed on a 5 to 4 vote the basic right to abortion established in Roe v. Wade. At the same time, it upheld several Pennsylvania provisions restricting abortion, including those requiring physicians to give patients antiabortion information, a 24-hour waiting period and parental consent for minors. It struck down a requirement that a woman must notify her husband before obtaining an abortion. 1993: Congress debated the Freedom of Choice Act, meant to restore abortion rights restricted by the Supreme Court rulings in 1989 and 1992. Antiabortion legislators argued that the law would prevent states from restricting the late-term abortion procedure later called "partial birth" abortion. The legislation was never brought to a final vote. 1994: Congress approved and President Clinton signed the "Freedom of Access to Clinic Entrances Act," making it a crime to bloc

The New York Times

September 19, 1996, Thursday, Late Edition - Final

SECTION: Section A; Page 27; Column 2; Editorial Desk

LENGTH: 561 words

HEADLINE: Moment of Perception

BYLINE: By Anne Roiphe; Anne Roiphe is the author of "Fruitful: A Real Mother in the Modern World."

BODY:

Next week, Congress is expected to consider overriding President Clinton's veto of a bill that would ban a type of third-trimester abortion. The anti-abortion forces will again display horrible pictures of the technique, which they call partial-birth abortion. Although few in the abortion-rights movement take this approach seriously, it has emotional resonance and erodes public support for all abortions. And the pro-choice movement is partly to blame for its opponents' success.

Advocates of legalized abortion have always justified their position by claiming that the fetus is not a life. We drew a sharp distinction between inside the womb and outside it, and made our moral stand on the absolute difference between the two.

But as gains in medicine have allowed premature babies to be sustained at ever-lower birth weights, as women with wanted pregnancies have looked in awe at sonograms of their fetuses, many of us have realized that our reasoning about the beginnings of life has not been so reasonable.

The pro-choice effort to call the fetus a disposable thing has never been quite convincing, even to women who have had abortions. A pregnant woman who wants to have her baby knows in those first few weeks -- when the embryo's cells are just beginning to hear the tom-tom beat of genetic instruction -- that she is carrying a soon-to-be-person. Women in the first frightening weeks of an unwanted pregnancy, however, may regard the embryo as a faceless, invading alien. The difference, of course, could not lie in the life forms, but in our attitudes toward them. To be knocked up is not the same as to be blessed, but biologically they are identical events.

One need not believe that God creates human life at the instant sperm and egg merge to accept that the potential for human life is sparked at that moment. You don't have to be an evangelical Christian to believe that a fetus will become a baby, just as a 1-year-old will soon become a 2-year-old, and a 2-year-old will become an impossible adolescent.

But if there is something wrong late in a pregnancy, a woman may make the difficult decision to abort -- not because she is careless about human life but because she values it. Every third-trimester abortion is a tragedy. It is a rare practice, usually done when the fetus is severely deformed or when the mother is in danger. Human life is sacred, but sometimes not as sacred as another human life; the unborn do not weigh the same on the ethical scale as the born.

As anti-abortionists make clear, the details of third-trimester abortion are gruesome. But so too is the existence that many such babies could expect -- lives of physical pain and hospital stays and financial burdens and grieving parents.

It is a moral position to say that every child must be a wanted child. But it makes far more sense to think of abortion as a difficult issue, different at different months of pregnancy and at different times in a mother's life. Sometimes it is sacrilege to make absolute rules about things that are relative. We live on slippery slopes.

As those who support abortion rights confront the pro-life movement, we need to face the fact that we have oversimplified the issue. Even the most secular among us know that conception is a holy moment. But sometimes life is the wrong choice, a cruel choice, a tragic choice.

The New York Times

September 20, 1996, Friday, Late Edition - Final

SECTION: Section A; Page 22; Column 1; National Desk

LENGTH: 1202 words

HEADLINE: House Votes to Override Clinton's Veto of Abortion Bill

BYLINE: By MELINDA HENNEBERGER

DATELINE: WASHINGTON, Sept. 19

BODY:

After eight million postcards, a five-month delay and two hours of blistering debate, the House today narrowly voted to override the President's veto of a ban on a form of late-term abortion.

With only four votes more than the two-thirds needed, members voted 285 to 137 to overturn President Clinton's veto of a ban on the procedure opponents call "partial-birth' abortion and doctors call "intact dilation and extraction." The Senate is expected to uphold the veto next week, but Republicans plan to seize on the issue in the elections. [Roll-call vote, page A22.]

Those who oppose abortion were gleeful, calling the vote a turning point in the larger debate: the first time they had won over public opinion by focusing on the particulars of an abortion procedure. And some who support abortion rights mournfully agreed.

Ralph Reed of the Christian Coalition, said: "It's a huge victory. It's the first time since Roe v. Wade that Congress is poised to outlaw an abortion procedure and the first time the pro-choice side has had to defend the indefensible."

He laid out the strategy of anti-abortion groups in the coming months: "If Clinton is re-elected, you have to come up with similar bills that outlaw other procedures, like will he sign a ban on abortion in the last month, and so on, and it's almost like the welfare bill, a win-win, because if he signs it, he demoralizes his side, and if he doesn't, you energize our side."

Kate Michelman, president of the National Abortion and Reproductive Rights Action League, called the vote "an unprecedented intrusion into medical practice" by those who oppose any abortion procedure at any time in pregnancy. And she acknowledged that it was a tough vote for abortion rights supporters in tight Congressional races.

Seventy Democrats, including many who generally support abortion rights, joined 215 Republicans in voting to overturn the President's veto. The Democratic House leaders, Richard A. Gephardt of Missouri and David E. Bonior of Michigan, also opposed the President on the issue. Fifteen Republicans voted against overriding.

Several members who oppose the ban said they had feared the vote would be even worse and shake the resolve of their colleagues in the Senate. Abortion rights supporters spent considerable political capital and called in favors just to keep others from defecting. In the end, only Representatives Marge Roukema, a New Jersey Republican, and Peter J. Visclosky, an Indiana Democrat, changed their position and opposed the President.

In the debate before the vote, members on both sides spoke loudly of God and motherhood. Some wielded sketches of the procedure; others flashed giant portraits of the smiling families they said had been preserved by it.

Those who say the procedure should be legal told the achingly bleak stories of women whose lives were saved by it after they learned that their horribly malformed babies could never survive outside the womb. And several who believe the procedure should be outlawed quoted an abortion doctor and supporter of the procedure who died last year as saying it was frequently done in cases of minor "fetal flaws" like a cleft lip.

As Representative Chet Edwards, Democrat of Texas, was saying that no one would have the procedure if it were not absolutely necessary, Representative Robert K. Dornan, a California Republican, shouted: "It happens! It happens!"

Representative Patricia Schroeder, the Colorado Democrat who led the fight to sustain the veto on the House floor, looked to be near tears as she made a final plea to her colleagues. "I find this a very sad vote to end my career on," she said, her voice cracking. Mrs. Schroeder is retiring after this term.

And Representative Henry J. Hyde, the Illinois Republican and abortion opponent, got a standing ovation from like-minded colleagues after he quoted Dostoyevsky (Raskolnikov in "Crime and Punishment": "Man can get used to anything.") and told the other members, "If you still believe this little baby is a part of the woman's body, then your ignorance is invincible."

"People who say, 'I feel your pain,' aren't referring to that little baby" whose life is ended by the procedure, he said, openly mocking the President.

Abortion opponents said after the vote that they had successfully painted Mr. Clinton as the extremist on this issue.

The procedure -- one of several that women use to abort a fetus after 20 weeks of gestation -- is performed by partially extracting the fetus from the uterus, feet first, then suctioning the brain and spinal fluid out of the skull before collapsing the skull so it can be removed.

Abortion rights advocates maintain that the other main method used for late-term abortions -- where the fetus is dismembered rather than delivered intact -- is not as safe.

But House members who oppose the ban say they have lost ground politically because the particulars of any abortion procedure is something no one who supports abortion rights really wants to talk about.

Representative Tim Roemer, an Indiana Democrat, described the procedure in grisly detail and then, reading from the bible for pregnant women, "What to Expect When You're Expecting," described the baby's tiny fingers and toes and open eyes during the final weeks in the womb. "Pro-life, pro-choice people, this is not a question of philosophy," Mr. Roemer said. "We all agree abortion should be rare, but this procedure should be banned."

Some on the losing side complained that the vote was not a question of abortion, either, really, but a blunt object being applied to the President's head several weeks before an election.

"We could have had this vote in April," after the President's veto, Mrs. Schroeder said.

Representative Chris Smith, a New Jersey Republican who said he has been involved in anti-abortion groups since 1972, said his side waited five months before bringing the issue to a vote because members were not sure if they had the votes until after considerable lobbying.

Mrs. Roukema, who voted against the original bill banning the procedure, said she switched sides because her concerns that the mother's life be protected and that the doctor be protected from prosecution if the procedure was performed in dire circumstances -- had been addressed in the House and Senate conference committee.

"Over time I've been reading about this and informing myself," she said. "It's a decision that was very difficult to make but I decided it comes too close to infanticide. My concerns have been satisfied and choice is not compromised."

She said she had felt enormous pressure from both sides, and had received a steady stream of calls and mail.

Some eight million postcards were sent to members of Congress in a campaign by the National Coalition of Catholic Bishops.

Mrs. Roukema added: "People on both extremes of this argument have really appealed to people's fears."

Both supporters and opponents of the procedure, though, said the debate does seem to have resonated with the public.

Mr. Reed said: "They have always been able to demonize us with the hard cases -- the incest and rape cases. We've never been able to do that -- until today."

The Washington Post

September 24, 1996, Tuesday, Final Edition

SECTION: OP-ED; Pg. A17

LENGTH: 763 words

HEADLINE: A New Look at Late-Term Abortion; A rigid refusal even to consider society's interest in the matter endangers abortion rights.

BYLINE: Richard Cohen

BODY:

Back in June, I interviewed a woman -- a rabbi, as it happens -- who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than to terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column -- although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data -- the usual pro-choice groups -- were giving me what they thought was precise information. And precise I was. I wrote that "just four one-hundredths of one percent of abortions are performed after 24 weeks" and that "most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger."

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown -- a physician himself -- wrote: "These doctors say that while a significant number of their patients have late abortions for medical reasons, many others -- perhaps the majority -- do not."

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word "choice" has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called "partial-birth abortions" are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions -- what seems pretty close to infanticide -- are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus -- and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

The New York Times

September 26, 1996, Thursday, Late Edition - Final

SECTION: Section A; Page 27; Column 1; Editorial Desk

LENGTH: 592 words

HEADLINE: Why Defend Partial-Birth Abortion?

BYLINE: By C. Everett Koop; C. Everett Koop was Surgeon General from 1981 to 1989.

DATELINE: HANOVER, N.H.

BODY:

The debate in Congress about the procedure known as partial-birth abortion reveals deep national uneasiness about abortion 23 years after the Supreme Court legalized it. As usual, each side in the debate shades the statistics and distorts the facts. But in this case, it is the abortion-rights advocates who seem inflexible and rigid.

The Senate is expected to vote today on whether to join the House in overriding President Clinton's veto of a bill last April banning partial-birth abortion. In this procedure, a doctor pulls out the baby's feet first, until the baby's head is lodged in the birth canal. Then, the doctor forces scissors through the base of the baby's skull, suctions out the brain, and crushes the skull to make extraction easier. Even some pro-choice advocates wince at this, as when Senator Daniel Patrick Moynihan termed it "close to infanticide."

The anti-abortion forces often imply that this procedure is usually performed late in the third trimester on fully developed babies. Actually, most partial-birth abortions are performed late in the second trimester, around 26 weeks. Some of these would be viable babies.

But the misinformation campaign conducted by the advocates of partial-birth abortion is much more misleading. At first, abortion-rights activists claimed this procedure hardly ever took place. When pressed for figures, several pro-abortion groups came up with 500 a year, but later investigations revealed that in New Jersey alone 1,500 partial-birth abortions are performed each year. Obviously, the national annual figure is much higher.

The primary reason given for this procedure -- that it is often medically necessary to save the mother's life -- is a false claim, though many people, including President Clinton, were misled into believing this. With all that modern medicine has to offer, partial-birth abortions are not needed to save the life of the mother, and the procedure's impact on a woman's cervix can put future pregnancies at risk. Recent reports have concluded that a majority of partial-birth abortions are elective, involving a healthy woman and normal fetus.

I'll admit to a personal bias: In my 30 years as a pediatric surgeon, I operated on newborns as tiny as some of these aborted babies, and we corrected congenital defects so they could live long and productive lives.

In their strident effort to protect partial-birth abortion, the pro-choice people remind me of the gun lobby. The gun lobby is so afraid of any effort to limit any guns that it opposes even a ban on assault weapons, though most gun owners think such a ban is justified.

In the same way, the pro-abortion people are so afraid of any limit on abortion that they have twisted the truth to protect partial-birth abortion, even though many pro-choice Americans find it reasonable to ban the procedure. Neither AK-47's nor partial-birth abortions have a place in civil society.

Both sides in the controversy need to straighten out their stance. The pro-life forces have done little to help prevent unwanted pregnancies, even though that is why most abortions are performed. They have also done little to provide for pregnant women in need.

On the other side, the pro-choice forces talk about medical necessity and under-represent abortion's prevalence: each year about 1.5 million babies have been aborted, very few of them for "medical necessity." The current and necessarily graphic debate about partial-birth abortion should remind all of us that what some call a choice, others call a child.

Los Angeles Times

September 27, 1996, Friday, Home Edition

SECTION: Part A; Page 13; National Desk

LENGTH: 1047 words

HEADLINE: SENATE UPHOLDS VETO OF LATE-TERM ABORTION BAN;
CONGRESS: OVERRIDE ATTEMPT FALLS NINE VOTES SHORT. OPPONENTS OF 'PARTIAL-BIRTH' PROCEDURE HOPE TO MAKE IT A CAMPAIGN ISSUE.

BYLINE: MELISSA HEALY, TIMES STAFF WRITER
DATELINE: WASHINGTON

BODY:

The Senate on Thursday upheld President Clinton's veto of a bill that would have outlawed a controversial late-term abortion procedure, an issue that could tip scales in congressional elections but so far has failed to resonate in the presidential campaign.

But even as senators rebuffed efforts to ban what critics call "partial-birth abortion," foes of abortion plotted a move in the high-stakes game of presidential politics.

"It's a winning issue" for Bob Dole, insisted Christian Coalition Executive Director Ralph Reed, who renewed calls for the Republican nominee to confront Clinton over his April veto of the bill banning the procedure.

Fifty-seven senators voted to override the veto, nine short of the two-thirds majority needed. Forty-one lawmakers sided with Clinton. Both California senators, Democrats Dianne Feinstein and Barbara Boxer, voted to sustain the veto. The House had voted, 285 to 137, to override the veto.

"I am convinced that when people understand that this bill as it is drafted will lead to the death of women, to the devastation of families, that the American people will side with this courageous decision of the president," Boxer said.

The Dole campaign responded to the vote with a stinging denunciation of Clinton's veto. "Bob Dole knows, like every mother and father, that there is no defense--none--for a procedure so cruel that even members of Bill Clinton's own party describe it as 'infanticide,' " said Christina Martin, deputy press secretary for the campaign. "Every woman and man in America should demand that Bill Clinton explain his defense of this barbaric procedure."

Antiabortion groups have focused on the procedure, which doctors say is rarely used, partly because of its gruesome nature--the fetus is partly delivered through the birth canal before the doctor kills it by removing the brain. The procedure is generally used when the fetuses have fatal birth defects or when the mother's health is in jeopardy.

Clinton said he vetoed the bill because it failed to provide an exception in cases where the health or life of the mother is at risk.

"We are using the lives of a few women to make inflammatory and divisive debates across this country, and I know that many women are as offended as I am," said Sen. Patty Murray (D-Wash.).

Political analysts said Dole will have to overcome many obstacles if he is to gain political mileage from a debate that has riven both the House and Senate for much of the last year. Dole's own party is split over abortion in general, and public opinion polls show that most respondents favor giving women the right to have abortions.

But abortion foes believe that they have begun to pry many Americans away from blanket support of abortion by focusing on the controversial procedure, which is used to terminate pregnancies after 20 weeks of gestation. If they can raise the debate to the presidential level, they hope, it would hurt Clinton, whom they have denounced as "the abortion president."

At the very least, they say, they could raise awareness of the issue beyond the 28% of Americans who now say they are familiar with it.

"Bill Clinton's going to be on the defensive on this one," Reed said Thursday. "He's the one who's denying he's a liberal. This issue gives the lie to his efforts to portray himself as moderate."

Reed said he hopes Dole will seize the offensive on the issue in his first presidential debate with Clinton, scheduled for Oct. 6.

"It could stagger Clinton," Reed said. He added that a spirited Dole assault on the issue also could help draw two key groups of swing voters--conservative Southerners and ethnic Catholics from the industrial Midwest--into the Dole camp.

Several senators who voted to sustain the veto acknowledged that the chamber will probably return to the issue next year. Senate Minority Leader Tom Daschle (D-S.D.) said many lawmakers who have voted against a ban are likely to try to craft a bill to ban the procedure but provide a broader exemption for women whose long-term health and fertility would be imperiled by a continuing pregnancy. Clinton has said he would sign such a bill.

Boxer tried to win the necessary unanimous support for approval of a revision allowing the procedure when the health of the mother was at risk, but Sen. Rick Santorum (R-Pa.), blocked the move. "That there is a health reason to perform this abortion is factually incorrect according to a broad spectrum of physicians," he said.

Daschle said the amendment was proposed because "we want to make the point that we are all opposed to this practice in those cases where it doesn't involve the life and the health of the mother."

The bill that Clinton vetoed contained a narrow exemption allowing the procedure only in instances where the life of a mother is in imminent danger.

The debate over the late-term abortion procedure is expected to play a role in at least six hotly contested House races and six Senate races.

In the Dole camp, vice presidential nominee Jack Kemp and advisor William J. Bennett are said to be pressing the candidate to confront Clinton on the issue.

Republican political analyst Ed Goeas said Clinton's veto has made him potentially vulnerable with Americans and that the president's testy exchanges with reporters on the issue should embolden Dole to go on the attack.

"We see in focus groups that it does change people's feeling about Clinton's character," said Goeas. The procedure "is seen as crossing a line between right and wrong, and Bill Clinton is seen as being more liberal when his position is seen as vetoing what Congress did."

But while Goeas suggested that Dole should continue to "gig" Clinton on the issue, he acknowledged that public awareness of the late-term abortion procedure is still so low that Dole would have to make a major investment--in commercials as well as speeches--if he is to gain some advantage on the issue.

"It is disturbing that this complicated medical issue is being exploited for political reasons," said Kate Michelman of the National Abortion and Reproductive Rights Action League. "The goal of those who wish to ban this procedure is to ban all abortion, procedure by procedure."

Times wire services contributed to this story.

USA TODAY

October 21, 1996, Monday, FINAL EDITION

SECTION: NEWS;

Pg. 19A;

Counterpoints

LENGTH: 469 words

HEADLINE: Partial partial-birth abortion ban needed

BYLINE: Norman Ornstein

DATELINE: WASHINGTON

BODY:

WASHINGTON -- When President Clinton vetoed the "partial-birth" abortion bill in April, he was flanked by women who had had the procedure. None had undertaken it casually. All had fetuses with severe defects. Clinton stressed that partial-birth abortion was a technique used very rarely and almost always in cases of pregnancies with serious problems.

The veto seemed reasonable. But a September article by Washington Post reporter (and physician) David Brown shook its rationale. No systematic data on the procedure exist. So Brown interviewed several doctors who use the procedure and read published comments by others.

His conclusions: Late-term abortions are rare; only 1% of abortions occur after the 20th week of fetal development. Only a fraction of them are partial-birth abortions. Many are done because of serious birth defects, which cannot for one reason or another be detected earlier in the pregnancy, or because of a major health risk for the mother.

But Brown makes clear a sizable number of these abortions don't fit that category. Some are for young women who don't know or who deny they are pregnant until very late. A few others have fetuses with nonlife-threatening defects like cleft palate. Brown's findings echo research done a decade ago by the Alan Guttmacher Institute on women who have a late-term (after 16 weeks) abortion.

No one has an abortion in the final trimester, even late in the second trimester of pregnancy, lightly. It is an anguishing decision. But there is a distinction between an abortion carried out in the first third to half of a nine-month term, and one carried out thereafter; and there is a distinction between a later-term abortion carried out because a defect would cause the fetus certain and agonizing death, and one that is undertaken because a woman couldn't recognize her pregnancy until it was too late, or because of a disfiguring condition.

Clinton insists he wants to make such a distinction, while legislators who wrote the partial-birth abortion ban do not. But it is also true abortion-rights groups misled the public about the partial-birth procedure. And if he wants to draw a line between cases of extreme defects or danger to the life of the mother and less dire conditions, some abortion-rights supporters want no lines at all.

If abortion-rights supporters don't use this opportunity for a gut check, their foes might succeed in portraying them as extremists, the way gun control-opponents lost any aura of moderation as they fought the assault-weapons ban. Americans want choice, but not wholly unconstrained choice. If Clinton gets re-elected, and if the abortion-rights movement is wise, it will introduce its own partial ban on partial-birth abortions.

LANGUAGE: ENGLISH

LOAD-DATE: October 21, 1996

The Washington Post

October 31, 1996, Thursday, Final Edition

SECTION: A SECTION; Pg. A02; MARY MCGRORY

LENGTH: 802 words

HEADLINE: All Is Forgiven

BYLINE: Mary McGrory

BODY:

A vignette on the campaign trail featuring an emotional encounter between the president and a 16-year-old girl who was troubled by "partial-birth" abortion illustrates what happened to an issue that once threatened to wreck Clinton's relations with Catholics. After an animated discussion, they embraced. The Clinton people thought that he had talked her around, but Mary Ellen Savoie of Sulphur, La., told others that she is still opposed to the procedure -- but went home to tell her mother it's okay to vote for Clinton because "he's a nice man." That's about what is happening in the country.

The Catholic hierarchy expressed vehement disapproval of the ugly process known as "partial birth" abortion both before and after Clinton vetoed a ban in April. They followed up their words with an intensive campaign -- the largest postcard drive ever recorded by the Capitol Hill post office and a saturation of literature in every parish in the country.

In the old days, politicians trembled at any expression of ecclesiastical wrath. In Catholic strongholds like Boston, a picture of the aspiring candidate at the altar rail with Cardinal John O'Connell was enough to swing an election. This year Cardinal O'Connor tried a variation by having his picture taken with Bob Dole. It had no discernible effect on Clinton's huge majorities in New York or elsewhere. Clerical clout, it seems, is a thing of the past. So is single-issue voting.

The obvious reason why partial birth abortion faded as a wedge question that could have separated Clinton from Catholic voters is that Dole chose not to bring it up. Before the second debate, he said he would. But he never did. It came up in the vice presidential debate, and Jack Kemp gave such a soft answer about the difficulty of consensus that some advocates of banning abortion complained that he was "almost apologetic" about opposing abortion.

The indignant clerics stopped short of telling their flock how to vote in the light of their abhorrence of a procedure that the liberal Catholic magazine Commonweal said "could reasonably be called infanticide." They no longer feel free to take the next step and tell their people to vote against Bill Clinton, who refused to outlaw it. He sided with abortion rights groups, making, in their opinion, a political decision on a moral question.

A long, painful and expensive lawsuit brought about their reticence. In 1980, a group called Abortion Rights Mobilization brought suit against Cardinal Humberto Sousa Medeiros of Boston, who had urged his flock to vote against Rep. Barney Frank (D-Mass.). His Eminence was charged with violating his tax-exempt status. The cardinal won, finally, but, says Richard Doerflinger of the Secretariat for Pro-Life Activities of the National Conference of Catholic Bishops, "It has made the bishops cautious."

Abortion opponents questioned Clinton's assertions on the rarity of the procedure, citing later figures that indicated a frequency among women who simply hadn't gotten around to the abortion earlier. They also scoffed at his claim that he would have signed the ban had it included an exemption for the health of the mother -- opening up in their view an exemption the size of the Grand Canyon.

But Catholics, even though some 87 percent are strenuously opposed to partial birth abortion, are voting for him anyway. Mary Ellen Savoie told her mother the president is "a nice man" who deserved her vote. Monsignor George G. Higgins, a priest long active in public affairs, says "people are voting for Clinton for other reasons -- I don't think they go in for one-issue voting any more."

In April, it seemed that Clinton had gone out of his way to offend Catholics and would pay a heavy price for it. In October, it is obvious that Catholics were heeding earlier advice from the bishops to take into account a number of social issues. Catholics who were captivated by Ronald Reagan were lured back to the Democrats by Clinton's initiatives on crime and education. The strictness implicit in his espousal of curfews, school uniforms and "V-chips" also helped bring them around. Liberals were grateful that a president from the South could discuss crime without a whisper of race.

The only visible penalty that Clinton has paid has been to be left off the guest list of the Alfred E. Smith dinner, the high gala of the hierarchy and the political establishment that is an annual event in New York City. But Vice President Gore, who subscribes fully to Clinton's views, was invited and appeared to trade jibes with Jack Kemp. Little notice was paid, and partial birth abortion has been consigned to the cemetery of Dole issues like character, liberalism, trust, campaign sleaze, failure to wear the uniform, Clinton press fans and the balanced budget.

LANGUAGE: ENGLISH

LOAD-DATE: October 31, 1996

The Washington Post

November 24, 1996, Sunday, Final Edition

SECTION: OP-ED; Pg. C07

LENGTH: 749 words

HEADLINE: An Abortion Choice

BYLINE: George F. Will

DATELINE: RACINE, Wis.

BODY:

On a cold night last March, Deborah J. Zimmerman, drunk and nearly nine months pregnant, was wheeled into a local hospital for an emergency Caesarean section. As the obstetrics staff pleaded with her to allow attachment of a fetal monitor, Ms. Zimmerman at first refused. Insisting that she did not want to give birth, she told a surgical aide, 'I'm just going to go home and keep drinking and drink myself to death, and I'm going to kill this thing because I don't want it anyways.' Later that night she gave birth to a girl whose blood alcohol level was .199, nearly twice the threshold for a legal finding of intoxication in Wisconsin. . . . Ms. Zimmerman . . . has been charged with attempted murder.

-- The New York Times, Aug. 17

CORPUS CHRISTI, Tex. -- A man who drove drunk into a pregnant woman's car was convicted today of killing the woman's baby, who was born a month and a half premature because of the crash. Jurors were not required to consider whether Krystal Zuniga was a person or a fetus at the time of the accident.

-- Associated Press, Oct. 17

A healthy baby girl only a few hours old was found yesterday in a cardboard box outside an apartment building in Brooklyn.

-- The New York Times, Oct. 28

COMMACK, L.I. -- A cleaner found the body of a newborn in a movie theater restroom this morning, and the authorities said the infant had died of asphyxiation.

-- The New York Times, Nov. 19

The college student accused of helping his girlfriend kill their newborn son after she gave birth in a Delaware motel room became the subject of a nationwide police search last night after he failed to surrender to face murder charges.

-- The New York Times, Nov. 19

Questions come to mind concerning some recent exercises of the right of "choice," the foundation of "reproductive freedom."

About the two 18-year-olds who are charged with having chosen to kill their seven-and-a-half-pound boy, putting his body in a trash bag in the motel's dumpster: Don't young people read newspapers? Don't they know that, thanks to President Clinton, they could have chosen to have a doctor suck their baby's brains out, and Delaware would not have chosen to charge them with murder?

How did the person who chose the Long Island movie theater restroom as the place to discard the asphyxiated baby make that particular choice? How does one choose that venue over, say, a Starbucks? Has the mother subsequently received any, well, questioning looks from friends, family or co-workers? Pregnant one day, not pregnant the next, when is the baby shower?

Instead of scandalously choosing to leave the baby in a box in Brooklyn, why did the woman, if it was she, not choose, a few hours earlier, to exercise her presidentially protected (by President Clinton's veto of Congress's ban on the procedure) right to a partial birth abortion? The baby would have been pulled by its legs almost out of the birth canal, the doctor would have stuck scissors into the base of its skull, opened the scissors to make a hole for a suction tube, and sucked out its brains. No box, no scandal.

How could the Corpus Christi jurors decide that a murder had occurred without deciding whether the victim was a person or a fetus? What was murdered, "fetal material"? The logic of Roe v. Wade, as of partial birth abortion, is that until birth, a fetus has the legal status and moral standing of hamburger in a woman's stomach. How could the Corpus Christi man, drunk or sober, be guilty of murdering Krystal when Krystal's mother has that presidentially cherished right to choose to have Krystal's brains sucked out?

For that matter, why does not Ms. Zimmerman's constitutional "privacy" right -- "our bodies, our choices" -- give her the right to choose to kill her fetus with alcohol? Why is a doctor's scissors and suction tube a preferable choice?

Meanwhile, back in Delaware, the Delaware law requires prosecutors to seek the death penalty when a homicide victim is under 14. So the two 18-year-olds who are charged with choosing to kill their baby just minutes after it no longer was eligible for a partial birth abortion are themselves eligible for capital punishment.

In Delaware such punishment is by lethal injection. Could Delaware choose to execute the two by inserting scissors into the bases of their skulls, opening the scissors, inserting suction tubes and sucking out their brains? Of course not. The Constitution forbids choosing cruel and unusual punishments.

ABORTION/PB/GROUPS

ABORTION/PB/Clips

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NARAL FACTSHEETS

Bans on Abortion Procedures and the Law

As of July 9, 1998, the total number of states that have enacted legislation banning so-called "partial-birth" abortion or other abortion procedures is 28. In 18 states, courts have partially or fully enjoined the laws (AK, AZ, AR, FL, GA,[4] ID, IL, IA, KY, LA, MI, MT, NE,[5] NJ, OH, RI, WI, WV). In seven of these 18 states, courts have permanently enjoined the laws (AK, AZ, IL, MI, MT, NE, OH). Court challenges in many of these states demonstrate the unconstitutionality of these bans.

COURT CHALLENGES

In issuing these orders, courts have concluded that these bans are constitutionally deficient for three main reasons: (1) the bans constitute an undue burden on women seeking pre-viability abortions; (2) the bans fail to provide an adequate exception when necessary to protect a woman's health; and (3) the bans are unconstitutionally vague.

Undue Burden: In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the U.S. Supreme Court held that, prior to viability, restrictions on abortion must not constitute an undue burden on a woman's right to choose. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."[9] Courts have held that bans on "partial-birth" abortion and other abortion procedures impose an "undue burden" on women seeking pre-viability abortions.

- The Sixth Circuit Court of Appeals held that Ohio's "ban on the D&X procedure is unconstitutional because the definition of the procedure encompasses the more commonly employed D&E procedure, and thereby places a substantial obstacle in the path of women seeking pre-viability abortions."[10]
- In Michigan, the court held "that the Michigan 'partial birth abortion' statute is facially overbroad because in a substantial percentage of cases in which the statute is implicated, it will operate as a substantial obstacle to a woman's choice to undergo an abortion. Indeed, because of the sweeping breadth of the statute, it would operate to eliminate one of the safest post-first trimester abortion procedures, a procedure which is currently used in more than 85% of the post-first trimester abortions performed in Michigan. . . . To leave women with only far riskier alternatives to the D&E clearly imposes an undue burden on a woman's right to seek a pre-viability abortion."[11]
- In Illinois, the court held that the "partial-birth" abortion ban constitutes an undue burden on a woman's constitutional right to choose abortion because it has the potential effect of banning the most common and safest abortion

procedures. The court noted that because the bill could apply to a variety of safe and common abortion procedures, physicians will probably stop performing such procedures.[12] In addition, the court held that because the "partial-birth" abortion ban "will significantly increase the cost of abortion procedures" by causing physicians to forgo the most common abortion procedures, it places a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.[13]

Unconstitutional Threat to Women's Health: In *Thornburgh v. American College of Obstetricians and Gynecologists*[14] and *Colautti v. Franklin*,[15]established that it is unconstitutional to force a physician to make a "trade-off" between the woman's health and the state's interest in fetal life. The woman's health must remain the physician's primary concern, and the physician must be given the discretion he or she needs to choose the most appropriate abortion method. In addition, the Supreme Court held in *Roe* and reaffirmed in *Casey* that even after viability, a state may not ban an abortion necessary to preserve a woman's life or health.[16] Bans on so-called "partial-birth" abortion unconstitutionally chill a physician's exercise of discretion in determining the best course of treatment and thereby imperil women's lives and health. Courts have held that so-called "partial-birth" abortion bans are unconstitutional because of the failure to provide an exception to the ban when necessary to protect a woman's health.

- In Arizona, for example, the court stated: "*Casey* is clear that a state may not interfere in a woman's choice to undergo an abortion procedure if it is necessary for her *health*. *Casey* even provides that *after* viability a state may not prevent abortion where it is necessary for the preservation of the health of the mother. Thus, the fact that the Act does not provide an exception where the proscribed conduct is in the best interest of the health of a woman is an additional reason to find that the Act is unconstitutional."[17]

- In Illinois, the court stated: "Even if the court found that there are alternative procedures available to women seeking abortions of a nonviable fetus, the statute would nevertheless be invalid because it does not provide an exception to the ban when the woman's health, whether it be mental or physical health, is endangered, or when the alternative procedure would compromise her health. . . . Without a health exception, the statute places a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability."[18] Additionally, the court held that the statute's lack of a health exception "indicates that the Illinois legislature intended to 'trade-off' the woman's health for fetal survival. That is, the statute only permits abortion procedures that are extremely risky to the woman and prohibits the safer alternatives, unless her life is in danger. The purpose and effect of such a statute is to force women to carry their fetuses to full-term. . . . Because [the statute] requires women to remain pregnant even in the face of serious health concerns, it operates as a substantial obstacle to women seeking abortions. As such, it is unconstitutional."[19]

- In issuing a temporary restraining order prohibiting enforcement of the Arkansas "partial-birth" abortion ban, the court noted: "Complications can arise unexpectedly during an abortion or delivery and the physician must respond appropriately and quickly. . . . While a certain procedure in response to an emergency might 'suffice' to save the life of the woman, it may carry much greater risk than another procedure and thus be medically inappropriate."[20]

Vagueness: Constitutional law prohibits the government from punishing individuals for violating a statute when the statute does not give them "a reasonable opportunity to know what [conduct] is prohibited, so that [they] may act accordingly."[21] Courts have ruled that so-called "partial-birth" abortion bans are unconstitutionally vague because the term "partial-birth abortion" is not a medical term, is ambiguous, may be subject to multiple interpretations and fails to provide physicians performing abortions with fair warning of what conduct is prohibited.

- In Michigan, the court concluded "that the language of the definition of 'partial birth abortion' in the Michigan statute is hopelessly ambiguous and not susceptible to a reasonable understanding of its meaning. Physicians looking to its language for direction as to what procedures are proscribed by the law simply cannot know with any degree of confidence what conduct may give rise to criminal prosecution and license revocation."[22]
- In Arizona, the court held that "the language of the Act is sufficiently ambiguous as to include many interpretations other than that advanced by the Defendants. . . . [T]he term 'partial birth abortion' is defined in such a way that [ ] 'persons of common intelligence would necessarily guess at meaning and differ as to application.'"[23]

July 1998

NOTES:

1. This law does not go into effect until 60 days after the legislature closes in May.
2. This law does not go into effect until July 1, 1998.
3. The Ohio statute prohibits "dilation and extraction" abortion.
4. The Utah statute prohibits "partial-birth" abortion, "dilation and extraction" abortion and saline abortion after viability.
5. This law does not go into effect until July 1, 1998.
6. This law does not go into effect until 90 days after March 14, 1998.
7. In Georgia, a court has issued an interim order permitting enforcement of the law as it applies to abortion after viability. *Midtown Hospital v. Miller*, No. 1:97-CV-1786-JOF (N.D. Ga. June 27, 1997).
8. In Nebraska, a court has issued a preliminary injunction prohibiting enforcement of the law as applied to the plaintiff "regarding his performance of D&X abortions on nonviable fetuses." *Carhart v. Stenberg*, 972 F. Supp. 507, 531 (D. Neb. 1997).
9. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 877 (1992).
10. *Women's Medical Professional Corp. v. Voinovich*, Nos. 96-3157/3159, slip op. at 30 (6th Cir. Nov. 18, 1997).
11. *Evans v. Kelley*, No. 97-CV-71246-DT, slip op. at 84-85 (E.D. Mich. July 31, 1997).
12. *Hope Clinic v. Ryan*, No. 97C8702, slip op. at 27-28 (N.D. Ill. Feb. 12, 1998).
13. *Hope Clinic*, No. 97C8702, slip op. at 30.
14. *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986).
15. *Colautti v. Franklin*, 439 U.S. 379, 400 (1979).
16. *Roe v. Wade*, 410 U.S. 113, 163-65 (1973); Casey, 505 U.S. at 879.
17. *Planned Parenthood of Southern Arizona v. Woods*, No. CIV 97-385-TUC-RMB, slip op. at 19 (D. Ariz. Oct. 24, 1997) (citations omitted).
18. *Hope Clinic*, No. 97C8702, slip op. at 36.
19. *Hope Clinic*, No. 97C8702, slip op. at 38.
20. *Little Rock Family Planning Services v. Jegley*, No. LR-C-97-581, slip op. at 2-3 (E.D. Ark. July 31, 1997).
21. *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).
22. *Evans*, No. 97-CV-71246-DT, slip op. at 66-67.
23. *Woods*, No. CIV. 97-385-TUC-RMB, slip op. at 21-22 (citing *Smith v. Goguen*, 415 U.S. 566, 572 (1974)).

NARAL Promoting Reproductive Choices Publications

NARAL FACTSHEETS

BANS ON SO-CALLED "PARTIAL-BIRTH" ABORTION AND OTHER ABORTION PROCEDURES

More than half the states have banned so-called "partial-birth" abortion, but in 20 of these states, courts or attorneys general have blocked full enforcement.

State	Enforced	Limited Enforcement	Enjoined/Not Enforced
Alabama		X[1]	
Alaska			X
Arizona			X
Arkansas			X
Florida			X
Georgia		X[2]	
Idaho			X
Illinois			X
Indiana	X		
Iowa			X
Kansas[3]	X		
Kentucky			X
Louisiana			X
Michigan			X
Mississippi	X		
Montana			X
Nebraska			X[4]
New Jersey			X
Ohio[5]			X
Oklahoma	X		
Rhode Island			X
South Carolina	X		
South Dakota	X		
Tennessee	X		
Utah[6]	X		
Virginia		X[7]	
West Virginia			X
Wisconsin			X
Total = 28	**8**	**3**	**17**

December 1998

Notes:

1. .The Alabama Attorney General directed the state's district attorneys to enforce the statute only after viability.
2. .A court has approved a consent order that limits enforcement of this law to post-viability intact dilation and extraction procedures except when necessary to preserve the woman's life or health.
3. .This statute prohibits "partial-birth" abortion after viability except when necessary to preserve a woman's life or if the pregnancy will result in "substantial and irreversible impairment of a major physical or mental function of the woman."
4. .A court has issued a permanent injunction prohibiting enforcement of the law as applied to the plaintiff and his patients and others similarly situated.
5. .This statute prohibits dilation and extraction abortion unless the defendant proves that all other available abortion procedures pose a greater risk to the woman's health.
6. .This statute prohibits so-called "partial-birth" abortion, dilation and extraction, and saline abortion after viability unless all other available abortion procedures would pose a risk to the woman's life or health.
7. .A court has interpreted this law to apply only to the intact dilation and extraction abortion procedure.

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NARAL FACTSHEETS

CONSTITUTIONAL ANALYSIS OF LEGISLATION BANNING ABORTION PROCEDURES

Opponents of choice have been using inflammatory rhetoric about "infanticide" and "partial-birth" abortion in a nationwide strategy to further their goal of eroding women's reproductive options. However, in court challenges across the country, judges -- including judges appointed by Presidents Reagan and Bush -- have found bans on abortion procedures unconstitutional. As discussed below, these courts have concluded that the definition of what methods of abortion would be banned is vague and overbroad -- it would ban a variety of safe and common abortion procedures, not just one procedure. Moreover, by banning a variety of safe abortion procedures, the bans impose an undue burden on women seeking access to abortions by forcing them to rely upon less safe medical options. And finally, courts have found that the bans are unconstitutional because they do not allow women to obtain a banned procedure when it would preserve their health.

Instead of making abortion more difficult and dangerous for women, lawmakers should promote policies that reduce the need for abortion. Almost 50 percent of all pregnancies in this country are unintended, including over 30 percent within marriage. And over half of all unintended pregnancies end in abortion. Improved access to contraception -- including increases in Title X funding, insurance coverage of contraception and improved contraceptive research -- would address the root causes of unintended pregnancy and would reduce the need for abortion.

Bans on Abortion Procedures, Such As So-Called "Partial-Birth" Abortion, Violate Roe v. Wade

- The U.S. Supreme Court recognized a woman's constitutional right to choose whether or not to have an abortion in *Roe v. Wade*.[1] *Roe* also established that this right is limited after fetal viability, at which point the state may ban abortion as long as exceptions are provided for cases in which the woman's life or health are at risk. By violating these holdings, explicitly reaffirmed by the Court in the 1992 *Planned Parenthood v. Casey* decision,[2] the so-called "partial-birth" abortion ban presents a direct constitutional challenge to *Roe*.
    - The legislation, as typically introduced, applies throughout pregnancy in disregard of the crucial constitutional distinction between pre- and post-viability abortion. In addition, the bill's failure to provide an exception for cases in which the banned procedure is necessary to preserve a woman's health is a grave constitutional flaw.
        - Nearly 90 percent of all abortions occur in the first trimester of pregnancy.[3] Only approximately one percent of abortions take place at 21 weeks or later.[4] Although states may ban virtually all abortion after viability, a point that varies with each pregnancy but is generally considered to take place no earlier than 23-24 weeks,[5] the U.S. Supreme

Court held as recently as 1992 that "[r]egardless of whether exceptions are made for particular circumstances, [the government] may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability."[6] By prohibiting the use of certain procedures, both before and after viability, the ban violates the constitutionally protected status of second-trimester abortion and curtails a physician's ability to use the abortion method most appropriate in light of each woman's individual circumstances.

Bans On Abortion Procedures Unconstitutionally Jeopardize Women's Health

- As stated above, the Supreme Court held in *Roe,* and reaffirmed in *Casey,* that after viability, a state may not ban an abortion necessary to preserve a woman's life or health. In *Casey*, the Court also held that prior to viability, restrictions on abortion must not constitute an undue burden on a woman's right to choose. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."[7] As numerous courts have found, blocking a woman's access to the abortion procedure that may be safest for her unduly burdens her right to choose.[8]
    - In *Planned Parenthood of Wisconsin v. Doyle*, the U.S. Court of Appeals for the Seventh Circuit concluded that Wisconsin's ban on so-called "partial-birth" abortion was problematic because it lacked an exception to protect women's health. "Wisconsin is taking chances of unknown magnitude with the health of pregnant women. This the Supreme Court's decisions do not permit."[9]
- In *Thornburgh v. American College of Obstetricians and Gynecologists*[10] and *Colautti v. Franklin,*[11] the Supreme Court established that it is unconstitutional to force a physician to make a "trade-off" between the woman's health and the state's interest in fetal life. The woman's health must remain the physician's primary concern, and the physician must be given the discretion he or she needs to choose the most appropriate abortion method.
- The ban unconstitutionally chills a physician's exercise of discretion in determining the best course of treatment and unduly burdens a woman's right to choose by imperiling her life and health.

The Ban Will Create an Unconstitutional Chilling Effect

- A bedrock principle of constitutional law prohibits the government from punishing individuals for violating a statute when the statute does not give "fair warning as to what conduct is prohibited."[12] The legislation utilizes the term "partial-birth" abortion, but this term does not have a medically recognized meaning. The definition of "partial-birth" abortion fails to identify clearly which procedures are prohibited by the ban. Although proponents of the ban claim that they are targeting a specific abortion method, courts across the country have found that the legislation could prohibit many methods of abortion.[13]
- Generally, under another important constitutional law principle, an individual may be punished as a criminal only for actions undertaken with at least some degree of criminal intent. Under the legislation, however, physicians could be criminally liable if -- in the exercise of their best medical judgment -- they determined that a woman's circumstances were so dire that she was covered by the life endangerment exception but this determination was later considered by a court, a jury or state medical review board to have been mistaken.

- The provision in the bill permitting a physician to seek a hearing before the state medical board regarding whether a banned procedure was necessary to save a woman's life endangered by certain physical threats does not mitigate the threat of criminal prosecution. The government can proceed with its prosecution of the physician regardless of the outcome of the state medical board hearing. Moreover, the medical board cannot decide in favor of a physician exercising his or her considered medical discretion to protect the patient's health unless it concludes that the procedure was in fact necessary to save the woman's life and that the cause of the life endangerment was a physical disorder, illness or injury.

- The ban will subject physicians to broad civil as well as criminal liability. Under the bill, a physician who performs a banned procedure may be sued for monetary damages by his or her patient, and in some cases, the woman's parents or the "father" of the fetus. The threat of unwarranted lawsuits is significant; abortion providers have already been targeted for civil litigation.[14]

- Under the legislation, physicians will be forced to guess whether employing the method they believe to be in the best medical interest of the patient would violate the law. They will face criminal liability without criminal intent and significant civil litigation. Such legal peril will further chill physicians' willingness to provide necessary abortion services and will unconstitutionally jeopardize women's lives and health.

January 8, 1999

Notes:

1. *Roe v. Wade*, 410 U.S. 113 (1973).
2. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).
3. The Alan Guttmacher Institute (AGI), "The Limitations of U.S. Statistics on Abortion," Jan. 1997 (Issues in Brief); AGI, "When Do Abortions Take Place?," September 25, 1996 (factsheet).
4. AGI, "The Limitations of U.S. Statistics on Abortion," 2.
5. AGI, "The Limitations of U.S. Statistics on Abortion," 1.
6. *Casey*, 505 U.S. at 879.
7. *Casey*, 505 U.S. at 877.
8. *See Planned Parenthood of Wisconsin v. Doyle*, No. 98-2521, slip op. at 6-9 (7th Cir. Nov. 3, 1998); *Planned Parenthood of Greater Iowa v. Miller*, No. 4-98-CV-90149, slip op. at 19-20 (S.D. Iowa Dec. 21, 1998); *Planned Parenthood of Central New Jersey v. Verniero*, No. 97-6170, slip op. at 44-45 (D.N. J. Dec. 8, 1998); *A Choice For Women v. Butterworth*, No. 98-0774-CIV, slip op. at 18 (S.D. Fla. Dec. 2, 1998); *Little Rock Family Planning Services v. Jegley*, No. LR-C-97-581, slip op. at 51-58, 61 (E.D. Ark. Nov. 13, 1998); *Hope Clinic v. Ryan*, 995 F. Supp. 847, 860 (N.D. Ill. 1998); *Evans v. Kelley*, 977 F. Supp. 1283, 1318 (E.D. Mich. 1997); *see also Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 75-79 (1976).
9. *Doyle*, No. 98-2521, slip op. at 8.
10. *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986).
11. *Colautti v. Franklin*, 439 U.S. 379, 400 (1979).
12. *Women's Medical Professional Corp. v Voinovich*, 911 F. Supp. 1051, 1063 (S.D. Ohio 1995)(*citing Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972)), *affirmed*, 130 F.3d 187 (6th Cir. 1997), *cert. denied*, 118 S.Ct. 1347 (1998).
13. Several courts have ruled that bans on so-called "partial-birth" abortion and other abortion procedures encompass more than one method of abortion. *See, e.g., Doyle*, No. 98-2521, slip op. at 9-10; *Voinovich*, 130 F.3d at 198-200; *Milller*, No. 4-98-CV-90149, slip op. at 11-16; *Verniero*, No. 97-6170, slip op. at 38-39; *Butterworth*, No. 98-0774-CIV, slip op. at 14-16; *Jegley*, No. LR-C-97-581, slip op. at 46-48; *Eubanks v. Stengel*, No. 3:98CV-383H, slip op. at 18-19 (W.D. Ky. Nov. 5, 1998); *Ryan*, 995 F. Supp. at 854-57; *Planned Parenthood of Southern Arizona, Inc. v. Woods*, 982 F. Supp. 1369, 1378-79 (D. Ariz. 1997); *Evans*, 977 F. Supp. at 1306-12.
14. Julie Cohen, "Protecting Women or Harassing Doctors?" *Legal Times*, Feb. 14, 1994, 1; *see* David C. Reardon, *Abortion Malpractice* (Lewisville, Texas: Life Dynamics Inc. 1993).

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NARAL FACTSHEETS

LEGISLATION BANNING CERTAIN ABORTION PROCEDURES:

The So-Called "Partial-Birth" Abortion Ban Jeopardizes Women's Health

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Opponents of choice, by focusing the political debate on abortion late in pregnancy, are using sensational graphics and rhetoric to further their goal of making all abortion illegal. As part of their strategy, the 104th Congress passed a bill outlawing so-called "partial-birth" abortion. Although proponents of the legislation claim that they are targeting a specific abortion method, known medically as intact D&E, the legislation could prohibit other abortion procedures. The bill passed by the 104th Congress prevents doctors from exercising their best medical judgement, applies to abortions before and after viability, and contains no exception for when a banned procedure is necessary to preserve a woman's health. The President vetoed the bill. The veto was overridden in the House but sustained in the Senate. In the 105th Congress, a slightly amended version of the bill passed the Senate and House and was vetoed by the President. Congress will attempt to override the President's veto in the second session of the 105th Congress.

Ninety-nine Percent of Abortions Occur In the First Half of Pregnancy

- Ninety-nine percent of all abortions are performed in the first half of pregnancy and only four one-hundredths of one percent (.04%) are performed in the third trimester.[1] The point of fetal viability varies with each pregnancy although it is considered to occur no earlier than 23-24 weeks.[2]
- Only three doctors in the entire United States, located in California, Colorado and Kansas, are known to offer abortion services during the last three months of pregnancy as a regular part of their practice.[3]

Attempts to Ban Certain Abortion Procedures Politicize Personal Family Tragedies

A woman facing threats to her life or health or carrying a fetus that has been diagnosed with severe anomalies must have access to appropriate medical care, including abortion. Families and their physicians, not politicians, must be permitted to make these difficult decisions.

- At 32 weeks into her much-wanted pregnancy, Vikki Stella learned that her fetus had nine severe anomalies -- including a fluid-filled cranium with no brain tissue at all. Vikki, a mother of two, and her husband consulted a series of specialists who offered no hope. For Vikki, the safest procedure to protect her health and preserve her fertility was an intact D&E abortion -- a procedure targeted by the legislation. "As a diabetic . . . this surgery was . . . safer for me than induced labor or a c-section, since I don't heal as well as other people. . . . I've been told mothers like me all want perfect babies . . . [My son] wasn't just imperfect -- he was incompatible with life. The only thing that was keeping him alive was my body."[4] Because Vikki's intact D&E preserved her fertility, she was able to have another child.

- In the fall of 1994, Tammy Watts and her husband were elated by the news of her pregnancy. An ultrasound in the seventh month, however, revealed that the fetus was suffering from a devastating chromosomal disorder and would not live. Knowing that the fetus was going to die, the Watts made the most difficult decision of their lives, and Tammy had an abortion that would be prohibited by the so-called "partial-birth" abortion ban. Commenting on the bill, Tammy said, "Until you've walked a mile in my shoes don't pretend to know what this is like for me. Everybody has got a reason for what they have to do. Nobody should be forced into having to make the wrong decision. That's what would happen if this legislation is passed."[5] Fortunately, Tammy had access to appropriate medical care and subsequently, she gave birth to a healthy baby girl.

The Legislation Undermines Roe v. Wade

- In *Roe v. Wade*, the U.S. Supreme Court recognized a woman's constitutional right to choose whether or not to have an abortion prior to fetal viability[6] *Roe* also established that this right is limited after viability, at which point states may ban abortion as long as an exception is provided for cases in which the woman's life or health is at risk. By ignoring these holdings, reaffirmed by the Court in the 1992 *Planned Parenthood v. Casey decision*,[7] the so-called "partial-birth" abortion ban presents a direct constitutional challenge to *Roe*.

- The ban applies throughout pregnancy in disregard of the crucial constitutional distinction between pre- and post-viability abortion. In addition, the ban's failure to provide an exception for cases in which the banned procedures are necessary to preserve a woman's health is a grave constitutional flaw.

- Nearly 90% of all abortions occur in the first trimester of pregnancy.[8] Only approximately one percent of abortions take place at 21 weeks or later.[9] Although states may ban virtually all abortion after viability, a point that varies with each pregnancy but is generally considered to take place no earlier than 23-24 weeks,[10] the U.S. Supreme Court held as late as 1992 that "[r]egardless of whether exceptions are made for particular circumstances, [the government] may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability."[11] The ban disregards the constitutionally protected status of second-trimester abortion and curtails a physician's ability to use the abortion method most appropriate in light of each woman's individual circumstances.

- The ban includes a narrow "life exception" that would permit a physician to use the procedure only if a woman's life was endangered by a "physical disorder, illness or injury." This exception may not apply to situations in which the threat to a woman's life is the pregnancy itself.

The Legislation Unconstitutionally Jeopardizes Women's Health

- As stated above, the Supreme Court held in *Roe* and reaffirmed in *Casey* that after viability, a state may not ban an abortion necessary to preserve a woman's life or health. In *Casey*, the Court also held that prior to viability, restrictions on abortion must not constitute an undue burden on a woman's right to choose. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."[12] Blocking a woman's access to the abortion procedure that is safest for her unduly burdens her right to choose.[13]

- In *Women's Medical Professional Corp. v. Voinovich*, the only court of appeals decision concerning bans on certain abortion procedures, the Sixth Circuit held that a ban on "dilation and extraction"(D&X) abortion was an undue burden on women seeking abortion prior to viability.[14] In addition, several lower courts have also concluded that a ban on so-called "partial-birth abortion" constitutes an undue burden on women seeking pre-viability abortions.[15]
- In *Thornburgh v. American College of Obstetricians and Gynecologists*[16] the Supreme Court established that a woman's right to choose is impermissibly burdened by a statute that "fail[s] to require that maternal health be the physician's paramount consideration" and forces her to "bear an increased medical risk in order to save her viable fetus."[17] Throughout pregnancy, the woman's health must remain the physician's primary concern, and the physician must be given the discretion he or she needs to choose the most appropriate abortion method.

- The American College of Obstetricians and Gynecologists (ACOG) states, "[a]n intact D&[E], 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 doctors, in consultation with the patient, based upon the woman's particular circumstances can make this decision."[19] By prohibiting a physician from using certain procedures except in limited circumstances, the bill unconstitutionally chills physicians' exercise of discretion in determining the best course of treatment and unduly burdens a woman's right to choose by unnecessarily compromising her life and health.

By Forcing Physicians to Face Unprecedented Criminal and Civil Liability, the Ban Will Exacerbate The Shortage of Providers and Endanger Women's Lives and Health

- The ban would subject physicians to broad civil as well as criminal liability. Under the bill, a physician who performs a banned procedure may be sued for monetary damages by his or her patient, and in some cases, the woman's parents or the "father" of the fetus. The threat of unwarranted lawsuits is significant; abortion providers have already been targeted for civil litigation.[19]

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NOTES:

1. The Alan Guttmacher Institute (AGI), "The Limitations of U.S. Statistics on Abortion," Jan. 1997 (Issues in Brief); AGI, "When Do Abortions Take Place?," September 25, 1996 (factsheet).
2. AGI, "The Limitations of U.S. Abortion Statistics," 1.
3. Gina Kolata, "In Late Abortions, Decisions are Painful and Options Few," *New York Times*,

Jan. 5, 1992, A1; David G. Savage, "Personal Stories to Join Debate Over Late-Term Abortion," *The Los Angeles Times*, Nov. 7, 1995, A3.

4. *The Partial-Birth Abortion Ban Act of 1995: Hearings on H.R. 1833 Before the Senate Comm. on the Judiciary*, 104th Cong., 1st Sess. 281-282 (1995) (testimony of Vikki Stella).
5. Tammy Watts, "There's no way to judge what another is experiencing," Santa Cruz County Sentinel, June 25, 1995, A13.
6. *Roe v. Wade*, 410 U.S. 113 (1973).
7. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 871 (1992).
8. AGI, "The Limitations of U.S. Statistics on Abortion," 2; AGI, "When Do Abortions Take Place?"
9. AGI, "The Limitations of U.S. Statistics on Abortion," 2.
10. AGI, "The Limitations of U.S. Statistics on Abortion," 1.
11. Casey, 505 U.S. at 879.
12. Casey, 505 U.S. at 877.
13. See *Evans v. Kelley*, No. 97-CV-71246-DT, slip op. at 84-85 (E.D. Mich. July 31, 1997); see also *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 75-79 (1976).
14. *Women's Medical Professional Corp. v. Voinovich*, Nos. 96-3157/3159, slip op. at 26-27 (6th Cir. Nov. 18, 1997).
15. See, e.g., *Planned Parenthood of Southern Arizona v. Woods*, No. CIV 97-385-TUC-RMB, slip op. at 16-19 (D. Ariz. Oct. 24, 1997); *Evans v. Kelley*, No. 97-CV-71246-DT, slip op. at 83-85 (E.D. Mich. July 31, 1997); *Carhart v. Stenberg*, 972 F. Supp. 507, 523 (D. Neb. 1997) (granting preliminary injunction prohibiting enforcement of the statute as applied to plaintiff's performance of abortion on nonviable fetuses); see also *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 75-79 (1976).
16. *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 769 (1986).
17. *Thornburgh*, 476 U.S. at 768-769.
18. ACOG Statement of Policy, "Statement on Intact Dilation and Extraction," January 12, 1997.
19. Julie Cohen, "Protecting Women or Harassing Doctors?" *Legal Times*, Feb. 14, 1994, 1; see David C. Reardon, *Abortion Malpractice*, (Lewisville, Texas: Life Dynamics Inc. 1993).

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Leading Medical Groups Oppose Obstacles to Abortion

The American Medical Association (AMA), the American College of Obstetricians and Gynecologists (ACOG) and the American Medical Women's Association (AMWA) have all opposed obstacles that impair women's access to safe and early abortion services. Medical professionals understand the serious health risks created by state-mandated obstacles to legal abortion.

THE AMERICAN MEDICAL ASSOCIATION

The American Medical Association (AMA), which represents 294,000 members, supports the position that "the early termination of pregnancy is a medical matter between the patient and the physician, subject to the physician's clinical judgment, the patient's informed consent, and the availability of appropriate facilities."[1] In a report published in the *Journal of the American Medical Association*, the AMA found that mandatory waiting periods and other obstacles that delay abortion increase health risks and the costs incurred and decrease providers' willingness to perform the procedure.[2]

In addition, the AMA takes a strong stand against attempts to interfere with the freedom of communication between physician and patients:

> It is the policy of the AMA . . . to strongly condemn any interference by the government or other third parties that causes a physician to compromise his or her medical judgment as to what information or treatment is in the best interest of the patient . . . [and] to vigorously pursue legislative relief from regulations or statutes that prevent physicians from freely discussing with or providing information to patients about medical care and procedures or which interfere with the physician-patient relationship.[3]

The AMA has also found that parental consent and notice laws "appear to increase the health risks to the adolescent by delaying medical treatment or forcing the adolescent into an unwanted childbirth."[4] The organization takes the position that although physicians should encourage minors to discuss their pregnancy with their parents, they should not be forced to require minors to obtain parental consent before having an abortion:

> Physicians should not feel or be compelled to require minors to obtain consent of their parents before deciding whether to undergo an abortion. The patient -- even an adolescent -- generally must decide whether, on balance, parental involvement is advisable. Accordingly, minors should ultimately be allowed to decide whether parental involvement is appropriate.[5]

The AMA opposes restrictions on the public funding of abortion services and "reaffirms its opposition to legislative proposals that utilize federal or state health care funding mechanisms to deny established and accepted medical care to any segment of the population."[6]

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS

The American College of Obstetricians and Gynecologists (ACOG), which represents 33,000 members, has adopted a policy on abortion stating: "ACOG supports access to care for all individuals, irrespective of financial status, and supports the availability of all reproductive options. ACOG opposes unnecessary regulations that limit or delay access to care."[7]

ACOG recognizes that the issue of confidentiality creates significant barriers to access to health care for adolescents and that certain laws and regulations constraining the confidentiality of the patient-physician relationship are "unduly restrictive and in need of revision as a matter of public policy."[8] ACOG takes the position that "[u]ltimately, the health risks to the adolescents are so impelling that legal barriers and deference to parental involvement should not stand in the way of needed health care."[9]

THE AMERICAN MEDICAL WOMEN'S ASSOCIATION

The American Medical Women's Association (AMWA), which represents 12,000 members, supports "a woman's right to choose abortion without governmental intervention and without restrictions placed on her physician's medical judgement . . . ."[10] AMWA supports "access to abortion without regard to economic status"[11] as well as minor's access to abortion and contraceptive services without the requirement of parental notification or consent.[12]

10/29/96

Notes:

1. American Medical Association, "Right to Privacy in Termination of Pregnancy," *Policy Compendium 1996*, sec. 5.993.
2. American Medical Association, "Induced Termination of Pregnancy Before and After *Roe v. Wade*, Trends the Mortality and Morbidity of Women," *JAMA*, vol. 268, no. 22 (Dec. 1992): 3237.
3. American Medical Association, "Freedom of Communication Between Physicians and Patients," *Policy Compendium 1996*, sec. 5.989.
4. American Medical Association, *supra* note 2.
5. American Medical Association, Council on Ethical and Judicial Affairs, "Mandatory Parental Consent to Abortion" (1992), 7.
6. American Medical Association, "Public Funding of Abortion Services," *Policy Compendium 1996*, sec. 5.998.
7. American College of Obstetricians and Gynecologists, "ACOG Statement of Policy: ACOG Policy on Abortion" (Jan. 1993).
8. American College of Obstetricians and Gynecologists, "ACOG Statement of Policy: Confidentiality in Adolescent Health Care" (1988).
9. American College of Obstetricians and Gynecologists, "ACOG Statement of Policy: Confidentiality in Adolescent Health Care" (1988).
10. American Medical Women's Association, *AMWA Resolutions -- 1960-1991*, "Abortion," sec. 1989.1.
11. American Medical Women's Association, *AMWA Resolutions -- 1960-1991*, "Abortion," sec. 1989.3.
12. American Medical Women's Association, *AMWA Resolutions -- 1960-1991*, "Minors,

Consent," sec. 1991.1.

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NARAL FACTSHEETS

Protect Women: Oppose Bans On So-Called "Partial-Birth" Abortion

Opponents of choice have been using inflammatory rhetoric about "infanticide" and "partial-birth" abortion in a nationwide strategy to further their goal of eroding women's reproductive options. These legislators say they are trying to ban only one abortion procedure, but the vague and broadly worded legislation indicates another motive: they want a political tool to use against women and politicians to undermine support for reproductive choice.

- **Private medical decisions should be made by women and their families, not politicians.** Medical decisions are often difficult and complex and depend on a variety of individual factors. Politicians are not trained to make medical decisions and should not regulate medicine in a way that undermines the safety of patients. Bans on so-called "partial-birth" abortion would take medical decisions out of the hands of women and their families and give it to politicians.
  - The American College of Obstetricians and Gynecologists (ACOG), an organization dedicated to women's health, opposes this criminal ban because "[t]he intervention of legislative bodies into medical decision making is inappropriate, ill advised and dangerous."
- **Women's health would be endangered by bans on abortion procedures.** Despite repeated attempts, anti-choice lawmakers have refused to allow an exception to protect women's health. The Supreme Court has concluded in several cases that a woman's health must remain the physician's primary concern and that a physician must be given the discretion to determine the best course of treatment to protect women's lives and health.
- The ban violates the core principles of Roe v. Wade. In court challenges across the country, judges -- including judges appointed by Presidents Reagan and Bush -- have found similar bans on abortion procedures unconstitutional. These courts have concluded that:
  - The definition of what methods of abortion would be banned is vague and overbroad. "Partial-birth" abortion is a political term, not a medical term. Courts have found that it would ban a variety of safe and common abortion procedures, not just one procedure.
  - By banning a variety of safe abortion procedures, the bans impose an undue burden on women seeking access to abortions by forcing them to seek rely upon less safe medical options.
  - The bans are unconstitutional because they do not allow women to obtain a banned procedure when it would preserve her health.
- **Instead of making abortion more difficult and dangerous for women, lawmakers should promote policies that reduce the need for abortion.** Almost 50 percent of

all pregnancies in this country are unintended, including over 30 percent within marriage. And over half of all unintended pregnancies end in abortion. Improved access to contraception -- including increases in Title X funding, insurance coverage of contraception and improved contraceptive research -- would address the root causes of unintended pregnancy and would reduce the need for abortion.

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