

Why Abortion is Still “Legal”, 6 years after its Legal “Collapse”

(This summary of the Congressional Record debate in 2004 assumes you already understand the legal arguments in the SLIC [Stop Legal Infanticide by Christmas] model Joint Resolution, found at www.Saltshaker.US/SLIC and www.Saltshaker.US/Leach2010.)

The debate in Congress, over Laci and Conner’s Law, almost unanimously acknowledged that Roe v. Wade legally “collapsed” with the passage of this law.

Democrats, and their liberal sources from the ACLU to Planned Parenthood, unanimously agreed it would “erode” infanticide’s fragile legality, if not instantaneously topple it.

Republicans were schizophrenic on the issue. They made a few statements that legal abortion would remain untouched, but those few statements were buried by the overwhelming preponderance of their statements, which asserted the humanity of the unborn. I made this ratio easy to see, by putting all Republican statements relevant to the personhood of babies in red, and in red italics are the very few statements alleging abortion would not be affected.

The closest to legal reasoning that abortion would not be affected, was the observation that the same definition of all unborn babies as humans had been put in federal law 4 years before, and that *so far*, that definition has not come before the courts as grounds for reversing Roe.

Countered by those few statements in italics are a few strong statements by Republicans that treat Roe’s vulnerability as “irrelevant” to the need for this acknowledgment in federal law of the personhood of the unborn. Senator Hatch was often quoted by Democrats directly saying this.

Why? So then, with knowledge this widespread of Roe’s vulnerability to this law, why has not one single prolife organization acknowledged Roe’s “collapse”, and pursued legal remedies in accordance? Why have Republicans not taken the opportunity to begin criminalizing abortion as if Roe never existed?

Were the few Republican congressmen, who said Roe was safe from this law, lying in order to get a few Democrat votes? Or could they really not follow the legal arguments made by Democrats? In either case, their insistence that this law does NOT undermine infanticide’s fragile “legality” is so dogged that to make those arguments now would make them ashamed. It might even be a national scandal. Certainly it would have been, had they immediately used this law to challenge infanticide’s fragile “legality”. Of course, there were many other Republican congressmen who made no such promises, and there are many today who weren’t even there then.

For any lawmakers who participated in these arguments, I suggest this approach: “7 years and 10 million murders later, I’ve had time to reconsider the arguments of our esteemed gentlemen and gentlewomen on the other side of the esteemed aisle, and now I fully agree with them, that Roe v. Wade ‘collapsed’ under the weight of this law. So now that legal infanticide is no longer “the law of the land”, the 14th Amendment rights of the unborn require that we bring our laws into conformity with the “law of the land” by resuming criminalization of abortion.”

But the Democrats who argued so confidently that this law would end abortion’s legality, in 2004, will face a similar assault on their credibility if they, or their lawyers, allege today that this law does not, in fact, undermine infanticide’s fragile “legality” in the slightest – they were just kidding back then!

These are supposedly the brightest minds on the planet, and you will marvel how they stumble to focus on the same issue with each other! We have Republican leaders assuring “this bill isn’t going to precipitate Roe’s ‘collapse’.” And Democrats unanimously answering “it’s going to establish the ‘personhood’ of the unborn, which there is no way we are going to consider, because that would ‘collapse’ our sacred Roe v. Wade!” And other Republicans saying “what do you MEAN my precious grandbaby I held in my arms last night isn’t a person?!” If America’s brightest stumble so to respond squarely to the issue before them, we really need to be more patient with our friends and families. We

can't chalk it all up to deliberately being difficult. These Congressmen genuinely, sincerely aren't tracking. Maybe our friends and families just need a little more time, too. Maybe a lot more time.

On page 38 is a prophecy by the Women's Law Center that this law will occasion a challenge to Roe v. Wade raised, not by a court review of a state law, but by a criminal defendant. 5 years later, that prophecy was fulfilled through the Scott Roeder trial, where that exact issue was raised. The jury was not allowed to learn the existence of these issues, but that may not be Roeder's last jury. The appeal has begun.

A sample of some of the closing arguments:

Ms. Norton: ...The majority cannot confer personhood on a fetus in the face of Roe v. Wade. They can keep coming to the floor all they want to, but I do not think that they can successfully do that by statute.

Ms. Linda T. Sanchez: ...This bill is a blatant attempt to undermine a woman's right to choose, disguised, sadly, as an effort to protect women from violence. Under the Unborn Victims of Violence Act, for the first time anywhere in Federal law, an unborn fetus at any stage of development will be treated as a person that can be an independent victim of a crime. It is not that hard to figure out that it is a direct attack on a woman's right to choose as established in Roe v. Wade.

Ms. DeGette: ...If the supporters of the legislation want to debate the merits of abortion, let us do it out in the open. But they should be embarrassed about cloaking their true intent in an issue that we all agree upon, protecting pregnant women from violence.

DeLay: ...Laci Peterson had a son. He was never born, he never spoke a word or took his first steps, but he was real. Whoever killed Laci Peterson also killed her son, and to deny that is to deny truth. That unborn victims of violence are separate victims of violence is not a matter of interpretation, it is a matter of plain fact. A child could tell you that a man who kills a pregnant woman and her unborn child takes two lives.

Unborn victims of violence feel their own pain, suffer their own wounds and die their own excruciating deaths, and with this legislation before us, we have the opportunity to say so. We have the opportunity to say that in this Nation.

Why? Why are the attacks against pregnant women like Laci Peterson so egregious? Why should they merit harsher penalties? Why do all people in all cultures, naturally, instinctively, recoil at such attacks? It is the vulnerability of the pregnant mother, to be sure, but it is also the innocence and the very being of the unborn child.

Civilized society has an obligation to punish injustice, no matter the size, strength or political inconvenience of its victim. Laci Peterson's son may have been robbed from this world before he ever touched it, but, Mr. Speaker, he was here. Today he may be looking down on us from the nurseries of Heaven, protected for eternity by the God who knit him together in the womb, nestled in the loving embrace of the mother who gave him his name, but before Conner Peterson was taken, Mr. Speaker, he was here.

Mr. Lantos: ...Unborn Victims of Violence Act extends victim status beyond the expectant mother and assigns legal status and protection to an unborn embryo or fetus. I believe this is nothing more than a thinly-veiled attempt to undermine the rights of women established in Roe v. Wade. Assigning legal rights to an unborn embryo or fetus is the first step in granting "personhood" to an entity which does not yet meet the current threshold for the legal definition of a person. Passing this legislation would be the beginning of the slippery slope that will ultimately be used to limit a woman's right to choose.

-- by Dave Leach, candidate for Iowa Senate, District 31, 2010 AD

Color code: (Using this code you can skim to the most relevant text)

Blue, Democrats warning that this bill will end legal abortion by establishing unborn "personhood".

Red, Republicans agreeing that this bill establishes unborn "personhood".

Red + italics, Republicans attempting to reassure Democrats that establishing unborn "personhood" will NOT threaten abortion's legality.

Brown: my editorial comment.

Green: A few other interesting, if not startling, arguments.

[Congressional Record: February 26, 2004 (House)]

[Page H637-H668]

From the Congressional Record Online via GPO Access [wais.access.gpo.gov]

[DOCID:cr26fe04-87]

UNBORN VICTIMS OF VIOLENCE ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 529, I call up the bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Linder). Pursuant to House Resolution 529, the bill is considered read for amendment.

The text of H.R. 1997 is as follows:

H.R. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Victims of Violence Act of 2003" or "Laci and Conner's Law".

SEC. 2. PROTECTION OF UNBORN CHILDREN.

(a) In General.--Title 18, United States Code, is amended by inserting after chapter 90 the following:

"CHAPTER 90A--PROTECTION OF UNBORN CHILDREN

"Sec.

"1841. Protection of **unborn children**.

"Sec. 1841. Protection of **unborn children**

"(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection

(b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, **a child, who is in utero** at the time the conduct takes place, is guilty of a separate offense under this section.

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

“(B) An offense under this section does not require proof that--

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

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

“(C) If the person engaging in the conduct thereby intentionally kills or attempts to

[[Page H638]]

kill the **unborn child**, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

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

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

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

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

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

“(c) **Nothing in this section shall be construed to permit [or, authorize] the prosecution--**

“(1) **of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained** or for which such consent is implied by law;

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

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

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

Editorial comment: The fact that this definition begins “as used in this section” does not confine this definition to this section. Whether or not an unborn child is a human being is a fact question, not a question of law. Therefore, if it is a true fact in one section of law, it

cannot be false in another section of law. Especially where no other section of the U.S. Code defines unborn babies as anything other than human beings.

(b) Clerical Amendment.--The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following new item:

``90A. Protection of unborn children.....1841".....

SEC. 3. MILITARY JUSTICE SYSTEM.

(a) Protection of **Unborn Children**.--Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:

``Sec. 919a. Art. 119a. Protection of unborn children

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

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

``(B) An offense under this section does not require proof that--

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

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

``(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the **unborn child**, that person shall, instead of being punished under subparagraph (A), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) **for intentionally killing or attempting to kill a human being**.

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

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

``(c) **Nothing in this section shall be construed to permit the prosecution--**

``(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

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

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

``(d) In this section, **the term `unborn child' means a child in utero, and the term `child in utero' or `child, who is in utero' means a member of the**

species homo sapiens, at any stage of development, who is carried in the womb."

(b) Clerical Amendment.--The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:

(The following duplicates the foregoing so I will put it in teensy print)

"919a. 119a. Protection of unborn children."

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in part A of House Report 108-427, is adopted. The text of H.R. 1997, as amended, as modified, is as follows:

H.R. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Victims of Violence Act of 2004" or "Laci and Conner's Law".

SEC. 2. PROTECTION OF UNBORN CHILDREN.

(a) In General.--Title 18, United States Code, is amended by inserting after chapter 90 the following:

"CHAPTER 90A--PROTECTION OF UNBORN CHILDREN

"Sec.

"1841. Protection of unborn children.

"Sec. 1841. Protection of unborn children

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

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

"(B) An offense under this section does not require proof that--

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

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

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

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

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

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

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

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

"(c) Nothing in this section shall be construed to permit the prosecution--

"(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

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

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

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

(b) Clerical Amendment.--The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following new item:

SEC. 3. MILITARY JUSTICE SYSTEM.

(a) Protection of Unborn Children.--Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:

Sec. 919a. Art. 119a. Death or injury of an unborn child

(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section and shall, upon conviction, be punished by such punishment, other than death, as a court-martial may direct, which shall be consistent with the punishments prescribed by the President for that conduct had that injury or death occurred to the unborn child's mother.

(2) An offense under this section does not require proof that--

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

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

(3) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under paragraph (1), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

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

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

(c) Nothing in this section shall be construed to permit the prosecution--

(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

[[Page H639]]

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

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

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

(b) Clerical Amendment.--The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:

919a. 119a. Death or injury of an unborn child".

The SPEAKER pro tempore. After 2 hours of debate on the bill, as amended, it shall be in order to consider a further amendment printed in part B of the report, if offered by the gentlewoman from California (Ms. Lofgren) or her designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. Sensenbrenner) and the gentleman from New York (Mr. Nadler) each will control 1 hour of debate on the bill.

The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

General Leave

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 1997 currently under consideration.

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

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

Mr. Speaker, on January 7, 18-year-old Ashley Lyons and her unborn son, Landon, were murdered in Scott County, Kentucky. Current Kentucky law regards this crime as having only a single victim. But Carol Lyons, Ashley's mother and Landon's grandmother, said, *“Nobody can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter good-bye for the last time and closed the casket.”* We are here today to tell Carol Lyons she is right. There were two victims that day.

The Kentucky legislature has recently acted to recognize Landon as a victim under Kentucky law, and Kentucky's Governor is going to sign that legislation. But today, Congress has yet to pass legislation recognizing unborn victims of violence under Federal law. The House has done so twice by large margins, but the Senate has failed to act.

The Unborn Victims of Violence Act provides that if an **unborn child** is injured or killed during the commission of crimes of violence already defined under Federal law, prosecutors can bring **two charges, one on behalf of the mother and the second on behalf of the unborn victim**. Indeed, the House of Representatives in the 106th Congress, *by a unanimous 417 to nothing vote, passed the Innocent Child Protection Act, a bill only two sentences long, that banned the Federal execution of a woman while she carries a “child in utero.” “Child in utero” is defined in that bill exactly, to the word, as it is in this bill, namely, as “a member of the species homo sapiens, at any stage of development, who is carried in the womb.”*

Editorial comment: Here is the text of that law: **“PROTECTION OF INNOCENT CHILDREN.** It shall be unlawful for any authority, military or civil, of the United States, a State, or any district, possession, commonwealth or other territory under the authority of the United States to carry out a sentence of death on a woman while she carries a child in utero. In this section, the term “child in utero” means a member of the species homo sapiens, at any stage of development, who is carried in the womb.”

A National Right to Life Committee fact sheet, at <http://www.nrlc.org/Federal/ICPA/ICPAfactsheet.html>, promises **“Like those state laws, this bill has no effect on access to legal abortion, either for women on death row or anybody else.”**

The NRLC does not back up this assurance with any reasoning or law, leaving us to guess its reasoning is that if the passage of the state laws did not “collapse” legal abortion, why would passage of the same law at the federal level?

There are two answers which NRLC perhaps did not consider:

1. The fact that new legal conditions justify vacating old rulings does not automatically cause old rulings to be vacated. That happens only when a case comes before courts which requires judges to address the contradiction in law. The Supreme Court addressed Missouri's personhood language decades ago, but there, the Missouri Attorney General went out of his way to assure the Court that Missouri was *not* seeking to challenge abortion at any level; Missouri just wanted to keep its nice law. Since the issue of whether personhood language in a state law could “collapse” Roe was not raised, the Court did not rule on it. Until such cases are raised, dramatic contradictions in law can remain side by side for decades.

Therefore, the fact that a particular personhood definition in law *has not yet* “collapsed” Roe, is no assurance that it is incapable of doing so.

2. Personhood language in the U.S. Code is binding upon the U.S. Supreme Court, in that the Court must conform its rulings to the U.S. Code, up until such time as the Court declares a law “unconstitutional”, which it has not done with this law. Nor can we imagine it will ever dare to do so, since no legal authority has yet dared to positively affirm that the unborn are *not* human beings. State laws, even with the same language, are not similarly binding on the Supreme Court; although they have some force as evidence that the unborn are *in fact* human beings, which Roe treated as a question of fact rather than law, and Roe was based partly on the finding that state laws had not previously treated the unborn as “persons in the whole sense”.

History: 18 U.S.C. 3596 already prohibited states from executing pregnant women; the 2001 law applied it to federal executions. Congress was under pressure to pass this law from its 1992 ratification of the International Covenant on Civil and Political Rights, signed by 143 countries, which provides that a sentence of death shall not be carried out on a pregnant woman.

Now, opponents of H.R. 1997 will argue that harm to an unborn victim should simply be considered an additional harm to the mother, not an independent harm to another human being. Yet, a vote for the Innocent Child Protection Act two Congresses ago cannot be defended on the grounds that executing a pregnant woman would cause her to suffer additional harm because there can be no additional harm exceeding the ultimate and final punishment of death. **Since the only logical rationale for the support of the Innocent Child Protection Act was to prevent the killing of an innocent unborn child, H.R. 1997, which also recognizes unborn victims,** should have similarly overwhelming bipartisan support. We shall see.

The legislation before us now requires us to reflect on the goals and purposes of the criminal law. Ultimately, the criminal law is not a schedule of punishments. It is an expression of society's values. It is an expression of society's values. Anything less than the legislation before us today simply does not resonate with society's sense of justice. The tragic **murders** of Laci and **Conner** Peterson in California have drawn national attention to unborn victims and the American people have overwhelmingly responded with more than 80 percent support for bringing two separate charges against **their murderer**.

The Unborn Victims of Violence Act protects the right of a mother to choose to bring her wanted and loved child to term, safe from the violent hands of criminals who would brutally deny her that right. *This bill, however, has nothing to do with abortion. Let me repeat that. The bill has nothing to do with abortion. That fact could not be expressed more clearly in the legislation which explicitly excludes abortion-related conduct. Further, the Supreme Court, in Webster v. Reproductive Health Services, has already refused to strike down Missouri's unborn victims of violence law, stating that it `does not by its terms regulate abortion."*

Editorial comment: Was Mr. Sensenbrenner ignorant, or savvy? Did he really not know that defining all unborn as human beings meets the conditions of Roe's “collapse clause”, or was he just trying to trick Democrats into

thinking they could safely vote for this bill without any harm to infanticide's fragile "legality"? Missouri's personhood language (addressed in the Webster case) likewise met the conditions of Roe's "collapse clause". Since Roe treated the issue as a question of fact, to be determined by fact finders, rather than as a matter of law, Missouri's language had the power to reverse Roe, except that Missouri's AG specifically assured the Court that he had no intention of asking such a thing, so the issue was never raised, which is why it was not ruled upon. Now Sensenbrenner jumps on "does not by its terms regulate abortion", in other words it does not explicitly spell out how it will stop abortion. As if that means something in DC, where slipping through massive change "under the radar" (bills with consequences not clear from the text) is how things are done.

Mr. Speaker, H.R. 1997, *just like the Missouri law that the Supreme Court refused to strike down, does not by its terms regulate abortion and, indeed, H.R. 1997 includes provisions that specifically exclude abortion-related conduct.*

Both before and since the Webster decision, every single unborn victims law passed by State legislatures that has been challenged in court has been upheld. Anyone who claims this bill has anything to do with abortion and opposes it on those grounds is inviting this body to focus not on unborn child victims, but on red herrings.

Editorial comment: There is a gap in this logic. We might guess that it implies these laws could not have been upheld had they undermined abortion! But as with Missouri, the connection to abortion will never be ruled upon if it is not raised by the parties. Courts aren't supposed to rule on issues not brought before them. But even if the connection in any of those cases had been understood, it may be overly smug to assume that no matter how strong the case against abortion, no court would acknowledge it.

Tracy Marciniak, whose **unborn child** was murdered by her husband, has told Congress, **"Please don't tell me that my son was not a murder victim."** The Unborn Victims of Violence Act, I hope, will pass this body overwhelmingly today **if only each Member opens their eyes to the photo of the dead body of Tracy Marciniak's murdered child and opens their hearts to the mothers who have implored Congress to give their unborn babies the status they deserve under the criminal law.** I urge my colleagues to do so by supporting this legislation before the House today.

Mr. Speaker, at this time I will include for the Record two letters that the gentleman from California (Mr. Hunter), chairman of the Committee on Armed Services, and I have exchanged regarding the two committees' jurisdictional claims on this legislation.

Committee on Armed Services,

House of Representatives,

Washington, DC, February 9, 2004.

Hon. F. James Sensenbrenner, Jr.,

Chairman, House Judiciary Committee, Rayburn HOB, Washington, DC.

Dear Chairman Sensenbrenner: I am writing to you concerning the jurisdictional interest of the Committee on Armed Services in matters being considered in H.R. 1997, the Unborn Victims of Violence Act of 2003.

I recognize the importance of H.R. 1997 and the need for this legislation to move expeditiously. Therefore, at this time I will waive further consideration of this bill by the Committee on Armed Services. However, the Committee on Armed Services asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. Additionally, I request that you include this letter as part of your committee's report on H.R. 1997.

Thank you for your attention to this request.

With best wishes.

Sincerely,

Duncan Hunter, Chairman.

House of Representatives,

Committee on the Judiciary,

Washington, DC, February 9, 2004.

Hon. Duncan Hunter,

Chairman, Committee on Armed Services, U.S. House of Representatives, Washington, DC.

Dear Chairman Hunter: Thank you for your letter regarding H.R. 1997, the "Unborn Victims of Violence Act of 2003."

H.R. 1997 was secondarily referred to the Committee on Armed Services because section 3 of the bill relating to the Uniform Code of Military Justice falls within its Rule X jurisdiction. I appreciate your willingness to forgo consideration of the bill.

I acknowledge that by agreeing to waive its consideration of the bill, the Committee on Armed Services does not waive its jurisdiction over the bill or any of the matters under your jurisdiction in Section 3.

I will include a copy of your letter and this response in our Committee's report on H.R. 1997 and the Congressional Record during consideration of the legislation on the House floor.

[[Page H640]]

Thank you for your assistance in this matter.

Sincerely,

F. James Sensenbrenner, Jr., Chairman.

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

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

Mr. Speaker, I rise in opposition to the so-called Unborn Victims of Violence Act. Here we are again to consider a bill which has now, for three Congresses, unnecessarily mired what should be a laudable and uncontroversial effort to punish truly heinous crimes in [the emotionally charged and legally suspect back allies of the abortion debate](#). This is regrettable, Mr. Speaker, because real people are suffering real harm, while this House has played abortion politics instead of acting to punish truly barbaric crimes.

The issue today is straightforward: Is it or is it not necessary to enact a bill making a statement endorsing the controversial and legally revolutionary notion that a fetus is a legal person from the moment of conception in order to punish these criminals with the severity that they justly deserve?

That is the heart of the issue. The proponents of this bill are taking what should be a straightforward issue and unnecessarily turning it into a controversial one.

Why does this matter? Quite simply, because if the law recognizes that a fetus is a legal person from the moment of conception, as this bill would do, when it is a zygote, a blastocyst, an embryo, a simple collection of undifferentiated cells, then the law must recognize and protect the rights of that person on a legal basis with the rights of the adult pregnant woman. If our laws recognize that, then there can be no right to choose, because, logically, terminating a pregnancy even in its earliest stages would be killing a fully legal person.

So when the proponents tell you that this is not about the right to choose, this is not about the right to have an abortion, remember that very simple and clear fact. And, remember that we have an alternative that is just as tough on these criminals: the Lofgren substitute. We do not have to choose between an assault on *Roe v. Wade* and permitting these heinous criminals to walk free.

{time} 1030

That is a false choice, but I do not ask my colleagues to believe me. **Take the proponents at their word.**

Senator Orrin Hatch, the chairman of the Senate Judiciary Committee, a sponsor of this bill in the other body, had this to say, ``They say it undermines abortion rights. It does, but that's irrelevant." CNN, May 7 last year.

January 19 last year, Samuel B. Casey, executive director of the Christian Legal Society, told the Los Angeles Times, ``In as many areas as we can, we want to put on the books that the embryo is a person. That sets the stage for a jurist," a judge, ``to acknowledge that human beings at any stage of development deserve protection, even protection that would trump a woman's interest in terminating a pregnancy."

May 19 last year, Dr. Joe Cook, vice president of the American Association of Pro-Life Obstetricians and Gynecologists, was quoted by the Associated Press as saying, ``We have to approach this in a way that's doable, a step at a time. This bill is aimed at establishing that a fetus in utero is a human being and has human rights."

So please do not insult our intelligence by saying this bill is not about abortion rights.

The proper question is not whether we will recognize a separate or a new crime, but how we will do so. The Lofgren substitute recognizes a special kind of evil embodied in these crimes, but would recognize the assault on the fetus as a second crime against the pregnant woman, a second, separate crime, but against the pregnant woman, not against the fetus. The distinguished chairman of the Subcommittee on the Constitution criticized that point of view as the ``ideology of those who are unwilling to recognize the unborn child in the law." Precisely. That is the threat to *Roe*, and despite the disclaimers in the bill and the disclaimers of the distinguished chairman a few minutes ago, that is what we are talking about today.

If a fetus is recognized as a legal person, then this bill would open the door to barring abortions, to prosecuting women or to restraining them physically for the sake of the fetus. Some courts and State governments have already experimented with this approach. The last time we had occasion to consider this bill, the Supreme Court had just struck down a practice in the then-sponsor's home State of South Carolina in which a hospital would give the result of pregnant women's blood tests to local law enforcement for the purpose of initiating legal action against those women who might take action that might in some way endanger the fetus. Once we recognize even a zygote, two cells, as having the same legal status as the pregnant woman, it would logically follow that her liberty could be restricted to

protect its interests. The whole purpose of Roe is to say that her liberty interests trump the interests of the fetus. This bill says exactly the opposite.

For those of us who are prochoice, the right to choose extends not just to a woman's right to have an abortion if she wants, but also to her right to carry a pregnancy to term if she wants and to deliver a healthy baby in safety. That is why we supported the Violence Against Women Act. That is why we support programs to provide proper prenatal care and nutrition to all women. That is why we support proper health and nutrition services after a birth. That is why we support other initiatives like the Family and Medical Leave Act. *We do not believe that life begins at conception and ends at birth. We have an obligation to these children and to their parents both prenatally and postnatally.*

Editorial Comment: Here Congressman Nadler argues against his thesis that only a mother has any rights. What “obligation to these children...prenatally” could anyone possibly have, if “these children” are not human beings? But if they are human beings, then, as Nadler so eloquently argues, infanticide’s fragile “legality” must “collapse”!

Let there be no mistake, using physical violence against a woman to prevent her from having a child that she wants is just as much an assault on the right to choose as is the use of violence against women who wish to exercise their constitutional right to choose to end their pregnancy. **A woman, and only a woman, has the right to decide when and whether to bring a child into the world; not an abusive partner, not a fanatic, not even Congress.**

If we are serious about this problem, and the problem of domestic violence against pregnant women, we have effective remedies at our disposal. *If we want to play abortion politics, we have an appropriate vehicle, this bill, before us for that purpose.*

Violence against a pregnant woman deserves strong preventive measures and stiff punishment. According to the Journal of the American Medical Association, homicides during pregnancy, and in the year following birth, are the leading pregnancy-related death among women in the United States. Among nonpregnant women, it is the fifth leading cause of death.

Mr. Speaker, *it is a disgrace that while these preventable crimes continue to occur, Congress fiddles with largely symbolic legislation designed to interfere with the right to choose* rather than taking affirmative steps to deal with this real problem. Why does this Republican-controlled Congress and White House continually refuse to fund fully and adequately the Violence Against Women Act? It appears that many of the Members who have signed on to this bill are the same ones who voted to divert funds from protecting women from violence to protecting stock dividends from taxation.

We owe it to these victims to enact strong penalties, ones which are not constitutionally suspect, to end these heinous crimes. I urge that we adopt the Lofgren substitute to make an assault that harms a fetus a second crime with just as severe or more severe penalties as with this bill, *but a second crime against the women so as to not to get into the question of rights of the person to full personhood, which is, of course, the purpose of this bill, but would undermine Roe v. Wade, despite the disingenuous disclaimer of some of the other people on the other side.* Let us not crowd the issue of fighting domestic violence, of fighting violence against women and pregnant women, by *plunging a legitimate law enforcement effort into the murky waters of the abortion debate.*

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes to make 3 points.

Mr. Speaker, the gentleman from New York seems to imply that this bill has to do with tax cuts and appropriation levels. It does not. It has to do with the criminal law, and as an aside, the criminal law is an expression of the sense of values of the legislative body that puts the criminal law on the books.

Secondly, *the gentleman from New York seems to think that we are plowing new ground in making a definition of what a child in utero is and giving the child in utero the protections that are contained in this bill. That is a settled issue, and on July 25, 2000, with the gentleman from New York's support, we passed the Protection of Innocent Children Act which defined a child in utero as meaning a member of the species Homo sapiens at any stage in development who is carried in the womb, and that means a two-cell zygote.*

Thirdly, the gentleman from New York seems to want to interject the abortion debate in this bill. That is not the case at all, and I would refer him to page 7 of the bill as reported that says nothing in this section shall be construed to permit the prosecution of any person for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which such consent is implied by law.

Editorial comment: “permitting prosecution” is a two step process, and this law takes only the first step. Only laws against abortion can “permit prosecution” of abortion. Before such laws can be passed, Roe v. Wade must be reversed so states can once again enact such laws. Defining all unborn babies as human beings merely takes the first step, of meeting Roe’s condition for its own “collapse”. Sensenbrenner throws up a red herring in pretending that the fact that the 2000 bill did not generate a legal challenge to Roe proves there will be no assault on abortion from this 2004 bill. That fails to address whether there is in fact a legal ground for an assault on abortion, just waiting for someone courageous enough to acknowledge its existence.

So **what we are dealing with here is wanted children, children that the mother has every intention of bringing to term to have**, to give birth and to give that child a nurturing and loving household and a nurturing and loving upbringing. These are the children that we wish to provide protection for under this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. Chabot), who is the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me the time, and I thank the gentleman from Wisconsin (Mr. Sensenbrenner) for his leadership on this issue. I also want to commend and thank the gentlewoman from Pennsylvania (Ms. Hart), the principal sponsor of this bill, for her leadership.

Sadly, recent studies in Maryland, North Carolina and New York City and Illinois indicate that homicide is the leading cause of death of pregnant women in those parts of the country. Those homicides are often inspired by the **desire to kill a woman's unborn child**. Yet due to gaps in the Federal criminal law, an **unborn child** can be killed or injured during the commission of a violent Federal crime without any legal consequences.

These gaps are appalling to the American people. Recent polls have shown that upwards of 80 percent of registered voters, including 69 percent of voters who consider themselves to be prochoice, believe that prosecutors should be able to separately charge the violent attacker of a pregnant woman that kills

her unborn child. Yet today, for example, if a man stalks his pregnant wife across State lines and attacks her, injuring her but killing the **unborn child**, that man could not be prosecuted under Federal law for the loss of the **baby's life**.

The Unborn Victims of Violence Act fills this glaring gap in Federal law with a simple expression of basic understanding, namely, that the loss of an unborn child to an act of violence deserves separate recognition under Federal law. This bill provides that if an **unborn child** is injured or killed during the commission of crimes of violence already defined under Federal law, prosecutors can bring two charges, one on behalf of the mother, the other on behalf of the **unborn victim**.

H.R. 1997 recognizes that the loss of an unborn child at any stage of development is a unique and separate loss both to society and to the mother who carried and **loved that child**. **This bill, for the first time under Federal law, treats an unborn victim of violence as something more than a torn spleen or a bruised appendix or other physical injuries** incurred during the course of a violent attack that might warrant enhanced penalties but not separate charges under Federal law now. H.R. 1997 **treats such unborn victims with the respect and dignity** under the law that their loving mothers and the American people rightfully demand for them.

We must all ask ourselves, **is an injury to an unborn child the same thing as a broken bone? If the answer is no, as I think we all know that it is, then the only appropriate response is to treat harm to an unborn victim** as a distinct and separate offense under Federal law.

This legislation has been called merely symbolic by its opponents, but I wonder **how many women in America would view the loss of their unborn child through violent means as merely symbolic**. Certainly not Tracy Marciniak, whose unborn child was murdered by her husband. She told the Subcommittee on the Constitution, referring to the substitute amendment which we will be dealing with later, "Please don't tell me that my son was not a real murder victim," and, "Please remember Zachariah's name and face" when you vote on a substitute amendment that refuses to allow a separate charge for the killing of a wanted, unborn child.

Shiwona Pace, whose unborn child Heaven Sashay was brutally murdered by three hired hitmen, has also testified that, "It seems to me that any Congressman who votes for the 'one-victim' amendment," in other words, the substitute, "is really saying that nobody died that night. And that is a lie."

Indeed, because unborn victims are distinct victims, the Unborn Victims of Violence Act is also referred to as Laci and **Conner's** Law, for Laci and **Conner** Peterson, **two** recent victims of terrible violence.

Opponents of the legislation before us today claim it will open the door to all manner of terrible imagined future legislation, but the only door this legislation opens is the door to a distinct room in the edifice of the Federal Code in which unborn victims of violence can be granted the distinct respect they are owed. Just as expecting mothers reserve space in their home for wanted and loved unborn children, we in Congress should reserve for unborn victims of violence a distinct place under the protective shield of criminal law by providing for a separate offense when they are violently killed or injured. The American people consider the murder of an unborn child distinctly offensive, and they demand that the **murder of an unborn child be a distinct offense** under Federal law, and I urge its passage.

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

Mr. Speaker, the distinguished chairman **said a moment ago that in the Innocent Child Protection Act of 2000 we made settled law the personhood of the fetus**. It is not correct. In the Innocent Child Protection Act of 2000, we simply said that a pregnant woman could not be executed, and we defined a pregnant woman as someone who had a child in utero, and then defined, as the chairman said, the words "child in utero."

It is not what we are talking about here. For the purpose of saying you cannot execute a pregnant woman, we have defined what a pregnant woman means. That is all that bill did.

This bill seeks to establish a fetus as a separate legal person by giving it separate legal rights in order transparently to make it a separate legal person within the meaning of the 14th amendment that says no

person shall be deprived of life, liberty or property without due process of law. That is exactly the opposite of what the Supreme Court said when it said we have never held a fetus to be a person in the full meaning of the term. This bill is an attempt to whittle away at that term.

Editorial comment: Poor Congressman Nadler voted for the 2000 bill, and is voting against this 2004 bill, so he is desperate to explain what is so different about the bills that would justify his flip flop, and the measure of his desperation is his logic. He says what the 2004 law does that is different is that it “seeks to establish a fetus as a separate legal person by giving it separate legal rights in order transparently to make it a separate legal person...” Well we suppose it does, but more so than the 2000 law? The 2004 law says all unborn babies are “members of the species homo sapiens” and so without the mother’s permission, others can’t kill them. Hmmm. Where have I heard that before? Oh, now I remember: the 2000 law says all unborn babies are “members of the species homo sapiens” and so with or without the mother’s permission, the state may not kill the baby. Well, isn’t that funny? Babies are protected more by the 2000 law, than by the 2004 law!

Let’s set the laws side by side, and you see how much difference you can see between them:

The 2000 law: “PROTECTION OF INNOCENT CHILDREN. It shall be unlawful...to carry out a sentence of death on a woman while she carries a child in utero. In this section, the term “child in utero” means a member of the species homo sapiens, at any stage of development, who is carried in the womb.”

The 2004 law: Whoever...causes the death of...a child, who is in utero at the time the conduct takes place, is guilty.... the term `unborn child' means a child in utero, and the term `child in utero' or `child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb."

The closest to a significant difference I see between these two laws is that the second one adds “unborn child” as a synonym of “child in utero”.

In trying to imagine any way to read the 2000 law that keeps it from defining all unborn babies as human beings, here is the closest I can come: *the prohibition of killing a “child in utero” who is a human being does not apply to women who are pregnant with other than human beings, who do not qualify as a “child in utero”. The warden simply needs to determine whether what the mother is pregnant with is a human being. If it is not, then this law*

does not prohibit executing them both.

Hmmm. Now if that interpretation sounds to you closer to a joke than to serious reasoning, I think the only alternative interpretation is that the 2000 law, as much as the 2004 law, defines all unborn babies as human beings, thus meeting the conditions of *Roe's* "collapse clause".

Hmmm. I guess I was wrong. *Roe* "collapsed" 10 years ago, not 6!

The distinguished chairman of the subcommittee says we have to acknowledge the particularly heinous nature of the crime, and indeed, we do. The Lofgren substitute acknowledges the assault on the fetus as a separate crime to be separately punished, to be additionally punished, but a separate crime against the woman because her interest in carrying that pregnancy to term and bearing a healthy baby is assaulted.

{time} 1045

It does not recognize it as a separate crime against a separate person, which is the object of this bill and what we are debating, and which is why this bill, despite the disclaimers of the proponents, is a direct assault on *Roe v. Wade*, a direct assault on abortion, and if all they are interested in is to make a separate crime when you assault a

[Page H642]]

fetus, when you harm a fetus, then the Lofgren substitute is perfectly adequate for that. But *their aim is to damage the right to choose, and that is the real purpose of this bill.*

Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. Lowey).

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this terribly misguided bill. *The bill before us today would give a fetus the same recognition as you or I for the first time in Federal law.*

Editorial comment: OK, let's double check the difference between the 2000 law and the 2004 law. The 2000 law criminalizes killing an unborn human being by a warden. The 2004 law criminalizes killing an unborn human being by a violent person who is typically the child's father. The mother may legally slaughter her baby, but not the father. So, how does one law, more than the other, "give a fetus the same recognition as you or I"? *Both laws, it would seem, "give a fetus the same recognition as you or I".*

Let me make something perfectly clear. The loss of a pregnancy under any circumstances is absolutely devastating to a woman and her family. Those who injure or kill a pregnant woman should be severely punished, and families should have the legal tools to have their loss recognized.

Instead of addressing the real issue at hand, the horrible pain for a woman who loses a pregnancy to an act of violence, *this bill sends a message that women do not deserve to be safeguarded or valued in their own right; that it is only through their fetuses that they are entitled to any Federal protections against violence.* This, in my judgment, is the wrong approach. Of course the woman matters. She matters when the baby is conceived, she matters when the baby is developing in utero, and she matters

when the child arrives in the world; yet this bill does not make it a Federal crime to attack a pregnant woman. In fact, its sponsors have explicitly rejected amendments to protect a woman herself under Federal law.

The Lofgren substitute would do just that. It would severely punish crimes against pregnant women [without undermining Roe v. Wade](#). It gets us to the same ends without the overtly political means.

If my colleagues want to crack down on criminals who attack pregnant women, support the Lofgren substitute. If my colleagues want to protect women from violence, let us fully fund the Violence Against Women Act.

Finally, if my colleagues are serious about protecting the unborn, let us focus on giving babies the best start we can by promoting the health of women throughout the entire pregnancy.

The Unborn Victims of Violence Act is not about shielding pregnant women or fetuses from violent acts, it is and [has always about been undermining freedom of choice](#). [Instead of finding new ways to revisit the divisive abortion battle](#), I believe Americans want us to focus our efforts on ways of providing women with access to prenatal care, affordable contraception, health care and violence prevention.

If we truly want to protect women and their pregnancies from harm, let us work together to enact legislation that deters and punishes violence against women [without unnecessarily engaging in the abortion debate](#).

I urge my colleagues to vote no on H.R. 1997 and to support the Lofgren substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. Hart), the principal author of the bill.

(Ms. HART asked and was given permission to revise and extend her remarks.)

Ms. HART. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. Sensenbrenner) and my subcommittee chairman, the gentleman from Ohio (Mr. Chabot), for their hard work on this issue throughout the time I have spent in Congress over the last 3 years and throughout the time I have been the principal sponsor of this legislation. They do have women and families in mind, as I do and as the supporters of this bill do.

It is interesting rhetoric when it is claimed that prosecution of a crime against a woman or an allegation against a perpetrator of a crime against a woman is not happening. It is already against the law to attack a woman and cause her injury or death. That should not be a surprise to any of us. It is not, however, on the Federal level a crime to attack a woman and cause injury or death to the unborn child as a separate crime.

[There are two victims in these kinds of crimes. That is so clear from the Laci and Conner Peterson case. The family came to visit us and asked that we name this bill after Laci and Conner Peterson in remembrance of them. That family showed us what the real loss is. They have lost a daughter, Laci Peterson, and their grandson Conner. That cannot be restored by enhancing the penalty for the attack against Laci Peterson. It cannot be restored at all; but the least we can do as lawmakers is recognize the loss to the family. It is shocking to me that anyone would support a substitute to the legislation that recognizes what families who have gone through this tragedy have asked us to do.](#)

Studies have shown, unfortunately, that domestic violence against pregnant women is prevalent, that fully one-quarter of women who are pregnant who die are victims of homicide. These families are crushed when this happens. They lose the woman, and they lose the hope of the child for the future.

This bill is all about recognition of a family's loss. It is about prosecution of a terrible crime. This bill is about making sure that we recognize what is really happening in these kinds of crimes. Numerous reports show us that the motivation behind a crime against many of these pregnant women is the fact that she is pregnant, the fact that she has chosen to carry a child makes someone angry, and it makes someone angry enough to attack her and her unborn child.

[Mr. Speaker, we recognize unborn children with inheritance rights. This Congress recognized unborn children enough to prevent the execution of a pregnant woman in prison. It is about time we recognize](#)

for that family who has suffered a grave loss a crime against that woman and her unborn child with a two-victim bill such as this. I encourage my colleagues to support H.R. 1997.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. Schakowsky).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding me this time.

It is actually insulting and certainly annoying that there is some sort of accusation that those of us who think that the substitute is preferable do not care about women and do not care about the babies that they are carrying. As a mother, as a grandmother of four children, we have to recognize this bill for what it is. If we want to go after protecting pregnant women, we ought to go after protecting pregnant women, not about threatening to take away their right to choose, which this is a thinly veiled effort to do because we are trying to create a special status of human being, of a fetus, of an unborn child. While I kind of admire the strategy, it does not get to the heart of this issue.

The proponents say we have to have this bill to protect pregnant women from violence, but the truth is this bill does not even address crimes committed against the woman at all, it only addresses the new crime created in this bill, which is a crime against a zygote, an embryo, a fetus. Furthermore, this bill would not even apply to the tragic Laci Peterson, as we understand the facts of the case, and as is true in the vast majority of domestic violence cases. Those crimes are covered by State law and not Federal law.

H.R. 1997 only touches on few and rare instances when pregnant women could be harmed by someone committing a Federal crime. The undisputed aim of this bill is to move forward a calculated antichoice agenda in which embryos and fetuses are codified into law as humans with all of the human rights afforded people in our society. This would bring us one step closer to overturning Roe v. Wade and taking away a woman's constitutional right to choose.

Instead, if we truly care about protecting pregnant women from violence and creating stiffer penalties for those who harm pregnant women, we should pass the substitute to this bill, known as the Motherhood Protection Act. The substitute recognizes that the pregnant woman is a victim when she is assaulted, instead of making the fetus distinct and separate from the woman, which anybody who is pregnant or has been pregnant knows is really not when you are carrying that child. The substitute classifies assault against her and assault on her pregnancy as two crimes, both crimes against the woman. Unlike H.R. 1997, the substitute gets to the heart of the matter: protecting pregnant women from violence.

[[Page H643]]

I urge my colleagues to vote no on H.R. 1997 and yes on the substitute amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. King).

Mr. KING of Iowa. Mr. Speaker, I appreciate the gentleman from Wisconsin (Mr. Sensenbrenner) yielding me this time, and I profoundly appreciate the work of the gentlewoman from Pennsylvania (Ms. Hart) on this issue, as well as the work of the chairman and the subcommittee chairman, the gentleman from Ohio (Mr. Chabot).

I urge Members to vote against the Lofgren substitute amendment. At issue today is whether there is one victim or two. When a pregnant woman is murdered, there are two victims. When a pregnant woman is injured and her baby dies, the law must recognize that and punish her violent attacker.

Pregnant women deserve the full protection of our laws. When Laci Peterson and Conner Peterson were killed, there were two victims. This substitute treats Laci's child as if he never existed. Conner did exist. Laci and her family were looking forward to his birth. If we allow Federal law to recognize only one victim, we are guilty of covering up for the criminal who robs an expectant mother and in other cases the father and the rest of the family of their baby. Grieving family members need to know that criminals will pay the full price for killing their son or daughter and that society recognizes their loss.

No woman should ever be told she has lost nothing when she loses her unborn child to a brutal attacker. Women deserve better than this. We should recognize her injury, and we should pursue justice.

Roe v. Wade may, and I pray temporarily, provide for a woman to decide temporarily the fate of her unborn child, but this does not affect the Roe v. Wade decision.

Editorial comment: How can King call the slaughtered baby a second victim and then say this does not “affect the Roe v. Wade decision”? Has he never read Roe’s “collapse clause”? To be that ignorant, he would have to have never read the brief explanations for all the personhood and human life amendments circulating through Congress and the states over the years. He cannot be that ignorant! Not only does he categorically deny the obvious, he does so without answering a single question raised by his denial. As if he hopes his hearers have never read Roe’s “collapse clause” either. So then is King a liar? I can’t believe it! He is an honorable champion of the unborn. It is a common human frailty to passionately, sincerely believe a naked emperor is fully clothed, when acknowledging the obvious could get you killed by the emperor. At this point, admitting the Democrats were right would have cost votes. Besides that, no one’s intelligence is 100% consistent. For example, have you ever heard King talk about immigration?

What we are proposing is someone else stepping into the shoes of the mother. I urge Members to vote for Laci and Conner's law, the Unborn Victims of Violence Act, and I thank the sponsors of this bill, the chairman of the committee, and the folks who have worked so hard.

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

Mr. Speaker, the gentleman from Iowa just hit the nail on the head. He said the purpose of this bill is to recognize that there are two victims, two people involved in this. That is exactly the point of this bill, and that is exactly why we should not pass this bill without the Lofgren substitute. I am glad the previous speaker and some of the other speakers on the other side stripped away the false rhetoric on this bill. This bill is not about punishing an assault on a fetus separately; the substitute as well as the bill does that. This is not about giving it an additional punishment; the substitute as well as the bill does that.

This is about saying that there are two victims, not one victim; that the fetus or the embryo or the zygote, depending on the status of the pregnancy, is a separate legal person. That is the point of the bill. That is why we must have the substitute, why we cannot agree to the bill, because the whole point of the bill is to establish legally separate fetal personhood, which would undermine the entire rationale of Roe v. Wade and undermine a woman's right to choose, because if a fetus is a separate legal person, how can she choose to terminate the pregnancy?

This is revolutionary notion going way back to Biblical law. If we look at the original Five Books of Moses, it says very plainly if you assault a woman and she dies, you should be put to death. And if you assault a woman and she miscarries, you shall pay her monetary compensation. In other words, by killing the fetus, you have damaged an interest of the woman for which she is due compensation, but you have not committed murder as you have if you kill the born person, the woman.

Editorial comment: Isn't it wonderful to hear a Democrat quote Scripture? Reference is made to the same Leviticus passage footnoted in Roe, and with the same misinterpretation of it. Praise God, a Republican is later found to respond with better exegesis of the Word of God.

So we have never in our history recognized a fetus as a separate legal person. The Supreme Court in Roe v. Wade specifically says we have never recognized a fetus as a separate person.

Editorial comment: Is this Democrat arguing that when the Supreme Court says this never happened before, that means the Supreme Court has ruled that it may never happen later?

{time} 1100

If we were to do so, then we would get into the 14th amendment question that you cannot deprive a person of life, or liberty or process, without due process of law; and that is the purpose of this bill. That is the purpose of similar bills in the State legislatures, I suspect, to give underpinning to a future Supreme Court majority to say that we recognize a fetus as a person within the meaning of the 14th amendment and, therefore, abortion is murder and, therefore, Roe v. Wade is overruled and, therefore, States have no right to legalize murder and you would need a constitutional amendment to permit abortions in this country.

That is the real point of this bill. And strip away all the disingenuous rhetoric about everything else, because everything else we agree on. We agree that there ought to be an additional penalty if you harm the fetus when you assault a woman. We agree that it should be a separate additional crime. The only question here between the bill and the substitute is should the separate additional crime for harming the fetus be a crime against the woman as we say, an additional separate crime against a woman deserving an additional separate penalty? Or should it be an additional crime against a second person, the fetus being recognized as a person?

That is the issue in this bill and this substitute. To say that it is not and to quarry the abortion debate is quite simply disingenuous. That is why the bill was introduced. That is why they are pushing it. It is why we are opposing it.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, let us get back to the Innocent Child Protection Act, which passed the House unanimously on July 25, 2000. The purpose of that bill, which is law today, was to prevent the killing of a child in utero because of the mother's crimes causing the death penalty to be imposed. There the legislation, again which was signed into law, defined the child in utero as a human being at any stage of development who is carried in the womb. So that we decided and we made law 3\1/2\ years ago when the Innocent Child Protection Act was passed.

I would note that the three Members on the other side of the aisle who have spoken against the current bill all voted in favor of the Innocent Child Protection Act and the definition that I have just repeated for, I believe, the third time.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. Gingrey).

Mr. GINGREY. I thank the gentleman for yielding me this time.

Mr. Speaker, I commend the gentlewoman from Pennsylvania, and I rise in strong support of H.R. 1997, the Unborn Victims of Violence Act, and in strong opposition to the single-victim substitute.

Let me take my time to try to put a little face on this issue and a human perspective. I want to call my colleagues' attention to the poster to my left. This is a picture of my grandchildren. My granddaughters, Ali and Hannah, are now 6 years old. They were born at 26 weeks, each weighing 1 pound 12 ounces. Thank God their brother, little Hank, who is 3 years old, has two precious siblings. My daughter and son-in-law have three precious children. My wife, Billie, and I are very proud grandparents.

As a physician, I know that Laci Peterson at 8\1/2\ months pregnant, little Conner probably weighed three times as much as my granddaughters did at their birth, weighing 1 pound 12 ounces. A strategically directed blow to her abdomen, or any woman's abdomen, at 8 months pregnant could result in just a minor bruise, a contusion to the mother, yet the death of the child, a child that within weeks would have been born fully well.

Yet in this substitute amendment, what would happen? Instead of the perpetrator of this crime getting slapped on the wrist, they would get slapped on both wrists. **Yet that child would be dead, and that family would be robbed of a life.** I think it is utterly ridiculous.

They keep saying that we do not care about the mother. There are laws to protect the mother against violence that exist, but **we have got another victim in these crimes and this puts a human face on it.** I ask my colleagues to reject the substitute amendment and support the bill, H.R. 1997.

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

[[Page H644]]

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. Stearns).

Mr. STEARNS. Mr. Speaker, I rise in support of the Unborn Victims of Violence Act. I thank the gentlewoman from Pennsylvania for her leadership on this important issue.

Poll after poll show that the vast majority of Americans believe that if someone attacks or murders a pregnant woman and kills her unborn child, then the criminal should be charged with two separate crimes. Sixty-nine percent of registered voters who call themselves pro-choice also agree that violent thugs should be charged with two offenses if they kill a woman's unborn child during the commission of a brutal crime.

The widespread support by the American people is reflected here in the House of Representatives where **we have passed this legislation twice before, each time by impressive margins, and each time with both parties working together. As of today, 29 State legislatures have overwhelmingly passed their own laws recognizing two victims in a violent crime against a pregnant woman. This number is growing with each passing day.**

I would like to read to my colleague from the Old Testament. He mentioned that. Exodus 21:22-23. I could also go to the Talmud. It is also observed in the Talmud the same thing that is in the Old Testament, namely, ``If men strive, and hurt a woman with child, so that her fruit depart from her, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges determine. But if any mischief follow, then thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.''

I think it is clear that if the mischief includes the death of the embryo, of the live human being in the womb, then it is eye for eye, tooth for tooth. I urge the passage of this bill.

I. Introduction

Mr. Speaker, I rise today in support of the ``Unborn Victims of Violence Act.''

II. Broad Public Support of H.R. 1997

It's always satisfying when we get to debate and vote on legislation that has such broad, bipartisan support across the country.

How broad is this support? Poll after poll show that the vast majority of Americans believe that if someone attacks or murders a pregnant woman, and kills her unborn child, then that criminal should be charged with two separate crimes.

How bipartisan is that support? 69% of registered voters who call themselves "pro-choice" also agree that violent thugs should be charged with two offenses if they kill a woman's unborn child during the commission of a brutal crime.

This widespread support by the American people has been reflected here in the House of Representatives, where we have passed this legislation twice before, each time by impressive margins, and each time with both parties working together.

And as of today, 29 state legislatures have overwhelmingly passed their own laws recognizing two victims in a violent crime against a pregnant woman.

This number is growing with each passing day.

III. Legal and Academic Support for H.R. 1997

In the academic and legal world, there is a consensus that these efforts will strengthen our criminal justice system, and agreement that this legislation is perfectly constitutional.

In terms of our criminal justice system, it's clear that this law will serve as a deterrent to future attacks on women of childbearing age.

This is important because in Maryland, New York and Illinois, homicide is the leading cause of death among pregnant women.

According to a recent study, up to 324,000 pregnant women will experience physical violence in the United States this year.

If we join those 29 states in enacting this legislation, we are telling potential attackers that they will face two times the punishment for hurting a pregnant woman.

Would-be attackers need to know that they could be charged with the murder of an unborn child if they attack his mother.

By creating legal consequences for killing an unborn against her mother's will, the law will provide greater protection for women from crimes of violence.

Indeed, in 1990, the Supreme Court of Minnesota said, in upholding the conviction of a man with two counts of murder, that "The possibility that a female homicide victim of child-bearing age may be pregnant is a possibility that an assaulter may not safely exclude."

From an academic point of view, scholars are in agreement that laws protecting unborn children from violence are constitutional.

The U.S. Supreme Court refused to strike down Missouri's unborn victims of violence law because it "does not by its terms regulate abortion."

Every single unborn victims law passed by state legislatures that has been challenged in court has been upheld.

A large number of pro-choice scholars concede that this bill will not infringe upon anyone's rights.

Editorial comment: Well, that is very interesting, in light of the 100% unanimous consensus of the House Democrats that the mother's "right" to

slaughter her child will end with passage of this law! Too bad none of them are cited. It would be interesting to see their reasoning.

IV. Moral Reasons to Support H.R. 1997

Not only does this legislation make sense from a legal point of view, it's also compassionate.

It's compassionate because we are saying to these women and their families, "You have intrinsic worth, and your unborn baby's life had meaning, too."

No woman should ever be told she lost nothing when she loses her child to a brutal attacker. Women deserve better than this.

Even the Bible has something to say about violence against pregnant women. Exodus 21:21-23 tells how if a woman is harmed and her baby is uninjured, then the punishment is only for what happened to the woman. But if a woman is harmed and her unborn child subsequently dies, then the attacker "shalt give life for life."

Conclusion

As I've said, it's good when we get to take up an issue on which the vast majority of Americans agree. But what's most important is that what we are doing today is the right thing to do.

It's time to make the law apply to federal jurisdiction, so that if a man stalks his pregnant wife across state lines and attacks her, or commits any other federal crime, injuring her and killing their unborn child, that man can be prosecuted under federal law for the loss of the baby's life.

Passage of "Laci and Conner's" law is a win-win situation on every level--for the American people, for our criminal justice and legal systems, and for the protection of pregnant women and their unborn children.

The only losers with this bill are the cowardly criminals who would dare attack a pregnant woman. They'll be getting what they deserve.

Mr. Speaker, it's time to do the right thing and pass the Unborn Victims of Violence Act.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, the gentleman from Florida mentions various polling data that large majorities of people who are polled say that someone who attacks the woman and harms the fetus, that there are two separate crimes here. There is no dispute on that point. We agree with that. There are two separate crimes. The substitute as well as the bill in chief make it two separate crimes. That is not at issue. What is at issue is who is the victim. The substitute says it is a separate crime against the woman. Two crimes, two punishments for separate crimes against the same victim. The bill says two victims. That is the distinction here. Are there two crimes? Yes, we say. Yes, they say. Are there two victims? Yes, they say from a legal point of view. No, we say, she is the victim of a second crime because the law does not recognize the fetus as a full person.

That is what this bill seeks to do. So it is not a question of two separate slaps on the wrist. We ought to punish the crime severely. The substitute punishes the crime as severely, in some cases more severely than does the bill. The question is do you recognize one victim or two victims, because there are legal consequences, there are juridical consequences, there are consequences of undermining *Roe v. Wade* and the right to choose based on whether you say this fetus is a person for legal purposes or simply that you say the woman is a victim twice and we will punish it appropriately. That is the question, not whether there are two crimes.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr.

Lewis).

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to express my support for H.R. 1997 and to oppose any substitute that would nullify its intent.

H.R. 1997 protects unborn children whose mothers are physically assaulted or killed in the commission of a Federal crime. The majority of States currently recognize prenatal injury or death resulting from violence inflicted on the mother as a crime against two victims. H.R. 1997 allows the Federal Government to similarly recognize this dual crime when it occurs within their jurisdiction and prosecute accordingly.

On January 7 of this year, 18-year-old Ashley Lyons and her unborn son,

[[Page H645]]

Landon, were murdered in Scott County, Kentucky. Carol Lyons, Ashley's mother and Landon's grandmother said, "Nobody can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter good-bye for the last time and closed the casket."

Mr. Speaker, 3 weeks ago, the Kentucky State House correctly approved legislation to redress single victim prosecution. I urge my colleagues in this Federal body in the name of unborn victims like Landon Lyons to protect unborn victims of violence by voting in favor of this bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. Garrett).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today in full support of H.R. 1997, the Unborn Victims of Violence Act. I commend those who have come before me in previous years for their work, and I commend the gentlewoman from Pennsylvania for her work now in bringing this issue to the floor.

Violence against a woman who is pregnant with an unborn child is a hideous and tragic act that must be punished accordingly. To my left here is a photograph, this is the first time I have seen this photograph recently, of Tracy Marciniak and her little baby. I would challenge anyone who knows the story, that she was beaten, she survived the beating but her little baby did not. I would challenge anyone from the other side of the aisle who would look at this photograph and say that this is a fetus in her arms. No, I would say this is her baby in her arms. And when a baby, born or unborn, is taken away from her mother, the offender must be punished.

This is commonsense legislation. Once it is passed, it will work to deter violence against women and their unborn children as well. As has been stated by other people already, one of the leading causes of violence and death to women in many States is in fact homicide of pregnant women.

I would urge all Members of good faith on both sides of the aisle to do what is right for society, right for women, and right for the innocent victims in this Nation and vote in favor of this legislation.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. Pence), a member of the committee.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I thank the chairman for the opportunity to speak in strong support of the Unborn Victims of Violence Act. As a member of the Committee on the Judiciary, there are many times that we deal with issues that are along the fault lines of the cultural debate; and *I am a pro-life Member of Congress, and I do not apologize for that. But I rise today in support of what has come to be known as Laci and Conner's Law to say from my heart that this is not about abortion. This is not about the thorny issues that surround the debate over a woman's right to choose or the right to life; but, rather, this is simply a law about justice.*

The reality is that fetal homicide laws, which is a characterization of the Unborn Victims of Violence Act, are already the law in 29 States in the United States of America. And what Congress seeks to do today, with the strong leadership of the chairman of the committee and the authorship of the gentlewoman from Pennsylvania, is, in effect, to have Federal law catch up with those 29 State laws.

{time} 1115

That this is not about abortion is specifically stated in the law itself that provides that it does not apply to any abortion to which a woman has consented to any act of a mother herself, legal or illegal, or to any form of medical treatment. It is not about abortion or a cultural debate. It is about justice.

Editorial comment: Does Pence sincerely not understand the difference between “this law does not permit prosecution of abortion”, which the law says, and “this law does not apply to abortion”, which Pence says the law says? Does this law’s satisfaction of Roe’s condition for its own collapse really not “apply to abortion”, in Pence’s world?

And with regard to those who would argue for the view that when a woman is attacked and both she and her unborn child are injured that there is only one victim, I close citing the words of the mother of Laci Peterson and the grandmother of Conner Peterson, who speaks more eloquently and more powerfully than any of us can here today:

“I hope that every legislator will clearly understand that adoption of such a single-victim amendment would be a painful blow to those, like me, who are left alive after a two-victim crime, because Congress would be saying that Conner and other innocent unborn victims like him are not really victims, indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun.”

I thank the gentleman for yielding me this time, and I strongly support the Unborn Victims of Violence Act.

Mr. NADLER. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from New York for yielding me this time, and I respect greatly my colleagues on a very tough and emotional debate.

Yesterday, I rose on the floor of the House to indicate that I do not think one will find any division, any schism in this House on the value and the need for the protection of all Americans, all of us within the boundaries of this Nation against violent and horrific acts. And certainly the murder and the violent assault and action that would injure anyone in this country deserves the full force of the law, and I stand here today supporting that concept. So I would argue vigorously that if one does the crime, they need to pay the time.

It is interesting that we come to the floor today just a few days shy of the tragedy of the Peterson family and the beginning of that trial in California. So it would seem that we urgently need to move forward because of that tragedy. It is interesting to note that as that trial is proceeding, those prosecutors feel fully confident of their case, as I am sure the defense of theirs, but they are moving forward to protect the victims of that tragic crime. [So it begs the question as today as to why this body would choose to ignore and reject standing law that has allowed a woman to choose now for more than 2 decades under the Roe v. Wade case and why under H.R. 1997 it is now represented as a necessary legislative act to protect a pregnant woman.](#) I cannot imagine why the substitute that we have now crafted, the gentlewoman from California (Ms. Lofgren) so studiously designed, that in actuality

creates a separate Federal criminal offense for assaulting a pregnant woman resulting in injury or termination of a pregnancy without entangling the issue in the question of choice.

We have come to this floor on many occasions in a side-winding way to undermine the law of this law. One may not agree with *Roe v. Wade*, but the determination is that a woman now in this Nation has the right to choose on the basis with her engagement with her family, engagement with her spiritual leader, and her personal needs. We are responsible for abiding by the law, and for my colleagues who continue to chip away at the rights of physicians to make a determination on a woman's health when it is necessary to abort a fetus so that that woman can be preserved to recreate again, here we go again with an attempt now to suggest that an unborn child or fetus is not protected when a tragedy occurs by the laws of this land.

We have an alternative. We have a substitute that creates a separate offense so that we do not criminalize the doctor or the mother when there is a need and a necessity to choose to terminate a pregnancy.

Why do we go over this over and over again? Where is the respect for women who have asked to make an independent choice? Those who choose not to abort, we respect that decision. Those who for personal reasons make the choice, the law stands on their side. And I will not come to this floor to participate in frivolity, and it does not make sense that we would come to the floor of the House and suggest not only to our colleagues but to the American people that there is no relief when there is an attack on a woman that is pregnant.

For in this bill, H.R. 1997, it is clearly focused at criminalizing the acts of

[[Page H646]]

women if they decide to choose to terminate a pregnancy. And why do I say that? Because what the bill does is it recognizes a member of the species *homo sapiens* at all stages of development as a victim of crime from conception to birth. This attempts to afford a fetus, embryo, and even a fertilized egg rights and interests separate from and equal to those of the woman. There is no recognition of the crime against the woman.

So, Mr. Speaker, this is what our angst is with this misrepresentation. This is not to ensure that a pregnant woman who would be violently attacked and may lose her life and that of the child that she may be carrying be protected, but it is to suggest that one may do anything that may be a violent act against that particular embryo that that woman is carrying, and that means that it is subjecting a woman to possible criminal acts for a choice that she may make, one to save her life or to provide for her health.

This substitute that we are promoting tells the real truth, and the real truth is that we can provide a separate offense to protect against that terrible and heinous act for assaulting a pregnant woman resulting in an injury or termination and we can create an offense that protects pregnant woman and punishes violence resulting in injury or terminations of a pregnancy without conflicting with the core principles of *Roe v. Wade*.

I only ask my colleagues that there are few occasions where we may seek reason and there are few occasions where we might understand that we are not here for ourselves, but for the people we represent. The law of the land is *Roe v. Wade*.

Editorial comment: Do you see the irony of a lawmaker saying the legal conditions prior to the new law under consideration are “the law of the land”, so therefore passing this new law would somehow violate “the law of the land”? That kind of reasoning would, if applied consistently, retire Congress!

Because every law they pass changes the legal conditions which constituted “the law of the land” previously! If lawmakers must never, on principle, change laws, then what do we pay them for?!

I will join any Member to protect against violence of pregnant women; but I cannot stand here while legislation goes through this House, and, unfortunately, it may pass today, that in any way disregards the standing law of the land and represents to the American people that we have no other alternatives but to undermine *Roe v. Wade*. A woman has a right to choose or choose not. It is not my intention to promote any position other than to say that this body must follow the law.

I ask my colleagues to oppose this particular legislation, the underlying legislation of H.R. 1997, and support the Lofgren substitute; and I ask most of all that we abide by the Constitution and respect the laws of this land so that the American people can know the truth and that women in this Nation can truly be protected.

Mr. Speaker, I am saddened to be here today, to once again stand up for the pro-choice movement and deflect efforts made to undermine it. This is not the first time we have visited this issue, and I fear it will not be the last.

Violence against women, especially pregnant women, is unacceptable and should be punished. I, along with the pro-choice community, are dedicated to preserving a woman's right to have a family when she chooses--and any criminal act that robs her of a hoped-for future child is tragic and intolerable. Rather than supporting such common-sense measures, my colleagues are instead promoting the Unborn Victims of Violence Act (UVVA), described as “a sneak attack on a woman's right to choose.” The loss of a wanted pregnancy is a tragedy, but solutions should be real, not political.

what uvva does

The Unborn Victims of Violence Act erodes the legal foundation of a woman's right to choose by elevating the legal status of all stages of prenatal development. If enacted, the legislation would be the first Federal law to recognize a fertilized egg, embryo, or a fetus as a person who can be an independent victim of a crime. Our Supreme Court has held in *Roe versus Wade* that fetuses are not persons within the meaning of the fourteenth amendment. Nowhere in this legislation is the harm to the woman resulting from an involuntary termination of her pregnancy mentioned. In fact, the pregnant woman is not mentioned at all.

We have States laws that already address crimes committed against pregnant women. The majority of States have statutes on the books that address criminal conduct that results in harm to a pregnancy. Many States punish murder or manslaughter of an “unborn child,” as that term is defined by the State law. Some States punish assault, battery, or other harm resulting in injury or death to an “unborn child,” as that term is defined in State law. For other States, if a crime committed against a pregnant woman results in termination of or harm to a pregnancy, the harm to the pregnancy is an adjunct to the crime or may be used as a sentence enhancement.

better alternatives

I am also here today to support Congresswoman Zoe Lofgren's substitute, the “Motherhood Protection Act” (MPA). This is a crime bill that designed to protect pregnant women from violence. MPA embodies many of the same principles that I offered as amendments in the House Judiciary Committee, where this bill was originally introduced. I have always supported the intent of this bill, to

protect the life of the pregnant mother who has suffered as a victim of a crime of violence and the viability of her pregnancy. However, I oppose the means by which the drafters of this bill have used to achieve its end. Like MPA, all my offered amendments referred to changing language in the bill, focusing on the pregnant mother instead of the fetus.

The MPA creates a second, separate offense with separate, strict, and consistent penalties for assault resulting in the termination of a pregnancy or assault resulting in prenatal injury.

MPA recognizes the pregnant woman as the primary victim of an assault that causes the termination of her pregnancy, and it creates a separate crime to punish this offense. In this way, the bill accomplishes the stated goals of the Unborn Victims of Violence Act--the deterrence and punishment of violent acts against pregnant women--while avoiding any undermining of the right to choose.

This bill fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Nearly one in every three adult women experiences at least one physical assault by a partner during adulthood.

Congress can protect pregnant women from violence without resorting to controversial bills like Unborn Victims of Violence that undermine Roe v. Wade. We must take strong steps to prevent such attacks and must recognize the unique tragedy suffered by a woman whose pregnancy is lost or harmed as a result of violence. I am calling on Congress to support tough criminal laws that focus on the harm suffered by women who are victimized while pregnant, as well as a range of programs that promote healthy childbearing and family planning.

While I am pleased to see the Bush administration taking an active interest in women and children, I hope they will see their goals can be met in other areas. I would like to see the Bush administration focus their efforts on caring for a pregnant woman by providing her decent medical care. I hope the Bush administration ensures more happy pregnancies and births, both with proper family planning and prenatal care. I call on the Bush administration to have to care for the millions of children already living and breathing in our country, but go to school in overcrowded classrooms and dilapidated buildings.

We have a wide range of programs in place to help woman and children. I would like my colleagues to spend more time encouraging and funding these, rather than once again undermining a woman's attempt to choose.

I fully support a woman's right to choose, including a woman's right to choose to carry a pregnancy to term. Because Unborn Victims of Violence does nothing to protect women and because its clear intent is to create fetal personhood, I, along with Planning Parenthood Federation of America, oppose this legislation. Congress should adopt a more reasoned approach that would protect all women from violence.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the women who are the victims of the violence that has caused death or harm to their babies have already made their choice, and their choice was to carry their babies to term and to give birth and to raise those children in hopefully a nurturing and loving household. *To say that this legislation takes away the choice of a woman is just flat-out wrong. Maybe some people disagree with the choice that that woman made, but that is a personal choice; and we ought to recognize that this legislation respects that personal choice.*

And then to hear that this legislation is an assault on the Constitution is completely missing the point. The Supreme Court has consistently upheld fetal homicide laws, two-victim crime laws. The Webster case, I think, was the most emphatic upholding of that, and that is a Supreme Court that has also consistently refused to modify Roe v. Wade or to overrule it. So the Court has been able to make a distinction which apparently some of the Members on the other side of this argument have not been able to make, that fetal homicide laws are constitutional, two-victim crime laws are legal as well.

Editorial comment: In other words, you paranoid Democrats can vote for this without worrying the courts will make the same connection you do. The courts had their chance to overturn Roe before, and managed not to. But again, the problem with this assurance is that courts have not yet been forced to squarely address the “collapse” of legal abortion by findings of personhood for the unborn. Webster didn’t do it; the AG doggedly refused to allow that to be an issue. We’ll see if we can make the Scott Roeder case different.

Now, I hope that more Members would have been able to hear the arguments that were advanced by the gentleman from Georgia (Mr. Gingrey),

[[Page H647]]

who was an obstetrician by profession before he was elected to Congress. He has said that in some instances a minor bruise on the abdomen of a pregnant woman can result in the death of the child. If all that someone can be prosecuted for is that minor bruise, then the full force of the law against someone who has caused the death of another would not be able to be imposed against that defendant without a two-victim bill. And that is why two victims is so important. It is important, it is constitutional; but, most of all, it respects the right of the women who have decided that they do not want an abortion, that they want to give birth, and they want to raise the child with all the love that a newborn child deserves.

Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. Aderholt).

Mr. ADERHOLT. Mr. Speaker, I thank the chairman for yielding me this time.

Of course, as has been said on numerous occasions this morning, we are considering the Unborn Victims of Violence Act. I joined 136 Members of this body to cosponsor this legislation, and I want to commend the gentlewoman from Pennsylvania (Ms. Hart) for her sponsoring this legislation this morning. I do believe the time has come for the House to pass this legislation again and help ensure that it is signed into law. And again, as has been stated this morning, this legislation takes an important step that recognizing that violence against an unborn child, against the will of a mother, can be prosecuted in the Federal courts.

This law is very simple. It would establish that if an unborn child is injured or killed during the commission of an already defined Federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child. **This bill recognizes an unborn child as a separate victim in the eyes of the Federal law.**

I have supported this law previously; but as I stand here today, the bill takes on a little bit different meaning. My wife, Caroline, is due to give birth on Monday in Alabama to our second child; and looking at her and feeling the baby move and seeing the sonograms, I do not think there is a shadow of a doubt that the child is a child. This child certainly deserves the full protection of the law.

Caroline reminded me just a few weeks ago that she and Laci were at about the same stage of their pregnancies during the Christmas holidays, and of course that is when she was killed during that time. So it, like I said, takes on a special meaning not only for me but also for my wife, Caroline. But if something should happen to any mother or to any child who is in the womb and they become a victim of a crime, I think the American people would want to see justice on behalf of both individuals, the mother and the child.

So I respectfully ask my colleagues this morning to send a strong message to the Senate and to the

President that our goal is to protect the most vulnerable and the most innocent among us.

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

Mr. Speaker, the distinguished chairman, first of all, I congratulate him for endorsing the right to choose. But second of all, he talked about the woman who has chosen to bear her pregnancy to term, to have a child, and an assault which destroys her fetus or damages her fetus is an assault on her right to choose, and indeed it is. He is entirely right. That is why the substitute makes the assault on her fetus a separate crime with a separate penalty against her because it is indeed an assault on her right to choose to carry that pregnancy to term, and she is the damaged party because she has lost her right to carry the pregnancy to term. She has lost her right to bear a child, and that is why in the substitute we make it an additional crime against her.

{time} 1130

The bill, of course, makes it a separate crime against the fetus, and that is the question here.

Also, the distinguished gentleman from Florida (Mr. Stearns) quoted Exodus 21:22. He said it was 22:22, but it is 21:22. He misquoted what it said. Before I read it, let me be very clear: I did not raise this reference to the Bible because I think we ought to enact Biblical or religious law in this Chamber, far from it, but simply to show it has always been regarded, our civilization generally has regarded back to Biblical times the fetus as not having the status of a separate person.

Exodus 21:22 reads as follows: ``If men strive and hurt a woman with child so that her fruit depart from her," in other words, she has a miscarriage, they cause the destruction of the fetus, ``and yet no mischief follow, he shall be surely punished and he shall pay as the judges determine," monetary compensation. ``And if any mischief follow, then they shall give life for life."

Now, I am not sure what the Bible means by ``mischief." I have an interpretation here from a rabbinical source that says it means if she dies.

But, in any event, if she does not die, if mischief does not follow, if she has a miscarriage, monetary compensation. It is only when mischief follows, when she dies, that he is guilty of a capital crime.

That is precisely because at least the Bible did not consider the fetus to be a person for whose killing it is a capital crime, as killing a born person is.

Again, I cite this not because we are bound in enacting civil law to enact Biblical law, we are not, obviously, but simply to show, as I mentioned earlier, this bill, by trying to establish the fetus as a separate person for legal purposes, is a radical departure not only from Anglo-American legal traditions, but from all of Western legal traditions going way back to the Bible.

Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentlewoman from New York (Mrs. Maloney).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for his leadership on this issue and so many others. I really rise in strong opposition to this bill and in support of the Lofgren amendment.

In a country in which up to two-thirds of battered women are turned away from shelters for lack of space, in no way does this bill combat domestic violence. **But no one should be naive enough to think that this bill has anything to do with domestic violence. Instead, this is another step down the slippery slope toward granting personage to fetuses. This sets up an untenable situation in which a fetus' rights and interests are at odds with its mother.**

To make the fetus a person would inject a layer of legal complexity that would make every pregnant woman's ordinary decisions perilous, opening her medical and other choices to second-guessing liability or even criminal charges. This bill criminalizes actions that can occur at the very earliest phases of pregnancy, making every miscarriage subject to an investigation.

Roughly 20 to 25 percent of all pregnancies end in miscarriage. Usually there is a genetic reason, but sometimes there is another cause. Studies show that miscarriages can occur because of excessive coffee drinking, smoking, exposure to chemicals, illness, stress or trauma during an accident. Since culpability accrues whether the perpetrator knows the woman is pregnant or not, a wide variety of relatively innocent actions could lead to charges.

If someone comes to work, for example, with German measles, knowing that they could infect a fellow worker, could they be guilty of manslaughter? Will Starbucks have to post signs advising pregnant women that they cannot buy more than two cups of coffee per day? Will car manufacturers face imprisonment for miscarriages caused by steering wheels, seat belts or air bags? Will airlines face criminal charges if they permit pregnant women to fly? Will bodega owners be charged for selling pregnant women cigarettes?

If this bill is really about violence against pregnant women, then we should pass the Lofgren amendment and increase penalties against people who harm a pregnant woman. **Let us step off the slippery slope and reserve personage to the born.**

This bill is also another chipping away at a woman's right to choose. This body recently passed the so-called partial-birth abortion ban, which ignored the health and life of a woman. Now this bill before us today, once again, ignores the health and life of a woman.

[[Page H648]]

I have kept a scorecard of antichoice actions since the Republican majority took over in 1995. If this bill passes today, it will mark the 202nd action against a woman's right to choose, which is exactly what this bill is intended to do. We heard it straight from Senator Hatch's mouth last July when he commented on this bill: ``They say it undermines abortion rights. It does. But that is irrelevant."

It is insulting that the authors of this legislation would use violence against women as a vehicle to attack a woman's right to choose.

Let me say it again, this bill does nothing to address the violence against women, but the Lofgren substitute does. The Lofgren substitute would severely punish crimes against pregnant women without tangling juries and prosecutors in the abortion debate. It creates a separate Federal offense for crimes against pregnant women and carries penalties of 20 years in prison to a maximum life sentence for causing termination of a woman's pregnancy. The Lofgren amendment protects pregnant women without limiting their very basic rights and without defining the Constitution to establish fetal personage.

Please vote in favor of the Lofgren amendment, which will be up shortly, and no to this underlying bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Kennedy).

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today in strong support of the Unborn Victims of Violence Act. Few people know that homicide is the leading cause of death of pregnant women in this country. Thousands more expectant mothers will experience physical violence during their pregnancy each year. When a pregnant woman is harmed, so is her child. Under these circumstances, it only makes sense that a criminal should be prosecuted for harming two innocent lives rather than one. In fact, 29 States, including my State of Minnesota, have laws that protect unborn children during some stage of development. If the mother is not killed in an attack, but the unborn child is, clearly that attacker is responsible for the unborn child's death. **However, in the eyes of the law, nobody died, and the most an attacker can be charged with is assault.**

This must be changed. Even in the highly publicized tragedy involving Laci and Conner Peterson, the national media rightly recognized that there were clearly two victims. But if this were a Federal case, only one victim would be recognized.

The opponents of this bill have wrongly characterized this bill and tried to give credence to their one-victim alternative. But I would like to bring to you what the mother of Laci Peterson had to say:

“Please understand how adoption of such a single-victim proposal would be a painful blow to those like me who are left to grieve after a two-victim crime because Congress would be saying that Conner and other innocent victims like him are not really victims; indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun.”

That comes from Laci's mother, from Conner's grandmother. This is something that 84 percent of Americans support. This is something that this House has passed twice. The President supports it. I urge my colleagues to join me in supporting it.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. Solis).

Ms. SOLIS. Mr. Speaker, I thank the gentleman from New York for yielding me time.

Mr. Speaker, today I rise also in strong opposition to the so-called Unborn Victims of Violence Act. I am extremely disappointed that the issue of violence against women is being manipulated into a political tug of war.

The bill recognizes for the first time a fetus as a person with rights separate and equal to that of a woman. Nearly one in every three adult women experience at least one physical assault by someone that she knows, a partner in many cases.

There is no doubt that acts of violence against women, especially pregnant women, are tragic and should be punished to the full extent of the law. However, we must institute legislation that does not erode the legal foundation of a woman's right to choose as a condition of protection against violence. We must support legislation that truly addresses harm to pregnant women and domestic violence.

The Democratic substitute being offered today by Lofgren, the Motherhood Protection Act, would create a separate Federal criminal offense for harm to a pregnant woman, instead of recognizing the fetus as a separate legal person. Recognizing the real issue at hand, harm to a pregnant woman, must not be exploited to further a long-standing political agenda.

I urge my colleagues to vote against H.R. 1997, and support the Lofgren substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. Ginny Brown-Waite of Florida).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, this being February, many of us in our districts attended various fund-raisers for domestic violence shelters, and most of the titles of the fund-raisers that I attended this month were “Love Does Not Have to Hurt.”

We need to have some Federal sentencing guidelines, because they currently fail to adequately cover the death or injury of an unborn child. For example, if a woman survives an attack but loses her unborn child, current law says that a murder has not taken place. Federal law does not recognize the death of Laci Peterson and her son Conner as a double murder.

Many times the intended target is the unborn baby itself. Failing to classify this as a murder defies reasonable notions of justice.

We hear a lot of debate about is this really related to the abortion issue? The debate over this legislation has been twisted by some into a debate over abortion. However, the abortion debate is really over a woman's right to choose.

This legislation affirms a woman's right to choose by punishing the criminal that has robbed her not only of her choice, but also of her child. Nothing in the Roe v. Wade decision prevents Congress from recognizing lives of the unborn children outside the parameters of the right to an abortion.

Editorial comment: This is the most ingenious spin yet. The crime, says this congresswoman, is not merely robbing a mother of her child, but also of her

choice to let her child live. Indeed, this law “permits [authorizes] prosecution” only when the mother’s choice is thwarted by her baby’s murder. But Roe founded itself on a question of personhood which Roe regarded as a fact question, to be determined by fact finders such as preachers, doctors, and state lawmakers. Had Roe considered it a question of law, the Supreme Court, as the world’s experts on questions of law, would not have consulted the pronouncements of preachers, doctors, and state lawmakers. Since it is not a law issue, it does not matter what Conner and Laci’s Law decides about who should be prosecuted, or for what. The “collapse” of Roe is effected not by those decisions, but by the definition of all unborn babies as being human beings.

Next, this congresswoman says “Nothing in the Roe v. Wade decision prevents Congress from recognizing lives of the unborn children outside the parameters of the right to an abortion.”

Certainly not! Nothing prevents Congress from passing a Human Life Amendment and prohibiting the Court from reviewing it!

But once Congress recognizes the humanity of the unborn, that recognition cannot remain “outside the parameters of the right to an abortion”! That recognition *ends* “the right to an abortion”!

I strongly urge my colleagues to support the original provisions of the Unborn Victims of Violence Act because they recognize clearly what most Americans back in our districts feel, that violence against an unborn child is a crime just as heinous as the attack on its mother.

Mr. NADLER. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from Wisconsin (Ms. Baldwin).

Ms. BALDWIN. Mr. Speaker, I rise today in opposition to H.R. 1997, the Unborn Victims of Violence Act.

Let us be clear: This bill is nothing more than an attack on a woman's right to choose. By defining the phrase “child in utero” to include any member of the species *Homo sapiens* at any stage of development who is carried in the woman, this bill provides protections for an embryo or fetus, regardless of the stage of development, from conception to birth. By establishing this fetal personhood in this manner, this bill establishes a legal framework to attack a woman's right to choose as guaranteed by the Supreme Court in the Roe v. Wade decision.

This bill forges new ground in attempting to recognize embryos and fetuses at all stages of development as persons with the same legal status as the mother. In fact, this bill makes no mention of the primary victim of violence, the pregnant woman, and instead creates a new cause of action on behalf of the unborn, and this marks a major departure from existing law and threatens the foundations of the right to choose.

We all agree that every time a criminal causes the injury or death of a pregnant woman through violence, it is a tragedy.

But we must also acknowledge that an attack against an unborn child is necessarily an attack against a pregnant woman. Unfortunately, rather than supporting tougher laws against domestic violence, sexual assault and battery, [we are instead debating a bill that does not even recognize the harm to a pregnant woman.](#)

[[Page H649]]

During the debate, I have heard some Members talk about stories they have heard from people they have met. I remember in Wisconsin hearing testimony of a personal story of a woman who was beaten by her spouse when pregnant and lost her child. She was also beaten right after she first got married and beaten before her pregnancy, and beaten in the early stages of her pregnancy. If we had taken a tough enough approach to violence against women, the violence would not have progressed so far.

I have long been a supporter of the Violence Against Women Act, which expands protections for women against these callous acts of violence. I believe we would be much better served by laws to protect women, pregnant or not, from violence, instead of establishing an entirely new framework to protect fetal rights.

By switching the focus of these crimes, we are diverting attention from the victimized women, and this is not a step forward in the fight against domestic violence.

I urge my colleagues to vote against these bills and then work together to do proactive legislation to better attack violence against women.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. Bartlett).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I rise to support the Unborn Victims of Violence Act and to oppose the Democratic amendment.

H.R. 1997 would state that when a violent criminal act is committed against a pregnant woman, and that act results in the death of the baby, the criminal will be guilty of a second offense.

What this debate comes down to is personhood, according to a well-known liberal activist group. People for the American Way, a group opposing this bill, stated, "Unlike the underlying bill, however, the pro-choice Lofgren substitute would not threaten Roe by recognizing the embryo or fetus as a separate, legal `person.'" That is correct. Today in the House, we declare that criminal acts committed against pregnant mothers are crimes against two persons. What else could it be?

Human beings take different forms throughout life, but they never lose their humanness, their humanity. A baby in the womb will be born a person. A newborn, although it cannot fend for itself, is a person. An 87-year-old that shuffles slowly along is still a person.

Mr. Speaker, when there are two victims, there should be two crimes. I urge the House to pass H.R. 1997.

Editorial comment: This Republican must have slept through the caucus! Wrong answer! This Republican is agreeing with all the Democrats that Republican assurances that this law won't end infanticide's fragile "legality" are a sham!

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms.

Woolsey).

Ms. WOOLSEY. Mr. Speaker, I rise to oppose this bill, and I question how this body could even consider a proposal as dishonest as this one.

This bill is a wolf in sheep's clothing, a proposal to undermine reproductive rights dressed up as a bill to punish violent crimes against women.

We have really important issues that we should be considering, Mr. Speaker, rather than legislation that will undermine a woman's right to choose. We should be focusing this time today on policies that ensure every woman has a healthy pregnancy. We should promote solutions to the tragedy of domestic violence and the many other heinous offenses against women.

If antichoice forces would like to debate whether or not a woman has the right to make her own medical decisions, I am ready for that debate. Our constituents deserve a frank discussion about a woman's right to choose. It is unfair and it is misleading to characterize this bill as anything other than an assault on reproductive freedom in this country.

Mr. Speaker, I urge my colleagues to join me in the opposition of this misleading base legislation and in favor of the Lofgren substitute that protects the pregnant woman without reducing her own rights.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. Ferguson).

Mr. FERGUSON. Mr. Speaker, passing this bill, the Unborn Victims of Violence Act, which is also known as Laci and Conner's Law, should be common sense to us all. I am mystified, frankly, by those who seem to be hysterical in their opposition to this commonsense legislation.

Let us see why this bill is so important. This is a picture of Ashley Lyons. Ashley learned last year that she was expecting; and the joy of the thought of her new child filled her heart. Tragically, earlier this year, Ashley was murdered and her unborn son, Landon, died as well. Was one life lost, or were two? Of course, two people died in that crime. Here is a picture of Tracy Marciniak and her son, Zachariah. While in the 9th month of pregnancy, Tracy was brutally beaten, a crime which resulted in the death of her unborn son, Zachariah. According to some, even some in this very Chamber, according to some in this very chamber Today, there was no murder committed here. And according to some in this very Chamber, Tracy did not lose her child.

Did two people die when Ashley Lyons and her son, Landon, were murdered, or just one? Was a murder committed when Tracy Marciniak was beaten and her unborn son was killed? During the search for Laci Peterson and her unborn son, Conner, in San Francisco, did they find two bodies or did they find just one body?

Mr. Speaker, if my colleagues think nobody died here, that there were no crimes committed here, then vote ``no" on this bill. But if my colleagues can get past the politics and the ideology to see the truth, if they can see the common sense that there were two victims in this crime, that there was a murder committed here and that there were two victims in the Peterson murder case, then they must and they will vote ``yes" on this bill.

Editorial Comment: These are supposedly the brightest minds on the planet, and look how they stumble to focus on the same issue with each other! We have Republican leaders assuring "this bill isn't going to precipitate Roe's 'collapse'." And Democrats unanimously answering "it's going to establish the 'personhood' of the unborn, which there is no way we are going to consider, because that would 'collapse' our sacred Roe v. Wade!" And other Republicans saying "what do you MEAN my precious grandbaby I held in my arms last night isn't a person?!" If America's brightest stumble so to

respond squarely to the issue before them, we really need to be more patient with our friends and families. We can't chalk it all up to deliberately being difficult. These Congressmen genuinely, sincerely aren't tracking. Maybe our friends and families just need a little more time, too. Maybe a lot more time.

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

Mr. Speaker, I will read into the Record some letters that we have here. This bill has been represented as a bill on family violence. We have here a letter in opposition to the bill and in support of the Lofgren substitute from the Family Violence Prevention Fund. It says:

"If Congress is serious about stopping domestic violence against pregnant women and helping women and children who are victims, Members will quickly pass the Domestic Violence Screening, Treatment and Prevention Act, H.R. 1267."

The American Association of University Women is opposed to this bill. The National Women's Law Center is opposed to this bill.

The National Council of Jewish Women is opposed to this bill in which they say that "this bill defines an unborn child as a member of the species homo sapiens at any stage of development. For the first time, it gives separate legal protection to a fertilized egg, embryo, or fetus and mandates penalties for harm to an unborn child equal to those mandated for harm to the woman herself. This legal definition will set a precedent that the anti-choice movement can exploit in its ongoing efforts to equate abortion with murder. And it would establish a foundation on which to build a case that the rights of fertilized eggs, embryos, and fetuses are apart from and superior to the rights of the women in whose bodies they develop.

"The Unborn Victims of Violence Act is a sham designed to exploit the understandable public sympathy for a woman who loses her pregnancy or her life to violence in order to promote an agenda by which women will in fact lose control of their bodies to the State." That is from the National Council of Jewish Women.

The National Abortion Federation, the Religious Coalition of Reproductive Choice, the American Civil Liberties Union, NARAL, People for the American Way, the National Organization for Women, all of these groups are concerned either about abortion rights, about reproductive rights, about women's rights, about domestic violence; and they are all opposed to this bill.

Juley Fulcher of the National Coalition Against Domestic Violence, which is the group that for the last 25 years has led the fight for antidomestic violence legislation in the States and in the Congress, testified against this bill in our committee, and I commend her testimony to my colleagues.

Mr. Speaker, I will insert all of these letters into the Record at this time.

[[Page H650]]

Family Violence Prevention Fund,

Washington, DC, January, 27, 2004.

Hon. Jerrold Nadler,
Rayburn House Office Building,
Washington, DC.

Dear Representative Nadler: On behalf of the Family Violence Prevention Fund, I am writing to express concern about the Unborn Victims of Violence Act, H.R. 1997, passed by the House

Judiciary Committee on January 21. We are deeply disappointed that some are promoting this bill as a way to end domestic violence, when better and more direct measures to stop family violence languish in Congress year after year.

Members of Congress who want to stop abuse will put their energy into passing the prevention and intervention measures that offer great promise to stop violence before it starts.

The murder of Laci Peterson was an unspeakable tragedy, but many laws designed as quick fixes have caused great harm. For example, mandatory domestic violence health reporting laws deter women from seeking the medical help they need. We need to step back and consider what actually works. Our goal must be to stop violence against all women, regardless of whether they are pregnant.

If Congress is serious about stopping domestic violence against pregnant women and helping women and children who are victims, Members will quickly pass the Domestic Violence Screening, Treatment and Prevention Act, H.R. 1267. This essential bill would train health care providers to routinely screen female patients for a lifetime history of abuse and give women access to critical domestic violence services when abuse is identified. Introduced in the House in March of 2003 by Representative Lois Capps (D-CA) and Steven LaTourette (R-OH), this bill has the potential to prevent tragedies by helping victims before violence escalates.

We also urge Congress to fully fund all Violence Against Women Act programs and support legislation that would actually prevent domestic violence before it begins. Domestic violence prevention legislation should include services for children who are exposed to abuse, programs that support young families at risk of violence, and efforts to teach young men and boys how to develop healthy, non-violent relationships. Such legislation would do much more to stem the tide of domestic violence than the Unborn Victims of Violence Act.

Finally, we wish to thank you for your continued leadership and support on this issue. As an advocate in Congress and as one of our Founding Fathers, you truly make a difference in the movement to end violence against women and children. If we can be of assistance, please do not hesitate to contact

Kiersten Stewart in our Washington, D.C. office at 202-682-1212.

Sincerely, Esta Soler, President, Family Violence Prevention Fund.

American Association of
University Women,
Washington, DC, January 27, 2004.

Oppose the H.R. 1997--The Unborn Victims of Violence Act

Dear Representative: On behalf of over 100,000 members of the American Association of University Women (AAUW), we express our deep opposition to the Unborn Victims of Violence Act (H.R. 1997). AAUW opposes H.R. 1997 because it would create a separate criminal offense if an individual kills or injures an "unborn child" while committing a federal crime against a woman. AAUW believes that the bill fails to directly address the real problem--violence against women--and ignores the needs of the woman by dismissing the fact that any assault that harms a pregnancy is inherently an attack on the woman.

AAUW has spent the last century fighting for protections for women and children from all forms of violence. [AAUW has also worked tirelessly to protect a woman's right to choose.](#)

[These two priorities should never come into conflict, but H.R. 1997 pits one against the other in an unnecessary attack on the legitimacy of Roe v. Wade. H.R. 1997 attempts to thwart a woman's right to choose by undermining that landmark Supreme Court decision, which held that fetuses are not persons within the meaning of the Fourteenth Amendment. H.R. 1997 attempts to recognize a fetus as a person,](#)

with rights separate from and equal to those of a woman, and worthy of legal protection. Rather than creating separate legal rights for the fetus, Congress should bolster its efforts on behalf of pregnant women by enhancing the penalties for the underlying crime against the woman.

Once again, we urge you to oppose H.R. 1997. If you have any questions, please call Lisa Maatz, Director of Public Policy & Government Relations, at 202/785-7720, or Lynsey Morris, Government Relations Manager, 202/785-7730.

Sincerely, Nancy Rustad, President. Jacqueline E. Woods, Executive Director.

National Women's Law Center,
Washington, DC, January 20, 2004.

Dear Senator: On behalf of the National Women's Law Center, we are writing to ask you to oppose H.R. 1997, "The Unborn Victims of Violence Act." This bill not only ignores the violent crime against the woman but also **sets a dangerous federal precedent that will undermine a woman's right to choose.**

Acts of violence against women, and most certainly against pregnant women, are abhorrent, and the criminal justice system should respond decisively and strongly to them. But H.R. 1997 is not the proper response. This bill would create a separate offense for harm or termination of a pregnancy at any stage of development during the commission of any of several federal criminal acts. H.R. 1997 fails to recognize the violence to the woman and ignores the reality that any attack that harms a pregnancy inherently is an attack on the pregnant woman herself. At a past House Judiciary Subcommittee on the Constitution Hearing on this bill, domestic violence expert Julie Fulcher testified against the bill, stating, "The 'Unborn Victims of Violence Act' is not designed to protect women. . . . The result is that the crime committed against a pregnant woman is no longer about the woman victimized by violence. Instead, the focus often will be switched to the impact of that crime on the unborn fetus, once again diverting the attention of the legal system away from domestic violence or other violence against women."

This legislation would also unnecessarily inject the abortion debate into the federal criminal system. It creates a separate offense for harm to the "unborn child," which it defines as "a member of the species homo sapiens, at any stage of development, who is carried in the womb," and punishes this violation as if the offense had occurred to a person. If enacted, it would be the first federal law where a zygote, blastocyst, embryo or fetus could be an independent victim of a crime, and thus a "legal person" with the same legal rights as live-born individuals. Thus, this legislation conflicts with the legal principles underlying the Supreme Court's decision in *Roe v. Wade*.

Moreover, the bill's construction and vague language ensures that prosecutions will get bogged down in arguments about when life begins--discussions better held by constitutional scholars, academics, clerics and philosophers, not by juries in criminal courts. Ultimately, the bill as crafted provides a vehicle for yet another challenge to *Roe* and its progeny before the United States Supreme Court. A much simpler bill could have been crafted to create new federal anti-crime legislation--rather than anti-abortion legislation.

Editorial comment: I marvel at the arrogance of this National Women's Law Center to want juries to stay out of the abortion question and leave it to the "legal experts", especially when *Roe* itself based its "collapse clause" on whether the "suggestion of personhood should be established", not by legal experts since the Supreme Court counts itself the world's experts on law, but by finders of fact! Now look at this scenario for a challenge to *Roe*: not by

some state criminalizing a law and having it reviewed by the courts, but by a defendant in a criminal trial! So exactly what kind of crime does the author envision? What kind of defendant would invoke this law in his defense? It would have to be someone tried for violence against an abortionist. There have been nearly 100,000 defendants in the past, counting defendants for the peaceful “crime” of blocking infanticidist’s doors. But since FACE was enacted in 1992, raising the penalty for door blocking 3 times to about the same as for shooting an abortionist, the shootings started and the door blocking stopped.

In short, what you are reading here is a prophecy that the final challenge to Roe will come from someone shooting and probably killing an abortionist. That was in 2004. Five years later, May 31, 2009, Scott Roeder shot and killed America’s most notorious late-term abortionist, George Tiller, and in his pro-se brief which he inserted into the record January 8, 2010, (a brief assembled by me, but the information about this law came from other sources), Roeder argues that this very law has occasioned the “collapse” of Roe v. Wade, just as the National Women’s Law Center prophesied.

The jury was not allowed to know the issue even existed, in the original trial. It is now being appealed; if the appeal is successfully, there will probably be a new trial.

We look forward to working with you on legislation that truly addresses the tragedy of a pregnancy lost due to a violent crime. Other proposals are being developed that focus on the attack on the woman and resulting harm to her fetus. These alternatives would allow for swift and efficient prosecution of criminal wrongdoers and [would not undermine the legal principles underlying a woman's right to choose. We urge you to oppose H.R. 1997--although it purports to aid women, in reality this bill not only ignores women crime victims but undermines their constitutional rights.](#)

Sincerely, Marcia D. Greenberger, Co-President. Judy Waxman, Vice President, Health and Reproductive Rights.

National Council of
Jewish Women,
Washington, DC, January 2004.

Dear Representative: On behalf of the 90,000 members of the National Council of Jewish Women, I urge you to oppose the “Unborn Victims of Violence Act,” (S. 1019) which purports to protect pregnant women by enhancing penalties for criminal acts that harm an “unborn child.” Recognizing harm to an “unborn child” that is injured in the commission of a crime does nothing to help pregnant women that are victims of violence. It merely aids the anti-choice movement in establishing separate legal status for the fetus.

The Unborn Victims of Violence Act defines an “unborn child” as “a member of the species homo sapiens, at any

stage of development." For the first time, it gives separate legal protection to a fertilized egg, embryo, or fetus, and mandates penalties for harm to an "unborn child" equal to those mandated for harm to the woman herself. This legal definition will set a precedent that the anti-choice movement can exploit in its ongoing efforts to equate abortion with murder. And, it would establish a foundation on which to build a case that the rights of fertilized eggs, embryos, and fetuses are apart from and superior to the rights of the women in whose bodies they develop.

The "Unborn Victims of Violence Act" is a sham, designed to exploit the understandable public sympathy for a woman who loses her pregnancy or her life to violence in order to promote an agenda by which women will in fact lose control of their bodies to the state.

If you have any questions, please contact Carolyn Ratner, Senior Legislative Associate, at 202-296-2588.

Editorial comment: Now I understand why the discussion lacks precision. Notice *no one* spells out *how* this law will "undermine" Roe: by satisfying its "collapse clause". No one even mentions the "collapse clause", even though the Democrats imply it by painting a scenario which can only happen by authority of the "collapse clause".

So why does no one paint their grim scenario in that much detail? Because these Congressmen aren't thinking for themselves: they are just quoting what was written to them in letters. So why don't the letters explain this detail? Probably because they don't want to make it too easy for Republicans to figure it out, in case the bill passed into law, which of course it did.

Because the Democrats did not spell out these details, the Republicans did not respond to them.

Now this raises the question, why were these Congressmen so shy about thinking for themselves? Is it really that they actually didn't know these details? Could they not have understood the "collapse clause", and what it takes to trigger it and end infanticide's fragile "legality"? Am I that much brighter than all of them, that I know how this works and none of them do?

Be honest, is that what you think I think? Which of course would be grounds for dismissing me as impossibly arrogant.

No, that is not what I think.

I have a friend who is the leader of a Christian organization, and he is a

good lawyer. When I showed him the arguments for the “collapse” of Roe through Laci’s Law, he looked at it, was impressed, but decided, before endorsing the project, to run it by Americans United for Life, whose team of attorneys he trusts. As of this writing I’ve been waiting about a month for word back. I thought about his response. I thought about what must go through his mind. He is a lawyer. My arguments aren’t that complicated. The relevant law is only a couple of paragraphs. He is a prolifer, so he has already heard the standard reasoning about Roe’s “collapse clause” a thousand times. Yet he hesitates to be the one to publicly observe, “Emperor Abortion has no clothes!”

I suppose I can sympathize. He is under greater public scrutiny than I. If he makes a mistake it will prove costly to him and his very important organization.

I had the same response from a candidate running for a legal office. A fine lawyer whose legal credentials are respected by the party. Initial strong agreement, yet hesitation to publicly endorse, without consulting others more “expert”, a process which unfortunately takes weeks. Indeed, had this candidate endorsed my arguments, and made a mistake which reporters could follow, it would be the end of the political campaign.

I think these factors more than account for the hesitancy of congressmen to go beyond the simplistic scenarios in their letters from their constituent “experts”.

They’re even parroting the misstatement that “for the first time in federal law”, an unborn baby is given its own rights, even after the Republicans pointed out that the same language was in the 2000 law. They’re sticking to their script well. It takes courage to stray even that far.

I believe this accounts for why babies are still dying: because our brightest leaders fear for their reputations, lest they be caught in a mistake.

As for the National Right to Life, its fact sheet, cited earlier in my notes, flatly says, without explanation, argument, or citation, that this law won’t undermine Roe. Since that was a politically expedient thing to say in order to get enough votes to pass the bill, political expedience more logically accounts for the NRLC statement than legal reasoning. The problem is that once the NRLC statement was made, and relied on by Republican leadership, how could they reverse themselves later and say “oops, our bad! I guess the Democrats are right, and now that we have the law, we can overturn Roe

after all!" If they did that, then all these congressmen who need IRLC to go out on a limb for them will have less confidence in them in the future!

Now that I understand this, or at least I have an explanation of why babies are still dying that seems plausible enough to me to account for what is happening, I see what a Pact with the Devil this is! Understate the power God has given you to stop evil, in exchange for getting God's enemies to be a little less afraid to vote with you; but then after they do, then you have to restrain your use of God's power to conform with the misrepresentation you made of it!

National Abortion Federation,

January 27, 2004.

Representative Nadler,
Rayburn House Office Building,
Washington, DC.

Dear Representative Nadler: On behalf of the National Abortion Federation (NAF), I am writing to thank you for your principled opposition to H.R. 1997, "The Unborn Victims of Violence Act." This legislation poses

[[Page H651]]

a direct threat to a woman's right to choose a safe and legal abortion by granting personhood to a zygote, blastocyst, embryo, and fetus separate and apart from the woman.

NAF opposes this legislation because it does nothing to protect pregnant women. Not a single provision of the bill addresses the underlying problem of violence against women. Instead, the bill emphasizes the fetus over the woman, diverts attention away from violence against women, and fails to recognize that the best way to protect a fetus is to better protect women from violence.

The supporters of the bill claim that they want to protect pregnant women. The true intent behind this bill--to dismantle *Roe v. Wade* and undermine a woman's right to choose has been exposed. Additionally, this bill would set a dangerous legal precedent by establishing in law that an "unborn child" is an individual separate from a woman, and by elevating its status above that of a woman. The legislation makes no distinction between a fetus that is nine months old, an embryo that is six weeks old, a blastocyst that is four days old and has yet to implant in the uterus, and a zygote that is two hours old and has yet to split into more than two cells. By granting full personhood to a fetus, embryo, blastocyst, and zygote, the bill threatens to set the stage for a complete prohibition of abortion.

Acts of violence against women, including pregnant women, are intolerable, and the criminal justice system should respond to them. H.R. 1997, however, is not the right response. Thank you again for your vote against this legislation, and for your continuing support of a woman's right to choose.

Sincerely, Vicki Saporta, President & CEO.

Religious Coalition for
Reproductive Choice,
Washington, DC, January 27, 2004.

Representative Jerrold Nadler,

House of Representatives,
Washington, DC.

Dear Congressman Nadler: I am writing to express my strong opposition to the so-called "Unborn Victims of Violence Act," H.R. 1997, which was recently reported out by the House Judiciary Committee.

The bill recognizes a fertilized egg, zygote or fetus as a person by explicitly stating that any human "in utero" is a "child," regardless of gestational length. Thus the bill seeks to impose one religious belief about the beginning of life--that the fetus at all stages of development is a person--and make it the law for all, regardless of individual beliefs. As an interfaith coalition, we believe that government must not impose one religious view about any issue on everyone.

The claims by UVVA supporters that this bill is about preventing violence against pregnant women are preposterous.

Their unwillingness to consider the amendments offered in committee by Reps. Lofgren, Baldwin and Scott shows that their aim is to establish fetal personhood and fetal rights, rather than to address the serious problem of violence against pregnant women.

The main purpose of this bill is to identify the fertilized egg or fetus as a separate "person" with legal rights distinct from those of the pregnant woman, and thus lay the foundation for overturning *Roe v. Wade*. I strongly urge its defeat.

Sincerely, Rev. Carlton W. Veazey, President and CEO.

American Civil Liberties Union,
Washington, DC, January 20, 2004.

Oppose "The Unborn Victims of Violence Act" (H.R. 1997) During
Tomorrow's Judiciary Committee Markup

Dear Representative: The ACLU strongly urges you to oppose H.R. 1997, deemed by its sponsors "The Unborn Victims of Violence Act," when it is marked up in the House Judiciary Committee tomorrow. This bill unnecessarily undermines reproductive freedom, when alternative approaches to punishing violent crimes against women exist.

H.R. 1997 would amend the Federal criminal code to create a new, separate offense if, during the commission of certain Federal crimes, an individual causes the death of, or bodily injury to, what the sponsors call a "child in utero."

Because H.R. 1997 applies to all stages of prenatal development, it would be the first Federal law to recognize a zygote (fertilized egg), a blastocyst (pre-implantation embryo), an embryo (through week eight of a pregnancy), or a fetus as an independent "victim" of a crime with legal rights distinct from the woman who has been harmed by a violent criminal act.

The ACLU fully supports efforts to punish acts of violence against women that harm or terminate a wanted pregnancy. This bill is an inappropriate method of imposing such punishment, however, because it dangerously seeks to separate the woman from her fetus in the eyes of the law. It could dramatically alter the existing legal framework, elevate the fetus to an unprecedented status in Federal law, and undermine the foundations of the right to choose abortion.

In addition, H.R. 1997 explicitly disavows a mens rea (or criminal intent) requirement with respect to the harm to the fetus and thus is in tension with the Constitution's Due Process guarantees. The bill permits a person to be convicted of the offense of harm to a fetus even if he or she did not know, and had no reason to know, that the woman was pregnant, and he or she did not intend to cause harm to the fetus. Such a result undermines the Constitution's promise of due process.

Criminal interference with a woman's right to bear a child should be prevented and punished. Legislation that imposes enhanced penalties for violent acts that intentionally compromise a pregnancy appropriately punish the additional injury a woman suffers [without recognizing the fetus as a legal entity separate and distinct from the woman who has been harmed](#).

For these reasons, we strongly urge you to vote against H.R. 1997 when it is considered in the Judiciary Committee.

Sincerely, Laura W. Murphy, Director. Gregory T. Nojeim, Associate Director and Chief Legislative Counsel.

NARAL Pro-Choice America,

January 23, 2004.

Hon. Jerrold Nadler,
House of Representatives,
Washington, DC.

Dear Representative Nadler: I write to reiterate NARAL Pro-Choice America's opposition to H.R. 1997, the so-called Unborn Victims of Violence Act.

[This legislation recognizes a second legal "person" when a pregnant woman is a victim of certain federal crimes. Sponsors claim the bill is aimed at violence against women, and at first blush, their proposal may seem reasonable or innocuous. Indeed, NARAL Pro-Choice America strongly believes that acts of violence against women, especially pregnant women, are tragic and should be punished to the full extent of the law. But sponsors of the Unborn Victims of Violence Act are not interested in addressing the real issues at hand.](#)

Unfortunately, a close examination reveals that the bill is not designed to protect pregnant women from violence. Instead, it is carefully crafted to undermine a woman's right to choose. The bill creates a separate federal offense if, during commission of certain crimes, a person causes death or injury to the sponsors call "a member of the species homo sapiens at all stages of development." For the first time in federal law, this bill recognizes a zygote (fertilized egg), blastocyst (preimplantation embryo), embryo (through week eight of a pregnancy), and fetus as a "person" that can be an independent victim of a crime.

For the first time in federal law, this legislation would grant an embryo rights separate from, and equal to, those of a woman. Any doubts about the sponsor's true motives have been erased. Indeed, one of the bill's lead sponsors admitted: "They say it undermines abortion rights. It does. But that's irrelevant." Similarly, a prominent anti-choice advocate has observed: "In as many areas as we can, we want to put on the books that the embryo is a person . . . That sets the stage for a jurist to acknowledge that human beings at any stage of development deserve protection--even protection that would trump a woman's interest in terminating a pregnancy."

While NARAL Pro-Choice America agrees that crimes against pregnant women should be punished, there are other ways to accomplish that goal that do not embroil the issue in the abortion debate. When the Judiciary Committee considered the bill, members offered a number of sensible amendments, each of which would have represented a more responsible and effective option. Unfortunately, anti-choice committee members defeated each attempt, for one reason only: it did not grant legal "personhood" status to an embryo or fetus. Finally, it is important to note that domestic-violence organizations--which take no position on legal abortion--oppose the Unborn Victims of Violence Act. The National Coalition Against Domestic Violence testified that this legislation excludes the woman entirely from the equation and could end up exacerbating, not improving, vulnerable

women's circumstances. If Congress were truly interested in protecting women, it could enact sensible policies that help prevent, intervene against, and provide services for women who are victims of domestic violence and other violent crimes.

NARAL Pro-Choice America shares their concern and urges Congress instead to pass common-sense measures that help women, and do not undermine their rights.

Thank you for your consideration.

Warm regards, Kate Michelman, President.

Editorial comment: Amazing, how much all these letters have in common! They all say “for the first time” federal law will give personhood rights to zygosomes and blastocysts – always the same list of unborn baby stages! Makes you wonder who wrote the template, and when? And how one gets the job of template writer?

People For the American Way,

Washington, DC, January 23, 2004.

House of Representatives,

Washington, DC.

Dear Representative: On behalf of the more than 600,000 members and activists of People For the American Way, we are writing to oppose H.R. 1997, the “Unborn Victims of Violence Act.” **While purporting to protect pregnant women from violence, this bill threatens the foundation of the landmark Roe v. Wade decision by establishing legal “personhood” for embryos and fetuses.**

Violence against pregnant women is tragic and deserves to be punished. To this end, People For the American Way strongly supports efforts to protect women from violence

[[Page H652]]

and to address the fact that homicide is the leading cause of death among pregnant women. **However, the “Unborn Victims of Violence Act” is not the answer, for it holds the noble goal of protecting pregnant women from violence hostage to language threatening women's right to choose.**

By contrast, the substitute bill that Rep. Lofgren offered in the Judiciary Committee serves the goal of protecting pregnant women without at the same time threatening women's reproductive freedom. Like the underlying bill, Rep. Lofgren's “Motherhood Protection Act” would authorize additional penalties for violence against pregnant women--up to 20 years when an embryo or fetus is injured and up to life in prison if a pregnancy is terminated. **Unlike the underlying bill, however, the Lofgren substitute would not threaten Roe by recognizing the embryo or fetus as a separate legal “person.”**

We strongly urge you to protect pregnant women and a woman's right to choose. Oppose the Unborn Victims of Violence Act and instead support the Motherhood Protection Act. **Pregnant women deserve additional protection against violence, but they should not have to pay for it with their reproductive freedom.**

Sincerely, Ralph G. Neas, President. Marge Baker, Director of Public Policy.

National Organization for Women,
Washington, DC, January 26, 2004.

Honorable Member,
House of Representatives,
Washington, DC.

Dear Representative: The National Organization for Women opposes H.R. 1997, formerly titled the Unborn Victims of Violence Act of 2003 (UVVA) and now called Laci and Conner's Law. This bill would advance the legal status of an embryo or fetus, making it equal to that of a pregnant woman and, consequently, would seriously erode the rights guaranteed under Roe v. Wade.

Through this legislation, sponsors are attempting to establish in law the extreme view that the legal rights of an embryo are separate from, and different from, the pregnant woman's--and then to press for additional statutory provisions that would overturn a basic tenet of the Roe decision.

The Supreme Court has held that fetuses are not legal "persons" within the meaning of the Fourteenth Amendment of the U.S. Constitution; this is an important holding that should be safeguarded. Changing the criminal system to include independent prosecution for injuring a fetus is a dangerous legal precedent that would have broad implications in limiting women's rights.

Editorial comment: My mission is to document the legal reasoning by which Democrats and infanticidist legal teams foresaw the end of infanticide's fragile "legality" through this law. It is a bit daunting since they don't give it. But there are additional clues here.

We hear of "a basic tenet of the Roe decision", which apparently is "that fetuses are not legal 'persons' within the meaning of the Fourteenth Amendment". We read that somehow this law would "change the criminal system" is a "dangerous legal precedent" that somehow has the power to challenge this "basic tenet"?

The Republicans are saying that Roe says they are not persons, and this law says they are persons, but this law can't cancel Roe's statement. But these Democrats, and NOW, are saying when this law passes and establishes the unborn as persons, that WILL upset Roe's "basic tenet". The only detail not specified is the precise phrase in Roe that would make Roe vulnerable to this law, and that would be the "collapse clause".

A further defect is that there is no requirement that the perpetrator knew of the pregnancy or intended to harm the fetus. Without a showing of intent--a key component of criminal law--prosecuting such cases would be extremely difficult.

Editorial comment: OK, maybe this is a misprint. Not having to prove intent makes prosecution easier, not more difficult. If NOW imagines other requirement of law require proving intent, this law does not prohibit proving it.

In addition, H.R. 1997 does not provide additional protections for pregnant women, who are often the target of violent assault. If Congress truly wants to protect pregnant women, then a revision is needed of the bill's language to more appropriately focus on the woman. Over 20 states have enhanced penalties for a crime against a pregnant woman that results in a miscarriage or interruption of normal fetal development. Congress could follow suit by increasing or by directing judges to escalate the penalty according to the gestational stage of the pregnancy when the harm was inflicted.

We believe that if UVVA is adopted, opponents of women's reproductive rights fully intend to broaden the law to allow women to be sued for harm to their fetuses--a frightening scenario that is being tested in several states.

Planned Parenthood,
Washington, DC, January 23, 2004.

Hon. Jerrold Nadler,
House of Representatives,
Washington, DC.

Dear Congressman Nadler: As you know, on Wednesday, January 21st, the House Judiciary Committee marked-up the so-called "Unborn Victims of Violence Act," (H.R. 1997) passing the bill out of committee. We greatly appreciate your help and support in defeating [this dangerous legislation](#).

Planned Parenthood recognizes that the loss of a pregnancy through violence to a woman is a tragedy for the woman and her family. Violence against women, in particular pregnant women, continues to be a significant problem in this country, and begs for legislation that protects women against violence. [However, H.R. 1997 does nothing to protect women.](#)

[It purported aim, to protect "unborn children" from violence, is misguided at best. On its face, this bill creates a penalty for violation of a number of criminal statutes if, in the course of commission of these crimes, an "unborn child" is injured or killed. The dangerous reality of the bill, however, is that it would elevate the legal status of the fetus to that of an adult human being. This is merely the first step toward eroding a woman's right to choose. The loss of a wanted pregnancy is always a tragedy, but solutions should be real, not political.](#)

Planned Parenthood fully supports a woman's right to choose, including a woman's right to choose to carry a pregnancy to term. Because H.R. 1997 does nothing to protect women and because its clear intent is to create fetal personhood, Planned Parenthood Federation of America opposes this legislation. We believe that Congress should adopt a more reasoned approach that would protect all women from violence.

Again, on behalf of the Planned Parenthood Federation of America and the millions of women who use our services, I want to thank you for strong opposition to this legislation.

If we can be of any assistance, please feel free to contact our office.

Sincerely yours, Gloria Feldt, President.

[Mr. Speaker, let me simply reiterate again and summarize this debate. Do we oppose violence against women? Obviously. Do we think that when someone assaults a pregnant woman and harms the fetus, it is an additional crime, a separate crime deserving of additional and separate punishment? Yes. Does the substitute make it a separate crime? Yes. Does the substitute give it additional punishment equal to or even more severe than in some cases in this bill? Yes.](#)

[What is the difference here? The difference between the bill and the substitute is only that we believe it is a separate crime against the woman. The bill makes it a separate crime against a new victim, a separate victim, the fetus. It counts the fetus as a full person for the purpose of this crime, and every speaker who has risen on the opposite side has said that, and I agree that that is what it does. We disagree with that, because it goes against all of our legal tradition, and it goes against the rationale of the Supreme Court in upholding abortion rights; and its purpose is to lay the foundation for laws that](#)

would criminalize abortion because, **after all, if the fetus is a person, then abortion is murder. It lays the foundation for laws that would restrict the liberty of pregnant women because, after all, if the fetus has rights equal to or superior to those of the pregnant woman, then we have to restrict her liberty and her actions to protect the fetus.**

These things we are not prepared to do, and that is the debate on this bill; and that is why I urge defeat of this bill and support of the Lofgren substitute.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. Hyde), who will close the general debate on this side.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, first of all, let me say, I am very happy that the gentleman from New York (Mr. Nadler) was never aborted. I am glad he is here. He stimulates the discussion. He is even fun, on occasion; and I am very glad that the gentleman survived.

I also would like to say that yesterday, I heard two gentlewomen from the other side complain that they have kept a scorecard, and over 200 times in the immediate years we have had to vote on abortion. That was a considerable annoyance to them, and I regret that. But I do not think any single issue defines the difference between the two sides better than that remark about having to vote 200 times on abortion, because that indicates that abortion is not all that important to them. After all, it is a thing. It is a commodity. It is a throw-away, used Kleenex; but it is not a life, a human life.

Now, of course, we feel differently. We feel it is a human life. We feel it is entitled to respect and dignity, and it is entitled to due process of law. And, of course, they deny that.

{time} 1200

So that concern that we have had to debate this issue too much, it seems to me, defines the positions of the two sides.

Now, some years ago, in fact it was **1841, John Quincy Adams represented 35 slaves from the ship Amistad in a court proceeding where he argued before the U.S. Supreme Court on their behalf, and he told the Court, he said, this is the most important case you will ever hear because it involves the very nature of man. Of course, he was talking about slaves, whom some people held to be commodities, chattels, things that could be bought and sold or thrown away if need be, but less than human, and so that case did involve the nature of man, and so do we.**

I am sorry that we get another check in the scorecard because we are discussing this one more time, but I will suggest to my friends on the other side,

[[Page H653]]

you will never get rid of this issue as long as there are people who are sensitive to the notion that all human life is precious and deserving of protection, especially the vulnerable, the weak, the small, the defenseless that cannot rise up in the streets, cannot escape, but is disposable by your ethic.

I would like to see a little honesty in this debate. By that I mean stop with the euphemisms. **Right to choose, my goodness, everybody's for the right to choose. It is what you are choosing that is important.** There is only one choice, a dead baby or a live baby. But the right to choose is a process, it is not substantive.

They refer to the unborn as a fetus or as the product of conception. All these euphemisms, these

marketing tools, let us call it what it is. Why do you shy away from the word abortion? Abortion, the only time you use it is when you point the finger at us and say we are against abortion, and in that you are quite right.

Well, Mr. Adams before the Supreme Court presented the question as to whether slaves were worthy of protection under the law, whether they had value, and that is the issue here. You deny personhood, which is a legal concept, to the unborn; when is a person a person when you do not really know. **The Court took a pass on that, and of course you take it.** It is a legal construct. A personhood belongs to the human aspect of life; not animal, not vegetable, not mineral, but a person, personhood.

I assign personhood to a tiny entity, a fertilized egg. I guess it is very small, even pre-microscopic, but it is the beginning of the human life, and if you deny that, you are kidding yourself, and you are clinically primitive because that is not so. You want to deny any dignity, any value, any status, any standing to an unborn child. Never mind the sonograph, never mind what your senses tell you, never mind that the pregnant woman knows she is carrying her baby, her baby. Never mind that, because it is tough to argue for killing, which is what abortion does. It kills a baby. You will not admit that. You will say it is an exercise of reproductive rights, apt alliterations, artful aid.

Well, what we are talking about here in this bill is saying that little unborn child has value, that little unborn child is intrinsically precious and valuable and deserving of standing in the law and protection, and to deny that, of course, is no surprise for some of you. Some of you felt partial-birth abortion was okay. They are the babies fourth-fifths born and is almost out of the birth canal, and the means of killing that baby is grotesque, but if you can stomach that, well, a little thing like this ought to be no problem.

Well, I say it is a problem, and I say we do not need permission to discuss it. We do not have to ask if it is already all right if we go 201 times on this question. The dignity, the personhood, the substance of an unborn child is what we are speaking for, and you are denying it. You are saying it is subhuman, it is less than significant. I do not question anybody's motives, but I do question your judgment, your sensitivity and your imagination. You cannot imagine that little tiny speck of humanity as a member of the human family, and you get so locked into that non sequitur that as time goes on and it is almost born, you still cannot admit that it is a human life deserving of protection.

So this is a good bill. It does not impact on a woman's right to choose because specifically it eliminates any impact this bill has on abortion, whether the doctor or the mother or not, and so it is really a no-brainer in that we spend so much time trying to dispute that a woman who is pregnant has another little party in her womb. It could be another gender. Woman is a female, and the baby is a male. It could be a different blood type. We spend a lot of money on doctors performing miracles of surgery to save little children, and here you want to justify throwing it away because somebody does not want it.

Well, here is an opportunity to not restrict the liberty of a pregnant woman, but to enhance the sanctity of human life and defend what, under your rubric, would be defenseless.

So I hope this bill passes. I regret the gentlewoman from California's (Ms. Lofgren) substitute because it dehumanizes, it desensitizes, it reduces in standing and status the unborn, who needs our protection more than anything in the world because they are alone and defenseless. So I hope that we support this bill, the underlying bill. I hope we defeat the substitute, which demeans the humanity of the little defenseless child who we should be standing with and holding up and defending.

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

Mr. Speaker, I congratulate the distinguished gentleman from Illinois for the passion he brings to this discussion, but more than that, for the clarity and honesty he brings to this discussion, for he has swept away much of the rhetoric and much of the underbrush which impedes a clear view of this and defined

the real issue.

This is a bill about abortion, as he quite clearly recognizes. Both the bill and the substitute have the same practical impact. They both define two crimes. They both define the same penalties. They both have the same deterrent effect. That is not the issue, as he recognizes.

The bill defines the fetus as a person from the moment of conception. The substitute does not recognize the fetus as a person, for legal purposes, from the moment of conception. That is the difference, and that is the core of the abortion debate, as the distinguished gentleman recognizes.

The people who believe abortion to be murder believe a fetus, a zygote, a blastocyst is a person, a full human person with full and equal and legal rights from the moment of conception. We do not. We do

not use the euphemism "a right to choose" as a euphemism for abortion. We support a woman's right to choose to have an abortion if she wishes. We support a woman's right to bear a pregnancy to term if she wishes. That is why we say we support the right to choose.

Abortion is clearly troubling emotionally and intellectually to many people. I, for one, and I can only speak personally, would find an abortion of a 9-month pregnant fetus, that is to say, a 9-month-old fetus, a horror, and I believe it is, in fact, illegal, except to save the life of the mother. On the other hand, I do not believe that a two-cell zygote after conception is a human being. I do not believe that. I believe that it has the potential. It obviously has the potential to become a human being, but it is simply two cells, and I have no compunction about an abortion of a group of cells. I do not believe it to be a human being.

That question, whether a small clump of cells or an embryo is a human being or not, is not a question that we are ever going to agree on. The chairman said the abortion debate is going to be with us forever, and I think he may be right, certainly a long time. We are not going to disagree on that question.

The difference is I respect everyone's right to their opinion, whether informed by physiology, by religion, by morality, by their concept of morality, to make that decision for themselves as to how they regard a blastocyst or a zygote. Some religions declare it a human; some religions say no. I do not think it is the job of Congress to dictate to people how to make that very personal, moral decision. I believe that decision is one which must be left to a woman.

If a woman says that, to me, as the woman, the embryo at early stage of development is a human being, and I will not have an abortion even if it risks my life, I will respect that decision. She is entitled to it. I would not support Congress coming in and saying we will save her life despite her will if she is competent because we do not agree with her moral decision. On the other hand, if she says, my moral decision is that I do not believe an early embryo or fetus is a human being and I want to have an abortion, that is her decision. I will not want Congress or the State legislature or the President to say, you are wrong morally, my moral conviction is superior to yours, and therefore, I will use the power of the State, the power of compulsion to put my moral conviction over yours. That is the debate here.

This bill is mostly a sham. **The distinguished gentleman from Illinois takes the sham away and says what is really at stake, what is really the issue, and the real issue is are we going to say, which we have never said before, we had that Biblical passage**

[[Page H654]]

which I brought, as I said before, I do not think Congress ought to enact Biblical or religious law into civil law, but I brought it to show that in the Biblical times they did not regard a fetus as a person, because if you killed the fetus, you had monetary compensations. If the woman died, there was a capital punishment because the fetus is not regarded as a full person. That brought back, we have not regarded an Anglo-Saxon law, a Roman law up until now, a fetus as a full person.

Now, because of the abortion debate that erupted 30 years or so ago, the last 30 years, people have

tried to change the law to say that we should give legal recognition to the assertion that a fetus or an embryo from the moment of conception is a person for legal purposes. We do not agree with that. This bill would do that. Therefore, we are opposed to this bill.

Some people have that opinion. Some people have that conviction. I respect the conviction. Some religions say so. I respect that. Others disagree. We should not use the power of law to impose that opinion, that theological opinion, that physiological opinion, that moral opinion on people who do not share it and wish to have abortions or other acts that may flow from that.

Editorial comment: This feels like the 20th time some Democrat has whined “some religions say a baby is human. I respect that. Law should not oppose that theology on people with other religions.” My answer: not even Roe treated some whiney Democrat’s personal opinion about imposing theology on someone as relevant. Even Roe treated the issue as a fact question, to be resolved by evidence, presented to triers of fact. (Juries.) If it is really a human being, then killing it is murder, and we have laws against murder, even if some whiney Democrat doesn’t want to impose theology about murder on anyone. The problem is that whiney Democrats and judges say in effect “don’t bother me with the evidence. I’ve already made up my mind.”

That is the distinction here, and this bill is an abortion bill despite not what the gentleman from Illinois said, but some other people said, because, as I said before, the consequences of the defining a second crime, the substitute would do, giving a severe penalty, giving additional penalties, are the same in the bill and the substitute. The difference is the legal underpinning, and the only reason we care about the legal underpinning is because of what it says about the key distinction underneath the legal right to an abortion and the underpinning for Roe v. Wade.

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

Mr. NADLER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, the gentleman, I am sure, understands, because he is a good lawyer, that the unborn has legal status in probate matters where a pregnant woman is an heir or beneficiary and is pregnant and the interests of the child may be different. So a guardian ad litem is appointed. You understand that a woman can be pregnant, and her pregnant child could be injured in the womb and have a cause of action.

{time} 1215

Mr. NADLER. Mr. Speaker, reclaiming my time, I understand, and I am not an expert in probate or estate law, but I do understand that as the fetus gets older, our law gives it more recognition. In fact, the Supreme Court in Roe v. Wade said in the first trimester the interest of the woman and her choice completely prevails, you cannot regulate abortion. In the second trimester there is more of an interest, and, therefore, you can regulate; and in the third trimester after viability, you can prohibit abortion. That is in Roe v. Wade because it recognizes that there is more interest that attaches. I do not deny that, and exactly how much attaches and so forth we can debate in a lot of contexts.

What I am saying is that the definition of the fetus or the embryo as a human being, as a person, for purposes of law in all respects, which is what this bill would do, we have never done. We do not do now, we have never done, and in my opinion we should not because it is one conception. It is a

defensible proposition, but it is not a proposition that many people and religions agree with, and it is not a proposition that we should impose by Congress pro or con. I urge adoption of the substitute, not the bill.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. Watson).

Ms. WATSON. Mr. Speaker, I rise today in strong opposition to H.R. 1997, the Unborn Victims of Violence Act. The bill seeks to recognize a fetus at any stage of development as a person. I think we are all aware scientifically that a fetus cannot survive on its own like a person can. This bill is yet another covert attack on a woman's right to choose waged by extreme thinking. It sacrifices real protections for women at the expense of a politically driven agenda to undercut Roe v. Wade, and I strongly urge my colleagues to reject this antichoice bill.

H.R. 1997 defines the phrase "child in utero" or "unborn child" as a fetus at any stage of development from conception to birth. In effect, the language undercuts Roe v. Wade, which held that a fetus even after viability is not a person for purposes of the 14th amendment. By creating a new Federal crime for bodily injury and/or death of an unborn child, the bill opens a new door of litigation over when life begins in the context of criminal prosecutions.

H.R. 1997 also contributes little to the actual protection of women. Rather than enhancing penalties under existing law for criminal acts against pregnant women, the bill diverts the attention to the fetus. As Juley Fulcher of the nonpartisan National Coalition Against Domestic Violence stated in her testimony to Congress, "The goal of the act is to further a specific political agenda. The result is that the crime committed against a pregnant woman is no longer about the woman victimized by violence."

Make no mistake about it, violence against women remains a serious issue in today's society, and Congress should address the issue. The statistics are shocking but true: The leading cause of death of pregnant women is murder. It is one of the reasons why I support the Lofgren substitute amendment that targets the crime of violence against pregnant women without falling into an antichoice trap. The substitute would create a separate and distinct crime for any violence or assaulting conduct against a pregnant woman that interrupts or terminates her pregnancy in addition to the assault on the pregnant woman. This is the appropriate approach to the issue. I strongly urge my colleagues to reject H.R. 1997 and support the Lofgren substitute.

Mr. COLLINS. Mr. Speaker, the Unborn Victims of Violence Act, H.R. 1997, is a needed and important bill that must be passed.

I believe that we must protect unborn children against acts of violence. It is for this reason that I have cosponsored H.R. 1997. Under current federal law, if a criminal assaults or kills a pregnant woman and causes death or injury to her unborn child, they face no consequences for taking or injuring that unborn life. The Unborn Victims of Violence Act would make any act that causes death of, or bodily injury to, a child who is in utero at the time the conduct takes place, guilty of a separate crime. **If enacted, H.R. 1997 would afford protection to a completely defenseless life form, an unborn child, by creating a separate offense for acts of violence against the unborn child.**

We passed this bill by a solid majority in the last Congress. I am hopeful that this year, our Colleagues in the other body will be able to move this legislation and we can send a final bill to the President for him to sign into law.

We have laws that protect men, women, and children from murder. We should have a law to protect the unborn, the most innocent and helpless of God's creations, from murder. This is a common-sense bill and a necessary bill. I'm proud to be a co-sponsor and proud to support this legislation.

During the vote on H.R. 1997, had I not been traveling on Congressional business, I would have voted, "yea" on rollcall vote 31, final passage for H.R. 1997. I would also have voted "nay" on rollcall vote 30, the Lofgren amendment.

Mr. ISAKSON. Mr. Speaker, I rise today in full support of the Unborn Victims of Violence Act.

Violence with the intent of injuring or killing a woman or any person is wrong and deserves the most severe penalty. Such an act of violence against a pregnant woman is an act against two lives and should be punishable as separate offenses.

We need only look to the Lacy Peterson case in California for clear and compelling evidence for the justification of two separate offenses. Any person intent in causing harm or death through violence and crime against any life must be held accountable for every life.

Mr. STARK. Mr. Speaker, I rise today to strongly oppose H.R. 1997, the so-called "Unborn Victims of Violence Act." I am deeply disappointed that Republicans are using this controversial bill as a vehicle for their blatant attacks on a woman's right to choose.

The Republican majority party could enact a number of serious and meaningful laws that prevent and punish violence against women. However, instead of bringing common-sense measures up for debate, anti-choice lawmakers bring the Unborn Victims of Violence Act to the floor. It's perfectly clear why they're raising it. The Bush Administration--along with Republicans in Congress--are trading the wishes of their conservative base for votes in the upcoming elections.

This bill creates a separate Federal offense if, during commission of certain crimes, a person causes death or injury to what the sponsors of this bill call "a member of the species

[[Page H655]]

homo sapiens at all stages of development." If this bill passes, it will for the first time in Federal law, recognize a zygote, blastocyst, embryo, and fetus as a "person" that can be an independent victim of a crime. This bill does this even though the Supreme Court ruled in *Roe v. Wade* that fetuses are not persons within the meaning of the Fourteenth Amendment.

Let's be clear, this bill will not help address the serious issue of violence against women, which affects nearly one in every three women during their adulthood. If its intent were truly this, I would fully support it. In fact, domestic violence organizations, like the National Coalition Against Domestic Violence--that do not take positions on abortion--oppose this legislation.

The Unborn Victims of Violence Act isn't the right solution. That's why I oppose it and will instead vote for the substitute being offered by my colleague Representative Zoe Lofgren. Her amendment, the Motherhood Protection Act, will help to prevent crimes against pregnant women, rather than embroil the issue surrounding the abortion debate. It would create a second Federal offense for harming a pregnant woman and would impose the same penalties for harm to, or termination of, a pregnancy as the Unborn Victims of Violence Act. But, importantly, the Motherhood Protection Act recognizes the pregnant woman as the primary victims of a crime rather than the fetus. This guarantees appropriate penalties in the law without getting us into a volatile, unnecessary debate over abortion.

Further exploiting the issues of violence against women, anti-choice advocates have resorted to using the unfortunate case of Laci Peterson's murder to push the legislation--even though passage of the Unborn Victims of Violence Act has been one of their top legislative priorities since 1999, long before the Peterson tragedy. Any doubts about the sponsors' true motives were erased when Senator Orrin Hatch told a reporter: "They say it undermines abortion rights. It does. But that's irrelevant."

The Unborn Victims of Violence Act clearly fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Congress should be protecting pregnant women from violent crime without having to resort to controversial bills like the one before us. I ask my colleagues to vote "no" on this deceptive bill, which does nothing to thwart acts of violence, and vote "yes" on the substitute being offered today, a real remedy for assaults made against pregnant women.

Mr. FARR. Mr. Speaker, as a strong supporter of ending violence against women, I look forward to the day that this House debates legislation that will actually make women safer. Unfortunately, the main goal of H.R. 1997 is undermining the freedom of choice, rather than protecting pregnant women.

I strongly oppose H.R. 1997, which provides that whoever causes the death of, or bodily injury to, a fetus, embryo, zygote, or otherwise fertilized cell would be guilty of a separate criminal offense, and the punishment would be the same as if the violent act had been committed against an adult. By elevating a fetus to the same legal status as an adult, this legislation seeks to recognize the existence of a separate legal "person" where none currently exists. **This creates the legal ability to threaten the Supreme Court's decision in Roe v. Wade.** Moreover, H.R. 1997 does not recognize two victims but focuses solely upon providing legal protections for the fetus. the crime perpetrated against the woman is absent from the bill altogether.

The issue of violence against women is a serious and concerning problem that deserves our attention and resources. I support the Democratic substitute to H.R. 1997, the Motherhood Protection amendment. Without unnecessarily engaging in the abortion debate, this substitute creates a new, separate federal offense for any violence or assault against a pregnant woman that interrupts or terminates her pregnancy. Crimes committed against pregnant women are heinous and should be punished to the fullest extent of the law, and **the Democratic substitute accomplishes that without undermining the principles of Roe v. Wade.**

Given the broad attention that many members have focused on this particular issue of protecting women from violence, I am looking forward to similar support for the full funding of the Violence Against Women Act, which is currently funded 200 million dollars below the authorization level.

I encourage my colleagues to support women both in their right to be protected from violence, and in their right to reproductive freedom: support the Motherhood Protection substitute, and oppose H.R. 1997.

Ms. LEE. Mr. Speaker, I rise today to defend a woman's right to choose and to oppose H.R. 1997.

Once again, the Republican leadership is challenging a woman's constitutional right to make decisions regarding her own body.

This is not new legislation; in fact, the anti-choice movement has forced the Unborn Victims of Violence Act through the House twice since 1999.

The bill's true purpose is not to address violent crime against pregnant women. It is, and always has been, a way of undermining freedom of choice.

H.R. 1997 does not recognize two victims. The mother is notably absent from the bill altogether. In fact, H.R. 1997 does not require a conviction for the underlying crime against the woman; the crime against the woman could go unpunished. **The Unborn Victims of Violence Act goes beyond its intent to protect pregnant women and negates all the good it could do by deliberately and unnecessarily conflicting the core principle of Roe v. Wade.**

I challenge my colleagues, male and female, to look at our Constitution and review the freedoms and civil rights that Congress has worked strenuously over our nation's history to protect.

I support the Lofgren substitute because it recognizes the heinous crime of attacking a pregnant woman by creating a new offense to punish violence that results in injury to or termination of a pregnancy, in addition to the crime against the pregnant woman.

I urge you to **vote against H.R. 1997, The Unborn Victims of Violence Act because it chips away at all women's civil rights and freedoms which we must protect.**

Mr. UDALL of Colorado. Mr. Speaker, I rise today in opposition to H.R. 1997, the Unborn Victims of Violence Act and in support of Representative Lofgren's substitute.

On the surface, this bill appears to be an effort to protect pregnant women from violence. However, it actually does little to prevent violence against women, instead it dangerously opens the door to undermine a women's right to choose. The vast majority of domestic violence cases do not occur under federal jurisdiction, thus this bill would not help any of these women.

I believe that if we are going to create a crime for causing harm during a woman's pregnancy, **we should also include efforts to prevent violence against women without opening up the abortion debate.**

H.R. 1997 does not provide protections for the mother; in fact the mother is hardly mentioned in the text of the bill. Instead **it focuses solely on the "child in utero."**

The Lofgren substitute, on the other hand, achieves that which the Unborn Victims of Violence Act only attempts to do. That is to provide protection to pregnant women who are assaulted. And it does this **without opening up the abortion debate**. This substitute focuses on protecting women. Specifically, this substitute will make the assault of a pregnant woman which results in the interruption or termination of her pregnancy a federal offense. I believe the Lofgren substitute does a better job of achieving the intentions of H.R. 1997 supporters than the original bill. Not only does Representative **Lofgren's substitute remove the abortion debate from this bill**, but it provides protection for the mother and her pregnancy, not just the fetus.

It is important to mention that this approach can only be used if the assailant has been convicted of the underlying offense, the assault to the mother. I believe that the best way to protect women from violence is not to attempt to provide legal rights to her fetus, but rather to protect the mother herself, and work to prevent domestic violence first.

The Unborn Victims of Violence Act does not address the issue of violence against women. This bill will undermine a woman's right to choose, and have little affect on domestic violence in this country. As a result, I cannot vote in favor of this bill as it stands. This chamber needs to stand up against violence against women, especially pregnant women, and I believe Representative Lofgren's substitute does this. Thus, I will be voting in favor of this substitute and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of H.R. 1997, the Unborn Victims of Violence Act introduced by my colleague from Pennsylvania.

The legislation before us today establishes that **if an unborn child is injured or killed during the commission of a crime an additional charge may be brought on behalf of the second victim, the unborn child**. Additionally, **the bill stipulates that the same punishment be issued as provided for under Federal law for the crime committed against the mother**.

The principle behind this bill is justice. **Justice for the unborn child and justice for those left behind to cope with the grief. Justice, Mr. Speaker, for both victims**. Currently over half of the states, including my home state of Pennsylvania, have an unborn victims law on the books. These laws have received increased attention over the last year due to the Peterson case in California.

Fortunately, California has an unborn victims law and thus the crimes committed against both Laci and Connor Peterson may be prosecuted and **justice will be brought for both victims**.

[[Page H656]]

Additionally, Mr. Speaker, it should be noted that Americans have shown that they support unborn victims laws. **Three nationwide polls, conducted in 2003 showed that respondents support unborn victims legislation by margins of 8 to 1 and in some cases as high as 12 to 1**.

The American people accept that an attack on a pregnant woman is not just an attack on her, but an **attack on her unborn child as well. It is time for Congress to come to the same resolution**.

In conclusion, I want to extend my sincere thanks to my colleague from Pennsylvania, Congresswoman Hart. I appreciate her leadership on this issue.

Mr. Speaker, **the unborn cannot defend themselves when they are attacked, yet they are no less a victim**. I urge my colleagues to stand up today to offer justice for all victims of violent crime.

Mr. BARRETT of South Carolina. Mr. Speaker, **I rise this afternoon in support of victims without a voice, victims like Carol Lyons' grandson Landon**. On January 7, 18-year-old Ashley Lyons and her unborn son, Landon, were murdered. When Ashley's mother Carol testified before the Kentucky Legislature's Senate Judiciary Committee on January 15 of this year she said,

Nobody can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped

in a baby blanket that I had sewn for him, just before I kissed my daughter goodbye for the last time and closed the casket.

H.R. 1997, the Unborn Victims of Violence Act would provide that an individual who injures or kills an unborn child, like Landon, during the commission of one of nearly seventy specified federal crimes against the mother would be guilty of a separate offense against the unborn child. This is the right thing to do.

There are too many families suffering like the Lyons' family, knowing that those responsible for the murder of their unborn child or grandchild will never be punished for the crime they committed. We must not allow Landon, and countless other unborn children's deaths to have occurred in vain. Today, we have the opportunity to protect the rights of the most innocent life, that of an unborn child.

Mr. Speaker, I rise this morning in strong support of the Unborn Victims of Violence Act and I urge my colleagues to vote ``yes" on H.R. 1997.

Ms. CUBIN. Mr. Speaker, I rise today in support of H.R. 1997 and for America's voiceless unborn children. We are all familiar with the tragic stories like the plight of Laci and Conner Peterson, and Landon Lyons of Kentucky, as well as countless others. From these tragedies one thing should be clear: Unborn children can be brutally victimized through acts we already recognize as Federal crimes, and it is our duty to ensure justice is served on behalf of these innocent victims.

In the unthinkable instance where a pregnant woman is physically harmed, it is a simple fact that more than one life is potentially at stake. The injury or death of a child who is still in utero is a crime that must not continue to go unprosecuted.

We have a responsibility to do everything in our power to protect both women and the unborn children they might be carrying. When both a mother and her unborn child are the victims of crime, two people are harmed. The law needs to recognize this reality, and I hope my colleagues will do so by voting in favor of H.R. 1997.

Recently, **our Nation celebrated the 184th birthday of one of our true American heroes, Susan B. Anthony. Committed to the idea that all people should be treated equally, she worked for years to champion both the rights of women and unborn children. I can think of no better way to honor the great memory of Susan B. Anthony than by upholding the ideal of respect for the dignity of human life by supporting the Unborn Victims of Violence Act of 2003.**

Mr. TIAHRT. Mr. Speaker, I rise today in strong support for H.R. 1997, the Unborn Victims of Violence Act.

This important legislation would finally make it a separate Federal offense to cause death or bodily injury to a child in utero in the course of committing an already defined Federal offense. It is imperative that we hold criminals responsible for conduct that harms or kills an unborn child. *I cannot understand the opposition to this bill. It will not affect abortion laws, it merely affirms that a violent act against a pregnant woman affects not only her but her unborn child as well.* There are most certainly two victims in such crimes, as 24 States have already recognized.

Editorial comment: Amazing! "it will not affect abortion laws, MERELY affirms that a murdered baby is a human victim"!

This issue that we have debated for the past couple of years finally caught the Nation's attention with the murders of Laci Peterson and her unborn son Conner. Americans strongly believe that there were two murders committed last December and that the law should reflect that. Laci's family has suffered two losses. Thankfully under California law, the murderer will be tried for taking two lives. This is not the case at the Federal level. Laci and Conner's family has asked Congress to rectify this. Laci's mother Sharon Rocha's heartfelt statement expresses the need for this law better than I can:

Please understand how adoption of such a single-victim proposal would be a painful blow to those, like me, who are left to grieve after a two-victim crime, because Congress would be saying that Conner and other innocent victims like him are not really victims--indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun.

The Peterson case, unfortunately, is only one of several. I am horrified by stories such as that of Tracy Scheide Marciniak who was only 4 days from delivering her baby boy Zachariah. Four days. For 9 months she had been eagerly awaiting his arrival, planning for his birth and life, bonding with him in her womb. Unfortunately, her husband brutally attacked her, targeting a few blows specifically on her abdomen. Zachariah bled to death in her womb because of the blunt-force trauma. Tracy nearly died herself but did recover from her injuries and had to bury her baby boy without ever getting a chance to see him alive. At the time Wisconsin did not have an unborn victims law so Glendale Black was convicted on assault to her alone and is now eligible for parole. The law did not recognize the loss of Zachariah's life and Glendale Black did not pay for his crime.

Ohio is one of the States where it is a crime to kill an unborn child in a violent act. Unlike Zachariah, Jasmine Robbins' father was prosecuted for her manslaughter. Gregory Robbins assaulted his wife Karlene who was 8 months pregnant with their daughter Jasmine. He repeatedly struck her in the face and abdomen. Due to the assault, Karlene's uterus ruptured and Jasmine died. Gregory Robbins pled guilty to assault and battery to his pregnant wife and involuntary manslaughter for Jasmine's death.

Jasmine's murder is no less tragic than Zachariah's but at least her mother did not have to suffer the heartbreak of not having her murder recognized under our laws.

We live in a society that does not respect life and that troubles me. We have children killing children in our schools, husbands beating their wives, and other violent crimes signifying that we as a culture do not value and treasure life as we should. A good first step towards recognizing the miracle of life is to ensure that those who take a life are punished for their crime.

We cannot bring back Conner, Zachariah or Jasmine or the other hundreds of unborn children violently murdered. We can, and must, however, protect other unborn children from the same fate. **We must respect life and make criminals pay for attacks against all Americans, born and in utero.**

Mr. GRIJALVA. Mr. Speaker, violence against women is a serious problem in this country. One in three women will experience physical assault in her lifetime, with even greater risks for pregnant women. Women carrying unintended pregnancies are two to four times more likely to experience abuse. Murder is the leading cause of death for pregnant women. An average of three women are killed every day by their husband or boyfriend. Women who experience domestic violence are more likely to delay prenatal care; 4.5 million women in America are assaulted every year.

These figures are staggering and serious, but the bill under consideration today, the Unborn Victims of Violence Act, does not take the risks women face seriously. This bill completely disregards women as the primary victim of violence. You cannot harm a fetus without causing physical harm to a pregnant woman first. If this body wanted to consider violence against women, pregnant or not, seriously, I have a few alternate suggestions. We could provide adequate funds for the Violence Against Women Act so that no woman seeking help will ever be turned away from a shelter. We should insure that victims of domestic violence have equal access to programs funded under the Victims of Crime Act. Additionally we should provide women with access to contraceptive services, to thereby preventing unintended pregnancies that make them more susceptible to these dangerous situations.

All the title X funded clinics in my district, including Pima County Health Department Clinics, screen all women for domestic violence, provide appropriate counseling services, and refer women to local

domestic violence agencies for additional services. They even provide small information cards in the private bathrooms that are designed for women to place in their shoes if they are at the clinic with an abusive partner. Title X clinics are one of our most valuable resources in reaching uninsured women who are victims of domestic violence. Unfortunately these programs are drastically under funded. If this Congress really would like to reach women in need, they would make funding for this program a priority.

This bill is not a real solution. This bill only applies to cases of assault that occur under

[[Page H657]]

Federal jurisdiction. Between 1994 and 2000, only 130 Federal cases involved Federal domestic violence statutes. The public's broad support for preventing and prosecuting assault on women is being exploited for political purposes. This is an antiwoman bill. It disregards the woman's role in the pregnancy, and allows the law to ignore any harm inflicted upon her.

I urge my colleagues to support the Lofgren substitute which offers real solutions and real penalties for tragic violence against women, and oppose final passage of this misguided bill.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of the Unborn Victims of Violence Act, and I thank Representative Hart for introducing this important legislation, as well as Chairman Sensenbrenner for bringing this important legislation to the floor. This bill will convey to violent criminals the important message that when they inflict harm on a pregnant woman and her unborn child, **those criminals will be accountable for the harm done--not only to the expecting mother, but also to the unborn child.**

It is unthinkable that under current Federal law, an individual who commits a Federal crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child during the commission of the crime. Where is the justice when a criminal can inflict harm upon a woman, **even with the express purpose of harming her unborn child**, and not be held accountable for those actions?

The American public knows that this bill is necessary--recent polls have shown that approximately 80% of registered voters believed that prosecutors should be able to separately charge the violent attacker of a pregnant woman for the death of her unborn child. In addition, most States have recognized this problem by passing laws to protect unborn children--29 States, including my home State of Virginia, have seen the wisdom in holding criminals accountable for their actions by making violent criminals liable for conduct that harms or kills an unborn baby.

Unfortunately, our Federal statutes do not sufficiently provide for the protection of unborn children and as a result the Federal punishment for these heinous crimes amounts to little more than a slap on the wrist. Criminals are held more liable for damage done to property than for intentional harm done to an unborn child. This discrepancy in the law is appalling. It's time for Congress to Act.

Regardless of whether you are pro-choice or pro-life, those of us who are parents can identify with the hope that accompanies the impending birth of a child. No law passed by Congress could ever heal the devastation created by the loss of a child, or ever replace a child lost to violence. However, we can ensure that justice is done by making sure that criminals who take the life of an unborn child pays for their actions.

I urge each of my colleagues to join me in voting for the Unborn Victims of Violence Act.

Mr. PAUL. Mr. Speaker, while it is the independent duty of each branch of the Federal Government to act constitutionally, Congress will likely continue to ignore not only its constitutional limits but earlier criticisms from Chief Justice William H. Rehnquist, as well.

The Unborn Victims of Violence Act of 2001, H.R. 1997, would amend title 18, United States Code, for the laudable goal of protecting unborn children from assault and murder. However, **by**

expanding the class of victims to which unconstitutional, but already-existing, Federal murder and assault statutes apply, the Federal Government moves yet another step closer to a national police state.

Editorial comment: Now I've heard it all! Laws against murder are unconstitutional, so to add babies to the list of victims who can't be legally murdered would move the U.S. closer to a police state!

Correction: now that I have read the rest of this argument, I see it is by Ron Paul, and his point is about laws being unconstitutional not because they are against murder, but because they are federalizing crimes which duplicate state laws, so that the same crime can be prosecuted under either federal or state laws. This is unconstitutional not only under the 10th Amendment because it usurps state jurisdiction, but also under the "double jeopardy" clause because it allows a man to be tried twice for the same crime.

I agree with Ron Paul! The fed has no business duplicating state criminal laws. But I'm glad this law was passed, because it satisfies Roe's "collapse clause"

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

Nevertheless, our Federal Government is constitutionally, a government of limited powers. Article one, section eight, enumerates the legislative areas for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the Federal Government lacks any authority or consent of the governed and only the State governments, their designees, or the people in their private market actions enjoy such rights to governance. The 10th amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Our Nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently.

However, Congress does more damage than just expanding the class to whom Federal murder and assault statutes apply--it further entrenches and seemingly concurs with the Roe v. Wade decision--the Court's intrusion into rights of States and their previous attempts to protect by criminal statute the unborn's right not to be aggressed against. By specifically exempting from prosecution both abortionists and the mothers of the unborn--as is the case with this legislation--Congress appears to say that protection of the unborn child is not only a Federal matter but conditioned upon motive. In fact, the Judiciary Committee in marking up the bill, took an odd legal turn by making the assault on the unborn a strict liability offense insofar as the bill does not even require knowledge on the part of the aggressor that the unborn child exists. Murder statutes and common law murder require intent to kill--which implies knowledge--on the part of the aggressor. Here, however, we have the odd legal philosophy that an abortionist

with full knowledge of his terminal act is not subject to prosecution while an aggressor acting without knowledge of the child's existence is subject to nearly the full penalty of the law. *With respect to only the fetus, the bill exempts the murderer from the death sentence--yet another diminution of the unborn's personhood status and clearly a violation of the equal protection clause.* It is becoming more and more difficult for Congress and the courts to pass the smell test as government simultaneously treats the unborn as a person in some instances and as a nonperson in others.

Editorial comment: I have been trying to decide if really not one single Republican congressman understood Roe's "collapse clause" was satisfied by this law. At first I thought even Ron Paul did not understand, but as I look again I see he is not promising that this law does not undermine Roe, but is only observing that this law authorizes prosecution only with a mother's permission, which doesn't say much for Congress' willingness not only to recognize all babies as human, but to protect them accordingly.

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

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

Occasionally the argument is put forth that States may be less effective than a centralized Federal Government in dealing with those who leave one State jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of

State sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow States to exact judgments from those who violate their State laws. The Constitution even allows the Federal Government to legislatively preserve the procedural mechanisms which allow States to enforce their substantive laws without the Federal Government imposing its substantive edicts on the States. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one State to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon States in working with one another rather than relying on a national, unified police force. At the same time, there is a greater cost to centralization of police power.

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

[[Page H658]]

one empowered by force rather than voluntary exchange.

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

Protection of life--born or unborn--against initiations of violence is of vital importance. So vitally important, in fact, it must be left to the States' criminal justice systems. We have seen what a legal, constitutional, and philosophical mess results from attempts to federalize such an issue. Numerous States have adequately protected the unborn against assault and murder and done so prior to the Federal Government's unconstitutional sanctioning of violence in the Roe v. Wade decision. Unfortunately, H.R. 1997 ignores the danger of further federalizing that which is properly reserved to State governments and, in so doing, throws legal philosophy, the Constitution, the Bill of Rights, and the insights of Chief Justice Rehnquist out with the baby and the bathwater.

Mr. BLUMENAUER. Mr. Speaker, I oppose H.R. 1997, the so-called "Unborn Victims of Violence Act". Since the landmark Roe v. Wade Supreme Court decision, Congress has slowly passed legislation to erode women's reproductive choices. This is a personal and private decision that should be made by a woman, her family, her physician, and her own beliefs.

This is the **third** time that people who oppose reproductive freedom for women and their families have attempted this back door maneuver to restrict abortion. Instead of focusing on purely political measures aimed at the erosion of a woman's reproductive freedom, we should be protecting women

from violence and increasing assistance to women in life-threatening domestic situations.

Editorial comment: Is this Democrat breaking ranks with his peers, who all said this is the FIRST time the unborn have been defined as “human” in law?

Harsh penalties already exist in 38 states for crimes against pregnant women that result in the injury or death of her fetus. The overwhelming majority of crimes against pregnant women that cause injury to her fetus occur in cases of domestic abuse or drunk driving accidents, instances that are prosecutable under currently existing State laws. Nearly one in every three adult women experiences at least one physical assault by their partner during adulthood. Drunk driving accidents continue to result in substantial loss of life in every city across the Nation. H.R. 1997 would do nothing to add to the existing protections against these serious and prevalent crimes.

I support the Lofgren amendment, “the Motherhood Protection Act”, a crime bill that would protect pregnant women from violence and impose stiffer penalties than the competing bill, “the Unborn Victims of Violence Act”. If protecting pregnant women from violent crime were truly our priority, Congress would have passed the Lofgren amendment to H.R. 1997.

Mrs. JONES of Ohio. Mr. Speaker, I rise in opposition to H.R. 1997, the Unborn Victims of Violence Act.

A pregnant woman is one of the most vulnerable members of our society. Nearly one in three women report being physically assaulted during pregnancy and murder is the leading cause of death among pregnant women. H.R. 1997 does nothing to protect pregnant women from violence; rather, it creates a new cause of action on behalf of the unborn. The result would be a step backward for victims of domestic violence by once again diverting the attention of the legal system away from efforts to punish violence against women.

The legislation would apply in a limited set of circumstances involving members of the Armed Forces and anyone who injures or kills a fetus during the commission of a crime under Federal jurisdiction. But it should be noted that similar bills have been introduced in various States that would cover anyone who harms or kills a fetus under any circumstances.

Injury inflicted upon a fetus is accomplished by an assault on a woman; therefore punishment for such crimes should be prosecuted as crimes against women. [Changing the criminal system to include independent prosecution for harming a fetus is a dangerous legal precedent, which could have broad implications in limiting women's rights.](#)

H.R. 1997 creates controversy around the issue of violence against women where none exists and therefore exposes the true intention of the bill's sponsors. Congress should take strong measures to protect all women from violence rather than using this backdoor approach to restrict a woman's right to choose. If we really want to punish violence against pregnant women, it should be done in a way that does not entangle this issue with the abortion debate.

H.R. 1997 is the first step toward outlawing abortion. The real purpose of this legislation is not to deter and punish criminal conduct but to erode the reproductive rights of women. This bill is a thinly veiled attempt to undermine Roe v. Wade by establishing a distinct legal status for a fetus in Federal law.

H.R. 1997 marks a major departure from current Federal Law by elevating the legal status of a fetus at all stages of development. It is an obvious attempt to add to Federal law the anti-choice definition of an “unborn child” as “a member of the species homo sapiens, at any stage of development, who is carried in the womb.”

Recognizing the fetus as an entity with legal rights independent of the pregnant woman would create future fetal rights that could only be used against a pregnant woman, possibly putting the woman and fetus in conflict and placing the health, worth and dignity of the woman on a

lower level than a weeks-old embryo. For example, this legislation could make it possible for a pregnant woman to be prosecuted for failing to protect her fetus from domestic violence committed against her.

We all agree that criminals who attack pregnant women--including especially heinous attacks aimed at ending the pregnancy--should be punished for their actions. But H.R. 1997 is not needed to allow the vigorous prosecution of anyone doing harm to a pregnant woman. In fact, the measure does not even mention harm done to pregnant women.

Any bill intended to battle such wanton criminal acts of cruelty should, as the legislation offered by Representatives Zoe Lofgren and John Conyers, Jr., does, **speak of criminal acts ``interrupting the normal course of pregnancy" or ``ending a pregnancy," not by trying to define a fetus as an ``unborn child."**

If the supporters of H.R. 1997 were sincere about protecting a woman's pregnancy, **they would not have stacked this bill full of language that serves no other purpose than to further their attempts to eliminate reproductive choice for U.S. women.**

H.R. 1997 **shifts the focus from violence against women and elevates the fetus--even a zygote, blastocyst or embryo, perhaps before its existence is known to the woman--to a status equal with that of the adult woman, a full member of society, who suffers both the physical assault and the possible loss of a wanted pregnancy.**

Mr. Speaker, I rise to reiterate my opposition to H.R. 1997 and the blatant assault on a women's right to choose.

Mr. CARDOZA. Mr. Speaker, I rise today to speak in support of H.R. 1997. Under current Federal law, a person who commits a crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child. This is unacceptable.

In my district, the death of Laci Peterson and her unborn son, Conner, shook the community of Modesto and the Nation. As much as we all hoped to find Laci alive and well, we now hope for justice. It is disturbing to think that in cases like hers, real justice cannot be achieved under existing Federal law.

Fortunately, California already has a similar unborn victims of violence law, as do 28 other States. But the Peterson case underscores the need for congressional action. After meeting with Laci's mother, Sharon Rocha, I agree that we cannot allow the gap in Federal law to persist.

The simple fact is that pregnant women are vulnerable, and we must do everything we can to protect them--and everything we can to punish those who do the unthinkable. We must be tough on crime, and especially tough on heinous crimes. This is an issue of justice. To me, there is no other issue here.

I urge my colleagues to support the bill.

Mr. DINGELL. Mr. Speaker, it is with a heavy heart that I rise today in opposition to H.R. 1997, the Unborn Victims of Violence Act. Mr. Speaker, the bill before us today needlessly politicizes a serious issue. Frankly, **I am outraged that members of this body are being put in a position to take an abortion vote** instead of enacting serious and meaningful laws to prevent and punish violent acts against pregnant women.

Violent crimes against pregnant women are of a particularly heinous nature. This is something we can all agree on. **However, to bog down this debate with abortion politics is disingenuous to say the least.** The bill raises questions about the wisdom of my colleagues who support this bill. Is the goal to address the especially horrendous crime of harming a pregnant woman, or is the goal to generate an abortion-related campaign issue?

Supporters of this legislation will come to the floor today and tell us that their intentions are pure, they are not attempting to undermine

Roe v. Wade. In fact, one prominent Senator stated, ``They say it undermines abortion rights. It does . . . but that's irrelevant." Mr. Speaker, that is not irrelevant. This is a back door attempt to chip away at a woman's right to choose and I wish the supporters of this legislation would just admit it.

Now if the goal of this body is to pass meaningful legislation to prevent and punish those who assault pregnant women, I would urge my colleagues to vote ``yes" on the Lofgren substitute. This substitute, based on H.R. 2247, addresses the real issue at hand. The substitute creates a separate Federal criminal offense for assaulting a pregnant woman resulting in injury or termination of a pregnancy. This bill could pass the House by a vote of 434-0, and fly through the Senate, landing on the President's desk within a week for signature.

We have tried, Mr. Speaker, for the past two Congresses to pass legislation to protect pregnant women from violence and I have been a willing partner in those efforts. **The injection of abortion politics, however, is getting in the way of passing meaningful legislation.** It is time to stop playing politics and get something done. We have now reached a point when we are acting irresponsibly. **We all know that the underlying bill will go nowhere in the Senate.**

It is time to do something. **Let's save the abortion debate--and the politicking--for a later date.**

I urge my colleagues to support the Lofgren substitute and oppose this cynical election year tactic.

Mr. McCRANE. Mr. Speaker, as an original cosponsor of the legislation before us, I rise in strong support of H.R. 1997, the Unborn Victims of Violence Act, which is also known as Laci and Conner's Law.

Over the past year, Americans have followed the investigation into the deaths of Laci Peterson and her unborn son Conner. Under California law the killing of both mother and unborn child are crimes.

However, under Federal law this is not the case. For example, **if a criminal attacks a woman on a military base, and kills her unborn child, he can be charged only with the battery against the woman, because Federal law does not recognize the unborn child's loss of life. The mother cannot charge her attacker for the death of the baby she was carrying. Today, the House will seek to remedy this injustice. Laci and Conner's Law will establish that if an unborn child is injured or killed during the commission of an already-defined Federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child.**

Twenty-nine states have laws that protect unborn children, but the Federal government does not. I consider that unacceptable. This legislation will protect both pregnant mothers and their unborn children, and I urge my colleagues to support it.

Mr. KUCINICH. Mr. Speaker, the Unborn Victims of Violence Act (UVVA) is **a Trojan Horse. While its sponsors claim that the bill will deter violence against pregnant women,** the legislation actually does violence to the rights that women have to make reproductive choices. In fact, this legislation is not about deterring violence against pregnant women.

Individuals who commit violent acts against pregnant women should be prosecuted to the fullest extent of the law and I strongly agree that Congress should increase penalties for these types of crimes. That is why I am a cosponsor of the Motherhood Protection Act. This establishes higher penalties when violent crimes against pregnant women interrupt the normal course of pregnancy. These stiffer penalties are the same as penalties in UVVA.

However, **UVVA isn't designed to protect pregnant women from violent acts. It is crafted in order to undermine the right to reproductive choice by Federally recognizing a fetus with separate legal rights. That would be a big change that does nothing to deter violence. At this time, there is nothing in Federal law that gives separate legal rights to embryos or fetuses. There is no need to establish controversial, unprecedented Federal rights for embryos. Doing so, as UVVA does, radically changes the law without making any women safer.**

UVVA would not help women when they and their pregnancies suffer as a result of domestic

violence. [This proposal would only confuse and complicate juries.](#)

Editorial comment: A previous infanticidist foresaw a criminal trial that challenges abortion arising out of this law. My comment that the scenario could be none other than an act of violence against an abortionist. Here, Kucinich says this will “confuse and complicate juries”, which seems to imply the context of the kind of crime envisioned directly by this bill: an assault against a pregnant woman. I still think the previous prophecy was not of an assault against a woman, because I can’t imagine how that kind of case could even raise the issue of abortion. A case that does not raise an issue, can’t be a vehicle for a court to decide an issue.

UVVA would make it more difficult to prosecute criminals than the approach in the Motherhood Protection Act. Congress should draw a bright line that assaults against pregnant women are especially wrong and will be prosecuted and punished with increased penalties. For these reasons, I oppose the Unborn Victims of Violence Act and urge my colleagues to support the Motherhood Protection Act.

Mr. NORWOOD. Mr. Speaker, I rise today to encourage my colleagues in the House to do the right thing--to **stand up in defense of expectant mothers and their unborn children against violent criminals--and support the Unborn Victims of Violence Act.**

In the day leading up to this debate, ultimately to the vote on this very important bill, I have to admit--I've struggled.

However, it's not the troubling facts or my position that I've struggled with Mr. Speaker--instead, I've struggled to find one good reason (any good reason) why this Congress and this Federal Government would continue to tell expectant mothers (mothers who have chosen childbirth and have every intention of seeing it through) that we can protect you against violent crime--but when it comes to your child . . . all we can say is, “sorry, we can't help you.”

Mr. Speaker, as folks back in my home state of Georgia say, “that's as wrong as the day is long” . . . It's high time we did something about this and passed this legislation.

Yet, despite the facts and the very strong support of the American people for this bill, we continue to hear from a band of critics on the other side of the aisle insisting that this debate is really somehow about abortion . . . that even though this bill says absolutely nothing about any abortion law anywhere in our nation--that's really what this bill is all about.

Well, the reaction of this country dentist from Georgia to that kind of nonsense is pretty simple: hogwash! This bill is about one thing and one thing only--letting America's expectant mothers know that the child they have chosen to give birth to is protected by this Federal Government against the dastardly acts of violent criminals.

Mr. Speaker, I'm not struggling anymore. The answer is clear: there is no good reason that our government should allow this tragic double-standard to continue.

Again, I urge my colleagues in this body to do the right thing and vote in favor of the Unborn Victims of Violence Act.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to join my colleagues in support of the Unborn Victims of Violence Act. **It is imperative to ensure those “most vulnerable” in our society are, in fact, protected from criminal assailants, and that we impose a penalty when acts of violence against these unborn victims fall under Federal criminal law. Some claim this measure will infringe on a**

woman's right to choose. But currently, 29 States have statutes that criminalize the killing of a fetus or "unborn child", and none of these laws have affected States' practice of legal abortion. Criminal defendants have brought many legal challenges to the state unborn victims laws, based on Roe v. Wade and other constitutional arguments, but all such challenges have been rejected by State and Federal courts.

Editorial comment: I do not know of any defendants who committed violence against abortionists who raised a defense based on state versions of this law, and in fact there could not have been “many legal challenges” of this nature since it would be a stretch to say there have been many such defendants. So Davis must be referring to defendants who committed violence against mothers. While I am looking into such cases I will make a few guesses about them for now. None of them could call for repeal of Roe, that I can imagine; and without calling for it, I don’t see that the issue could be raised. The most they could argue is that Laci’s Law should be repealed, since it collides with Roe. That defense could be rejected on the foundation of Webster, that so long as a personhood declaration is not used to stop abortion, a state can keep it.

But I don’t think that is the kind of case that alarms all these Democrats and their sponsoring prodeath organizations. Perhaps they have not actually thought through the kind of case that could overturn Roe – if they have they haven’t spelled it out. I assume, because they don’t want to give Republicans any ideas. But there are two cases I foresee that will place Roe’s demise squarely before the courts: first, a law against an abortion passed by a state, argued on the basis of Laci’s Law’s satisfaction of the conditions of Roe’s “collapse clause”. Such an argument is offered in my SLIC (Stop Legal Infanticide by Christmas) Model Joint Resolution. The argument would be very direct: that Roe has “collapsed”, so there remains no legal obstacle to criminalizing abortion. The court case would have to be brought by the law’s opponents, and it would be a case whose possible outcome they would dread but they would pursue it out of desperation.

Second, a defendant charged with violence against an abortionist, such as James Kopp or Scott Roeder. Kopp raised a defense based on Laci’s Law, but the defense was raised under the disadvantage of Laci’s Law not having been passed until years after his action. Roeder also submitted a brief (assembled by me) raising this defense. It was raised under the disadvantage of the attorney declaring publicly that the Necessity Defense, which was the

vehicle for the Laci's Law defense, does not exist "anywhere", so there was no oral argument in support of it before the judge. But it is in the record on appeal. We'll see what happens.

In a case such as Roeder's, the reasoning is that Scott *had* to act to save scores of babies from *imminent* brutal slaughter, which could have been saved in no other way. In fact, at the rate George Tiller was killing, nearly 3,000 babies were saved from his forceps just between Tiller's demise May 31, 2009, Memorial Day, and Scott's sentencing, April 1, 2010, the 6th anniversary of Laci's Law, and Holy Thursday, the anniversary of the day Christ struggled to accept His sentence for our sins. Scott's lawyer even attempted to subpoena Tiller's records, for the express purpose of proving how many were saved, but the judge threw out the subpoena.

The legal vehicle for this reasoning is generally, across America, called the Necessity Defense. It compares the "harm" caused by the defendant with the "harm" prevented by the defendant. In over 60,000 earlier cases of blocking abortionist's doors, the "harm" of killing a few blades of grass, by trespassing, was deemed greater than the "harm" prevented, the killing of dozens of babies by the abortionist, since Roe persuaded judges that abortion was not "legally recognized as a harm". But the argument now is that Laci's Law, being a federal law which the Supreme Court is bound to conform its rulings to, and having met Roe's conditions for its own "collapse", is no longer there to insist that killing those babies is no "harm". In fact, Laci's law has identified those babies as a great "harm". Therefore the "harm" of killing one murderer of those babies is dwarfed by the murder of those many, many babies. Tiller's website had boasted of 60,000!

There are two outcomes of this case that could end abortion.

First, the court could determine that the defense is valid, which would create a legal green light for future door blockers to sit all day in front of abortionist's doors without fear of arrest. (Shooting abortionists would not then be a legal option because the Necessity Defense also requires that stopping the "harm" be by the least violent means possible.)

Second, the court could go farther, and simply and frankly acknowledge the legal "collapse" of abortion, which would create a rush of state legislatures to criminalize it.

Don't forget the difference between Laci's law and state versions of it. The Supreme Court is not bound by state definitions, as it is by federal

definitions.

These defenses are not possible for a defendant who has assaulted a woman. Such a defendant can't argue that he "had" to act to save anybody! He can't argue that he used the least violent means to do anything. His argument is not justification for a noble act, but to get off for a heinous act. Although few sympathize with stopping an abortionist, no one sympathizes with assaulting a woman.

We cannot turn our backs on mothers, fathers, and grandparents across our Nation who lose unborn babies due to heinous acts of violence every year. This will serve as an additional deterrent to crimes against pregnant women. I commend the sponsors and leadership for bringing this to the floor and I urge an "aye" vote.

Mr. BURTON. Mr. Speaker, today we passed legislation to protect the unborn from acts of violence. The Unborn Victims of Violence Act, H.R. 1997, sends a clear and strong statement that anyone who injures or kills unborn children is committing a crime. **I wish my fellow colleagues would join me in making as equally strong a statement when it comes to injuring our children by injecting them or their mothers or their fathers with vaccines containing the mercury-based preservative Thimerosal.**

Over the last several years, I have conducted 19 hearings on vaccine safety and the detrimental health effects of other mercury-containing medical products. On May 21, 2003, my subcommittee's 80-page report entitled, "Mercury in Medicine--Taking Unnecessary Risks" was published in its entirety in the Congressional Record. This study was the result of a 3-year investigation initiated during my tenure as the chairman of the House Committee on Government Reform, and it outlines the undeniable connection between mercury in all its forms and possible permanent health risks, including brain and kidney damage.

According to the U.S. Centers for Disease Control, developing fetuses and young children are the most vulnerable and susceptible to the potential harms of mercury damage. Because of this, a joint statement was issued in July 1999 by the American Academy of Pediatrics and the U.S. Public Health Service, "recommending removal of Thimerosal from vaccines as soon as possible (CDC, 1999)." It is now 2004, and there are still at least 3 vaccines on the pediatric schedule that still contain Thimerosal (flu, Hib/HepB, and DtaP).

In 2001, the Institute of Medicine conducted an Immunization Safety Review meeting on safety concerns regarding Thimerosal. In their report, it was concluded in their "Recommendations Regarding the Public Health Response" section that "... a causal relationship between Thimerosal-containing vaccines and neurodevelopmental disorders ... is biologically plausible."

I believe that it is good public policy and simple common sense for this House to

[[Page H660]]

strongly assert that all United States Health Agencies should take concrete steps to eliminate the usage of mercury in any capacity, particularly from all vaccines and dental amalgams. I believe that it is good public policy and simple common sense for this House to strongly assert that any vaccinations provided under or purchased for the Vaccines for Children Program be completely devoid of Thimerosal.

Numerous scientists have testified that there is a simple way to do this, and that is to only use single-shot vials--those little glass containers. Manufacturers would not have to put Thimerosal or any other preservative in their vaccines if they switched to the single-shot vials. Moving to single-shot vials could

have an enormously positive impact in helping to minimize, perhaps even eliminate, some cases of Alzheimer's, autism, and other neurological disorders linked to mercury.

This is something that the pharmaceutical companies must address. Our Food and Drug Administration and health agencies are asleep at the switch. They are letting children and adults be damaged day after day after day by allowing mercury to continue to be put into vaccines for adults and children.

We have a growing number of people who are being diagnosed with Alzheimer's, a dramatically growing number. We have 1 in 10,000 children 10 years ago that were autistic, now it is 1 in 150. And scientists before my Committee on Government Reform Subcommittee on Human Rights and Wellness say it is in large part because of the mercury in the vaccines. We have to get the FDA on the stick. They have to demand that pharmaceutical products containing mercury have the mercury taken out of them very, very quickly. If not, we are going to continue to have an epidemic on our hands that America does not need and should not tolerate.

Mr. BRADY of Texas. Mr. Speaker, I rise in support of H.R. 1997, the Unborn Victims of Violence Act and want to thank my colleague from Pennsylvania for introducing it.

Sadly, in America today an individual who commits a Federal crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child while committing the crime. America's mothers and their unborn children deserve better. **When the crime involves two victims, the law must protect and provide justice for both.**

The legislation we are considering today, H.R. 1997 would make it a separate **Federal crime to hurt or kill an unborn child** during the commission of a Federal crime against a pregnant woman. **Over half of the States in our country currently recognize both the mother and the unborn child as victims of violent crimes.**

In fact, just last week the Commonwealth of Kentucky enacted a fetal homicide law in response to public attention to a recent tragedy in that State where 18-year-old Ashley Lyons and her unborn son, Landon, were killed.

As both a strong supporter of victim's rights and a pro-life advocate, I recognize that the voices of members of families who have lost loved ones--born and unborn--in crimes of violence, are an important part of the debate over this important bill.

Carol Lyons, Ashley's mother, says,

Nobody can tell me that there were not two victims--I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter goodbye for the last time and closed the casket.

The House of Representatives overwhelmingly passed this bill in 1999 and again in 2001. In both cases, it was never brought up for a vote in the Senate.

However, this year we finally have an opportunity to finally enact this legislation into law. Recent violent crimes involving the murder of young pregnant women and their unborn children have captured national attention and brought to light the judicial plight family members of victims face when they seek justice.

I also strongly oppose the substitute amendment being offered by Congresswoman Zoe Lofgren. Her amendment fails to recognize the unborn child as a victim of a crime, even in circumstances when the perpetrator acts with specific intent to kill the unborn child. **A vote in favor of the Lofgren substitute is a vote to codify the doctrine that an attack on a pregnant woman has only a single victim, even when the mother survives and the baby dies.**

Mr. CANTOR. Mr. Speaker, as legislators, it is our responsibility to stand up and protect innocent members of society. Presently, an individual who commits a Federal crime against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child while committing the crime.

The Unborn Victims of Violence Act protects pregnant women and their unborn babies. The current Federal law is unjust, and Laci and Conner's Law will protect women from further abuse. This new law will send the right message that both a mother and a child should be protected.

Right now, the law says that the pregnant mother is the only victim in a crime, and nothing could be further from the truth. There are two victims harmed in this crime, the mother and her unborn baby. As a cosponsor of this legislation, I will work to ensure it is enacted into law this year.

Mr. NADLER. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gillmor). All time for general debate on this bill having expired, it is now in order to consider the amendment printed in part B of House Report 108-427 by the gentlewoman from California (Ms. Lofgren).

Amendment in the Nature of a Substitute Offered by Ms. Lofgren

Ms. LOFGREN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the Nature of a Substitute offered by Ms. Lofgren:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Motherhood Protection Act of 2004".

SEC. 2. CRIMES AGAINST A WOMAN THAT AFFECT THE NORMAL COURSE OF HER PREGNANCY.

(a) Whoever engages in any violent or assaultive conduct against a pregnant woman resulting in the conviction of the person so engaging for a violation of any of the provisions of law set forth in subsection (c), and thereby causes an interruption to the normal course of the pregnancy resulting

in prenatal injury (including termination of the pregnancy), shall, in addition to any penalty imposed for the violation, be punished as provided in subsection (b). (b) The punishment for a violation of subsection (a) is-- (1) if the relevant provision of law set forth in subsection (c) is set forth in paragraph (1), (2), or (3) of that subsection, a fine under title 18, United States Code, or imprisonment for not more than 20 years, or both, but if the interruption terminates the pregnancy, a fine under title 18, United States Code, or imprisonment for any term of years or for life, or both; and

(2) if the relevant provision of law is set forth in subsection (c)(4), the punishment shall be such punishment (other than the death penalty) as the court martial may direct.

(c) The provisions of law referred to in subsection (a) are the following:

(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h) (1), and (i), 924(j), 930, 1111, 1112, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203(a), 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952(a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of title 18, United States Code.

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

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

(4) Sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of title 10, United States Code (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

The SPEAKER pro tempore. Pursuant to House Resolution 529, the gentlewoman from California (Ms. Lofgren) and the gentleman from Wisconsin (Mr. Sensenbrenner) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Ms. Lofgren).

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

Mr. Speaker, let us be clear, on its face, the Unborn Victims of Violence Act appears to be a tool to prevent assault against pregnant women and nonconsensual termination of pregnancy. **Upon closer examination, it is obvious that the purpose of the bill is to conflict with the core principles of Roe v. Wade.**

The Unborn Victims of Violence Act focuses on, legally recognizes a fetus, an embryo, a blastocyst, a fertilized egg as a person with rights and interests separate from and equal to those of the woman.

Today I offer a substitute that my colleagues and I hope can unify Members on both sides of the debate over choice to achieve a very important goal, the deterrence and punishment of violent acts against pregnant women.

According to the purported goals of H.R. 1997, that is our common ground, but it is clear that the purpose of H.R. 1997 is not actually to achieve the purported common goal of protecting pregnant women from assault. If that were the case, we would all vote today

[[Page H661]]

for the Lofgren substitute and begin to ensure that women across the country are safe from violence.

The Lofgren substitute does not threaten Roe v. Wade, but instead creates a new separate offense for any violent or assaultive conduct against a pregnant woman that interrupts or terminates her pregnancy. The substitute provides that any termination in the pregnancy is punishable by a fine and imprisonment of up to 20 years, and if the pregnancy is terminated, even if unintentionally, the assailant can be sentenced to life in prison. These penalties are even tougher than those provided for in the Unborn Victims of Violence Act.

Those of us who have experienced a miscarriage understand a very essential truth: The loss is something you never forget. Whether the woman is 6 weeks pregnant or 6 months pregnant, the loss is acutely felt by that woman, and it deserves the full penalty that the law can provide.

Penalties under H.R. 1997, however, vary depending upon the underlying crime resulting in inconsistent penalties for the same horrific crime. In fact, under H.R. 1997, if a postal worker was assaulted and there is a resulting injury to her pregnancy, there is only a maximum penalty of 3 years; but if the same assault happened to another Federal employee, her assailant could get up to 8 years in prison under H.R. 1997. Why should the penalty for injury to one pregnant woman over another depend upon where she works? It defies logic and reason.

Unlike the Unborn Victims of Violence Act, the Lofgren substitute has tough, consistent penalties for the same horrific crime, regardless of irrelevant circumstances like the place of employment. A loss or injury to a pregnancy is the same loss to a woman no matter where she works.

Mr. Speaker, advocates for H.R. 1997 say their bill is about protecting women from violence. In fact, the bill ignores women. H.R. 1997 does not address the woman nor the assault committed against her. Under H.R. 1997, there is a possibility that the crime against the woman could go unpunished because there is no conviction requirement for the underlying crime. How can the other side say they are preventing crime against pregnant women when you ignore her and the crime against her?

Mr. Speaker, the bottom line is the Lofgren substitute [does not needlessly interject the abortion debate](#) and exploit what is concededly a matter of a pregnant woman's right to a safe, healthy and free from horrific acts of violence pregnancy.

Although many have said that the underlying bill has nothing to do with abortion, I think it is important to look at what some of the proponents of the antichoice movement have said about the bill, and I would like to quote Samuel Casey, the executive director of the Christian Legal Society, who said last year, ``In as many areas as we can, we want to put on the books that the embryo is a person. That sets the stage for a jurist to acknowledge that human beings at any stage of development deserve protection, even protection that would trump a woman's interest in terminating a pregnancy."

Joe Cook, vice president of the American Association of Pro Life Obstetricians & Gynecologists, said last year, ``We have to approach this in a way that is doable, a step at a time. This bill is aimed at establishing that a fetus in utero is a human being and has human rights."

Finally, Senator Orrin Hatch said last year, ``They say it undermines abortion rights; it does, but that is irrelevant." Irrelevant perhaps in the other body, but not to me.

Mr. Speaker, I support legislation that has the goal of protecting a pregnant woman from violence. I cannot do so through [legislation that would also undermine other extremely important rights of women, like the right to choose](#). That is antithetical to the protection and safety of women.

I hope we can come together on this substitute. Last Congress there were a number of antichoice Members of the House that voted for the substitute, understanding that the penalties are more severe and would provide more complete protection for women. I urge those individuals to do so again to show this country that Congress is serious about protecting pregnant women from violence.

[We have in this country and in this House strong disagreement about who gets to decide whether a pregnancy will be brought to term or not, the Congress or the woman. That debate is going to go on for a long time, but it does not have to be part of this discussion](#). We can come together to protect women against violence without having the argument about abortion involved in that effort. I hope that we can come together to embrace common ground on what I think could be a moment of triumph for this Congress and for the American people in standing against violence against women.

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

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

Mr. Speaker, the substitute amendment should be soundly defeated as it would throw salt into the wounds of those parents who have implored this Congress to recognize under Federal law the loss of their loved, unborn child.

These mothers are not seeking recognition of the violence they have suffered alone. They are seeking recognition of the violence their unborn children have suffered as well. They are seeking recognition of the loss of their unborn child.

H.R. 1997 recognizes that loss; the substitute does not. This House has defeated this substitute amendment each time it has been brought up, with increasing margins during the 106th and 107th Congresses. We should increase that margin today.

[A recent Fox News poll asked, ``If Scott Peterson is convicted of killing his pregnant wife, Laci, do you think he should be charged with one count of homicide for murdering his wife, or two counts of homicide for murdering both his wife and his unborn son?" An overwhelming 84 percent of the American people responded that two counts, not one, should be brought](#).

These results are confirmed by two other recent polls that show support for two separate charges for violent criminals who harm mothers and their unborn children. Support for a separate charge for an unborn victim is 84 percent, according to a Newsweek poll, and 79 percent, including 69 percent of

those who describe themselves as prochoice, according to another Fox News poll conducted in July. Each poll found that less than 1 in 10 Americans disagree.

I would ask my colleagues to join with the overwhelming majority of Americans who have responded to these polls, including those who describe themselves as being prochoice, to reject this amendment and not join with the very small minority, less than 1 in 10 of those who are polled, who would support the one-victim approach.

{time} 1230

This substitute amendment embodies the extreme ideology of those who are unwilling to recognize an unborn child in the law in any context whatsoever. **The term ``unborn child" as used in H.R. 1997 has been widely used and accepted by judges, including the Supreme Court, and Justice Blackmun, the author of the Roe v. Wade decision itself. The term ``unborn child" has been widely tested in court and has sustained all constitutional challenges in terms of a fetal homicide law. Removing that term and replacing it with the vague and untested language of the substitute would accomplish nothing, while risking grave confusion and jeopardizing the conviction of violent Federal criminals. The abstract language in the substitute, which points to injuries to a ``pregnancy," ignores the fact that violent criminals can and do inflict injuries on a real human being in his or her mother's womb. If an assault is committed on a Member of Congress and her unborn child subsequently suffers from a disability because of the assault, that injury cannot accurately be described as an abstract injury to a pregnancy. It is an injury to an unborn child. The bill recognizes that. The substitute does not.**

Also, unlike the language of H.R. 1997, the substitute contains no exceptions for abortion-related conduct, for conduct of the mother, or for medical treatment of the pregnant woman or her unborn child. This omission leaves

[[Page H662]]

the substitute amendment bare to the charge that it would permit the prosecution of mothers who have abortions who inflict harm upon themselves and their unborn children or doctors who incidentally kill or injure unborn children during the provision of medical treatment. For that reason, the substitute amendment will certainly be subject to a successful constitutional challenge. The underlying bill has been tested and proven constitutional.

Today's debate is not about penalties. It is about victims. H.R. 1997 recognizes unborn victims of violence. The substitute does not. In the name of unborn victims, including Conner Peterson, Heaven Lashay Pace, Zachariah Marciniak, Landon Lyons and the others who are not named today but are known and loved and missed by their surviving family, the substitute should be soundly defeated and the bill passed.

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

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume. I would note that on line 6 on page 1 of the amendment, it notes that whoever engages in any violent or assaultive conduct against

a pregnant woman resulting in the conviction of the person so engaging does not include an abortion that is legal because of Roe v. Wade.

Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. Woolsey).

Ms. WOOLSEY. Mr. Speaker, I stand here today strongly supporting the Lofgren substitute. The gentleman from Illinois (Mr. Hyde) is right, my colleagues and I have considered an unbelievable number of antichoice proposals over the last few years, including 200 since the Republicans took over the House of Representatives.

These proposals have troubled me; but this bill, the bill that we are considering today, is perhaps the most disconcerting of them all. Instead of openly admitting what they are attempting to do to a woman's reproductive freedoms, proponents of this bill are exploiting a senseless and tragic crime to make their true intentions hidden. Let me be clear. We all oppose violence against women, and we all understand that a violent attack on a pregnant woman is an especially heinous act that deserves a uniquely harsh punishment. But that is not what the underlying legislation is about.

Our constituents deserve an honest debate about this proposal and some very honest information. I am sure that many people assume that this legislation if it were approved would have an impact on the tragic case in California after which this case is named. People also probably assume it would create an effective new tool to prosecute many domestic abusers who harm their pregnant wives or girlfriends. That is simply not true. Women are the victims of violence across the country every day, but rarely does this violence fall in the jurisdiction of Federal courts. Unless a fetus is harmed in the commission of a violent Federal crime, this bill will not apply.

Considering that this new law would rarely be applied, you may wonder, then, why are we here today talking about it? We are here to undermine the fundamental protections of Roe v. Wade with platitudes about violence against women thrown on as window dressing. If this bill passes, a 2-hour-old fertilized egg will have the same rights as the woman bearing it. Antichoice forces have been very open and honest about their strategy for turning back the clock on reproductive freedom in this country. In fact, we have heard many of the underlying bill's proponents tell you that the egg is a human. By declaring that even a fertilized egg is a person, proponents are laying the groundwork for undermining women's ability to make their own medical choices and decisions.

Thankfully, we have an opportunity to address horrific acts of violence against pregnant women without undermining the woman's ability to control her own body. This ability is through the Lofgren substitute, which establishes appropriately harsh penalties for those who violently harm pregnant women **without reducing her rights to that of a fertilized egg. We should not be debating this today.** We should be debating and approving policies that will help keep every woman safe in her own home and ensure that every pregnancy is a healthy one. I urge my colleagues to join me in supporting the Lofgren substitute and opposing the underlying bill. This bill is nothing but an exploitive attempt to end reproductive freedom.

Mr. SENSENBRENNER. Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. Chabot), the distinguished subcommittee chairman. Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time. This substitute amendment should be soundly defeated. The substitute amendment appears to operate as a mere sentence enhancement authorizing punishment in addition to any penalty imposed for the predicate offense. That is most unfortunate. **No sentencing enhancement can adequately express society's disapproval for the distinct loss that occurs when a mother's unborn child is harmed or killed by a violent criminal.** A loss that is both unique and uniquely offensive to both a loving expectant mother and to the vast majority of Americans warrants a unique and separate offense under the criminal law. H.R. 1997 provides for a separate offense. The substitute does not.

Indeed, the witnesses we heard from in committee supporting H.R. 1997, this bill, have told us that they are not Republicans or Democrats, they are not lawyers, they are people who have lost unborn children to violence, and they want those children treated appropriately under the law. That is precisely

what H.R. 1997 does. The substitute does not.

Sharon Rocha, the mother of Laci Peterson and the grandmother of unborn victim, Conner Peterson, has written that "the Lofgren proposal would enshrine in law the offensive concept that such crimes have only a single victim, the pregnant woman."

Shiwona Pace, whose unborn child, Heaven, was brutally murdered by three hired hitmen, has said, "It seems to me that any Congressman who votes for the one victim amendment is really saying that nobody died that night. And that is a lie."

Those who focus this debate on penalties and abstract terms such as harm to a pregnancy rather than to an unborn child misunderstand the purposes of the criminal law. The criminal law does not exist only to punish criminals; it exists to lend dignity to victims, including unborn victims. It is an expression not only of society's disapproval of certain conduct, but of its recognition of the victims of such conduct and the manner in which such victims should be recognized. Creating a separate offense for harm to an unborn child forces all of us, including potential criminals, to consider the act of harming an unborn child as an independent evil.

A Newsweek poll found that only 9 percent of those surveyed, less than one in 10 Americans, oppose a separate offense for killing an unborn child. **Those 9 percent of Americans should be heard, of course; and they have been heard through this substitute amendment. But they must not win,** as the law exists in large part to reflect America's overwhelmingly shared values, and those shared values support separate charges for the killing and injuring of wanted, unborn children.

I ask, looking at this picture, this is Tracy Marciniak that we have talked about. This is her unborn child here, Zachariah. Tracy was attacked by her husband when she was 8 months pregnant with this child. Tracy survived her physical injuries. The child died that night. I ask you, this is the funeral of this child. There is Tracy holding her child. **How many victims do we see in this photograph? I think it is clear, there are two victims in that photograph.** This legislation that we are addressing here today recognizes two victims. The substitute amendment does not.

The terminology in the substitute amendment is hopelessly confusing; and if adopted, it will almost certainly jeopardize any prosecution involving the injuring or killing of an unborn child during the commission of a violent crime. The substitute amendment provides an enhanced penalty for "interruption to the normal course of the pregnancy resulting in prenatal injury, including termination of the pregnancy." **The amendment then authorizes greater punishment for an interruption that terminates the pregnancy than it does for a mere interruption of a pregnancy. What exactly is**

[[Page H663]]

the difference between an interruption of a pregnancy and an interruption that terminates the pregnancy? The substitute does not say. Does any interruption of a pregnancy not necessarily result in a termination of the pregnancy? Or have the supporters of this amendment somehow succeeded in mastering the science of suspended animation? By defining an interruption to the normal course of the pregnancy, the substitute is either science fiction or simply impossible for Federal prosecutors to decipher and apply.

The substitute amendment is a moral failure in that it refuses to recognize that unborn children can be victims of violence. It is a drafting failure in that its ambiguous terminology would leave prosecutors at a loss as to how to administer it. **And it is a constitutional failure in that it contains no exceptions for abortion-related conduct.** The substitute should be soundly defeated.

In my view, it all comes down and this entire debate is best summed up in a single photograph. Whether or not there are two victims in this photograph or only one is the issue that is at hand. The majority in this House, as we have had it here twice before and it has passed with pretty overwhelming numbers, the majority of us see the clear indication in this picture that there are two victims. The substitute amendment, and it is craftily worded, but ambiguous enough that prosecutors have indicated that successfully prosecuting an offense under the substitute is virtually impossible; but **the people that support that particular substitute amendment are indicating in essence that there is only one victim here. I think common sense should prevail. There are two victims.**

I would strongly urge my colleagues to defeat the substitute amendment and pass the underlying bill.

Ms. LOFGREN. Mr. Speaker, I would just note that just for corrective purposes, the Lofgren substitute does provide for a separate offense, not a sentence enhancement.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Wisconsin (Ms. Baldwin), a member of the Committee on the Judiciary.

Ms. BALDWIN. Mr. Speaker, I rise today in strong support of the Lofgren substitute to H.R. 1997. Violence against women remains epidemic in our society. According to a Commonwealth Fund survey, nearly one out of every three adult women experiences at least one physical assault by a partner during adulthood. Acts of violence committed against pregnant women are especially heartbreaking and abhorrent. Congress should and must focus sharply on efforts addressing this issue.

{time} 1245

But **we can address this issue without tangling it in the abortion debate.** And the gentlewoman from California's (Ms. Lofgren) substitute does exactly that. It focuses on the crime of violence against the pregnant woman without undermining a woman's right to choose. The substitute creates a separate and distinct crime for any violent assault against a pregnant woman that harms or ends her pregnancy, in addition to the assault of the pregnant woman.

Most importantly, this substitute avoids the issue of fetal rights and fetal personhood. It correctly recognizes that the pregnant woman is the primary victim of an assault that causes harm to, or termination of, her pregnancy. In this way, the substitute we consider today accomplishes the stated goals of the underlying bill, the deterrence and punishment of violent acts against pregnant women, without bogging us down in the abortion debate.

I urge my colleagues to ask themselves why H.R. 1997 treats an embryo or a fetus at any stage of development as an individual with extensive legal rights distinct from the mother. How would establishing this legal framework reduce the occurrence of crimes against pregnant women? **The answer is that the underlying bill is not directed to the pregnant woman. Instead, it unnecessarily opens up an abortion debate.**

I applaud the gentlewoman from California's (Ms. Lofgren) efforts of addressing the serious issue of violence against pregnant women in a way that accomplishes the goal of reducing this violence in a nonaggressive manner, and I urge my colleagues to support this substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Pennsylvania (Ms. Hart).

Ms. HART. Mr. Speaker, I thank the gentleman for yielding me this time as well as the opportunity to debate the substitute.

This bill, the underlying bill, does address the rights of women. We have heard many who oppose it and support the substitute state that it does not. And it clearly allows a woman to seek punishment from the perpetrator of a crime against her that she may survive and that may cause the death of her unborn child. A woman who has made a decision to carry a child has that taken away from her during a violent act. Somehow I do not see how this reduces her rights.

The Lofgren **substitute, however, fails entirely to recognize unborn children as victims of violent**

crime; in fact, transforming the child's injuries to what amount to mere abstractions. The terminology in this substitute is virtually incomprehensible, and if adopted, it will almost certainly jeopardize any prosecution for injuring or killing an unborn child during the commission of a violent crime against the mother.

The substitute amendment provides an enhanced penalty for what is called interruption of the normal course of pregnancy, resulting in prenatal injury, including termination of pregnancy. The amendment then authorizes greater punishment for the interruption that terminates the pregnancy than it does for a mere interruption of the pregnancy. But what exactly is the difference between the termination and the interruption of a pregnancy? It implies that a pregnancy can stop and start again, but does not an interruption of a pregnancy necessarily result in the termination of the pregnancy? And what does the phrase "termination of the pregnancy" really mean here? Does it only mean that the unborn child died, or could it also mean that the child was born prematurely even without suffering any injury? These ambiguities make the substitute impossible to comprehend and certainly difficult to enforce.

Second, the substitute amendment appears to operate as a mere sentence enhancement, authorizing punishment in addition to any penalty imposed for the crime against the mother. Yet the language suggests there should be a separate offense for killing or injuring the unborn child, but then it does not allow the prosecutor to proceed with a crime against the unborn child. Is a separate charge necessary for the enhanced penalty to be imposed? **The substitute amendment simply does not make this clear.**

It also mischaracterizes the nature of the injury that is inflicted when an unborn child is killed or injured during the commission of such a violent crime. Under the current language of the bill, a separate offense is committed whenever an individual causes the death or injury of a child who is in utero at the time the conduct takes place. The substitute would transform the death of the unborn child again into an abstraction, "terminating a pregnancy." Bodily injury inflicted upon the child would become a mere prenatal injury. Both injuries are described as resulting from the interruption of the normal course of pregnancy. These abstractions ignore the fact that the death of the unborn child occurs when a pregnancy is violently terminated by a criminal.

The substitute also fails to recognize that a prenatal injury is an injury inflicted upon a human being in the womb of his or her mother. **If an assault is committed on a pregnant woman, and her child subsequently suffers from a disability because of the assault, the injury cannot be accurately described as an abstract injury to a pregnancy. It is only an injury to a human being. Our bill recognizes that; the substitute does not.**

The substitute is fatally flawed and should be rejected.

Sharon Rocha, the mother of Laci Peterson, the grandmother of unborn victim Conner Peterson, has written that **"the Lofgren proposal would enshrine in law the offensive concept that such crimes have only a single victim, the pregnant woman."** The substitute amendment embodies the extreme ideology of those who are unwilling to

[[Page H664]]

recognize the unborn child under law in any way.

Our approach works. Twenty-nine States have laws that recognize two victims. They have been challenged in court and have survived. Reject this substitute. Support the bill that will provide for two victims, and one that we know that works, and one that is not offensive to the families of these victims.

Ms. LOFGREN. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. Norton).

Ms. NORTON. Mr. Speaker, I have left a hearing to come to the floor to congratulate the gentlewoman from California for coming forward with a bill that does what the great majority of the American people want to see us do today.

Is the point here to penalize crimes against pregnant women or to give personhood to the fetus? I think

the majority would say it is time this Congress got around to recognizing that when, in fact, a violent crime is committed against a pregnant woman, that is a crime against the family, and we should have done something about it long ago.

But what we are doing here with the bill that is on the floor is forcing some Members to vote against the bill, a bill that would otherwise have nearly universal approval in this House. It reminds me of the years it took us to pass the Violence Against Women Act because we nitpicked at it, at this, that, and the other. And it must have been 6 or 7 years before the Violence Against Women Act passed in the face of rising violence against women.

We are doing the very same thing with crimes against pregnant women. It is a terrible act to commit a violent crime against a pregnant woman. We should not leave this place unless we come to an agreement on, in fact, dealing with that crime and that crime alone.

What the majority is trying to do here I want to say to them I do not think they can constitutionally do anyway. **The majority cannot confer personhood on a fetus in the face of Roe v. Wade. They can keep coming to the floor all they want to, but I do not think that they can successfully do that by statute. But we can keep a substitute that is critically important from coming out of the Congress by insisting on conferring personhood against the will of the majority of people, of the majority of the United States, who support the common-sense approach to choice.**

The number of pregnant women who have been murdered has been grossly underreported because they are reported as murders. It is time we did something about it. This is a separate offense. It is a separate criminal offense. It does what needs to be done. I congratulate the gentlewoman for getting us to where we need to be today, justice for women, finally, on violence against those who are pregnant.

Mr. SENSENBRENNER. Mr. Speaker, I have one more speaker to close on this side. Does the gentlewoman from California have any further speakers?

Ms. LOFGREN. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore (Mr. LaHood). The gentlewoman has 15 minutes.

Ms. LOFGREN. Do I have the right to close, Mr. Speaker?

The SPEAKER pro tempore. The majority manager has the right to close.

Ms. LOFGREN. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. Linda T. Sanchez), a member of the Committee on the Judiciary.

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I rise in opposition to the Unborn Victims of Violence Act and in support of the substitute bill offered by the gentlewoman from California (Ms. Lofgren), the Motherhood Protection Act.

I believe very strongly that violence against pregnant women is one of the most morally reprehensible crimes. Any act of violence against pregnant women should be condemned, and I support legislation that protects women and their unborn fetuses from violence.

However, I have to rise and oppose the Unborn Victims of Violence Act that we are considering on the floor today because it jeopardizes a woman's right to choose and fails to protect women from violence. **This bill is a blatant attempt to undermine a woman's right to choose, disguised, sadly, as an effort to protect women from violence. Under the Unborn Victims of Violence Act, for the first time anywhere in Federal law, an unborn fetus at any stage of development will be treated as a person that can be an independent victim of a crime. It is not that hard to figure out that it is a direct attack on a woman's right to choose as established in Roe v. Wade.**

The Unborn Victims of Violence Act is also inadequate for protecting women from violence. If the proponents of this bill were, in fact, sincere in their desire to prevent harm to unborn fetuses, they would start by preventing harm to pregnant women. It is very telling that the Unborn Victims of Violence Act is silent on the issue of preventing and punishing violent crimes against women and that the proponents of this bill will not accept the substitute bill offered by Ms. Lofgren, the Motherhood Protection Act.

The gentlewoman from California's (Ms. Lofgren) substitute provides women and fetuses with the

protections they need. It creates a separate Federal crime. It is not merely an enhancement. It is a separate Federal crime for harm to pregnant women and imposes a penalty of up to 20 years in prison for injury to embryos or fetuses. If a woman's pregnancy is terminated in an attack, the penalty can be up to life in prison.

The Lofgren substitute is a far better bill than the Unborn Victims of Violence Act because it protects women, it protects fetuses, and [it still preserves a woman's right to choose](#). I urge my colleagues on both sides of the aisle to show women in this country that we will protect them from violence by voting no on the Unborn Victims of Violence Act and voting yes on the superior Lofgren substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Smith).

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

Mr. Speaker, this on my left is a picture of Tracy Marciniak holding her son at his funeral. She met with me. She met with other Members. The gentleman from Ohio (Mr. Chabot) just spoke of this, to tell us what happened to her and to her son Zachariah. Minimum time was given to the attacker, her husband, and there was no penalty whatsoever imposed for the killing of this little baby. Tracy has written to Congress, and I hope you all stand up and take notice, and said

“Congress should approve the Unborn Victims of Violence Act. Opponents of the bill have put forth a counterproposal, known as the Lofgren amendment. I have read it,” she goes on to say, “and it is offensive to me because it says that there is only one victim in such a crime, the woman who is pregnant.

“Please hear me,” she goes on to say. “On the night of February 8, 1992, there were two victims. I was nearly killed. Little Zachariah died.

“Any lawmaker who is thinking of voting for the Lofgren ‘one-victim’ amendment should first look at this picture of me holding my dead son at his funeral. Then I would say to that Representative, ‘If you really think that nobody died that night, then vote for the ‘one-victim’ amendment.’”

Mr. Speaker, the Lofgren amendment stripped of its surface appeal trappings and enhanced penalty does have one pro-abortion strategic objective, and that is denial. Denial that an unborn child has inherent dignity, denial that an unborn child has worth, denial that an unborn child has innate value. The gentlewoman from California (Ms. Woolsey) said a few moments ago in this debate we all oppose violence against women. I thank her for that admission.

Back in the 106th Congress I was prime sponsor of legislation that included the Violence Against Women Act, the 5-year authorization. The gentleman from Illinois (Mr. Hyde), who was then chairman of the Committee on the Judiciary, worked to craft language that throws the book at those who commit violence against women, while providing shelters, and so many others worked on that. It was division B of that bill. I was the prime sponsor. So no one on that side of that divide takes a back seat to anyone that says that somehow we are not against violence against women.

The gentlewoman from Wisconsin (Ms. Baldwin) said a moment ago that

[[Page H665]]

the woman is a victim and not the only victim. There is another victim, the baby. And I just want to say again, talking about the gentlewoman from California's (Ms. Woolsey) comments, while we are all against violence against women, we are not all against violence against unborn children. And this bill offered by the gentlewoman from Pennsylvania (Ms. Hart) and the gentleman from Wisconsin (Mr. Sensenbrenner) and the others who are leading the effort on this are saying a mugger or killer does not have an unfettered right or access to an unborn child to kill him or her.

{time} 1300

The amniotic sac is a protective covering over an unborn child, but it is not made of Kevlar. Those

sacs can be pierced so easily by a knife or by a bullet, and we are saying when a knife or a bullet or a fist pierces and kills a little baby like Zachariah, there ought to be a separate offense. Yes, throw the book at the mugger for any offense that he commits against a woman, we are all for that, but do not deny a penalty for a child who has been killed by that mugger.

Vote against the Lofgren amendment and for the Hart bill.

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

Mr. Speaker, the substitute that I have offered creates a separate Federal criminal offense for assaulting a pregnant woman resulting in injury or termination of her pregnancy, without entangling the issue in our disagreement about abortion and the woman's right to choose.

In addition to recognizing the horrendous underlying crime of assault on a pregnant woman, it recognizes the horrific crime of assault on a pregnant woman that results in the interruption or termination of a pregnancy. It creates an offense that protects pregnant women and punishes violence without conflicting with the core principles of *Roe v. Wade*.

The substitute provides consistent penalties for the same horrific crime. It provides for a consistent maximum 20-year sentence for injury and a consistent maximum life sentence for causing the termination of a woman's pregnancy. It requires a conviction for the underlying criminal offense, ensuring the crime against the woman is also punished, and it focuses on the assault of violence committed against the pregnant woman, providing a deterrent effect for violence against women.

I am sure that the Members of this body who oppose a woman's right to choose also oppose violence against women. There is no disagreement on that score. All I am saying with my substitute is that we have the ability to come together in this substitute against violence against women without engaging in our very serious disagreement about choice.

I think it has been made clear by the proponents of this bill that it is about choice. That is why this bill, the underlying bill, was referred and considered by the Subcommittee on the Constitution, not the Subcommittee on Crime, in the Committee on the Judiciary, because it is about the Constitution.

The point of the underlying bill is to undercut *Roe v. Wade*. I think *Roe v. Wade* provides important protections for the women of this country. I am 56 years old, and I remember as an undergraduate in college young women who had to seek abortions from illegal providers or go to another country. I know women who almost lost their lives. Thankfully, because the Supreme Court has now recognized that women have the right to make choices about their own reproduction, women now do not have to seek illegal or dangerous health care solutions when they have made a decision that they cannot have a child.

I think that *Roe v. Wade*, by allowing women to make decisions about their own lives, is an important principle and an important defense for the freedom of American women, and I do not think American women should give up their freedom in order to get protection from violence. That is what I think the underlying intent of H.R. 1997 is. I think that is why the National Coalition Against Domestic Violence, which represents organizations and domestic violence shelters in all 50 States, opposes H.R. 1997.

So I hope the Lofgren substitute will be approved, and I hope that we can come together to stand against violence and for freedom for American women.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Ms. DeGette).

Ms. DeGETTE. Mr. Speaker, I rise in strong support of the Lofgren amendment and in opposition to the Unborn Victims of Violence Act.

Mr. Speaker, the majority of Americans are prochoice, and they depend on us to protect a woman's right to choose, while at the same time working to make abortion rare by making sure that all women have a full range of reproductive choices. They depend on us to pass legislation that will protect their reproductive freedom, and they depend on us to know the difference between legislation that truly protects women and legislation that is discussed as something that it is not, like, for example, the bill that is before us now.

Today, Members of Congress who truly care about the issue of violence against women can put their words into action by voting for the Lofgren substitute. The substitute provides for the deterrence and punishment of violent acts against pregnant women, and it does so while completely avoiding the controversial issues of abortion. It creates a new separate crime with tough penalties, up to 20 years to life, for an assault that causes the termination of a pregnancy.

So my colleagues can choose to vote for the substitute and actually accomplish a goal they care about, or they can go with the [underlying bill, which is nothing but a poorly disguised vehicle to undermine Roe v. Wade](#).

We are not fooled by this legislation. Our constituents will not be fooled by this legislation. If Members of the House really care about taking steps to protect pregnant women and punish the people who commit horrible acts of violence against them, we will all join together and vote for the Lofgren substitute.

There is only one real difference between the substitute and the underlying bill, and it is this one thing that reveals the true goal of H.R. 1997. The underlying bill creates a Federal criminal offense that provides a pregnancy from conception to birth with the legal status separate from that of the woman. Regardless of what we are hearing today from proponents of the legislation, there is only one reason to vote for this bill, and that is to support defining a fetus or a fertilized egg, for that matter, as a person.

[If the supporters of the legislation want to debate the merits of abortion, let us do it out in the open. But they should be embarrassed about cloaking their true intent in an issue that we all agree upon, protecting pregnant women from violence.](#)

We keep hearing those who support the bill talk about two victims, but what they are omitting is the fact that this bill does not mention the main victim, the woman, another indication this bill is not really about two victims at all. The Lofgren substitute is the bill that truly focuses on women, because it creates a Federal criminal offense for harm to a pregnant woman.

I strongly urge my colleagues to vote yes on the Lofgren substitute and no on final passage.

Ms. LOFGREN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DeLay), the majority leader.

Mr. DeLAY. Mr. Speaker, I thank the chairman for bringing this bill to the floor. It is a very important bill, and it is a very timely bill.

This bill has passed the House twice in two different Congresses. It is a bill that desperately needs to become law, because, Mr. Speaker, [Laci Peterson had a son. He was never born, he never spoke a word or took his first steps, but he was real. Whoever killed Laci Peterson also killed her son, and to deny that is to deny truth. That unborn victims of violence are separate victims of violence is not a matter of interpretation, it is a matter of plain fact. A child could tell you that a man who kills a pregnant woman and her unborn child takes two lives.](#)

[Unborn victims of violence feel their own pain, suffer their own wounds and die their own excruciating deaths, and with this legislation before us, we have the opportunity to say so. We have the opportunity to say that in this Nation](#)

[[Page H666]]

unborn children targeted by violent men are guaranteed justice under the law, just as their murderers are guaranteed justice under the law. The Unborn Victims of Violence Act is a matter of common sense and common decency. It should and will pass this body by an overwhelming, bipartisan majority, and make right in the law what is now blatantly and indefensibly wrong.

Mr. Speaker, I do not question the motives of those who plan to vote no. But to those who oppose this bill and support the substitute, support increased penalties for attacks against pregnant women without acknowledging the second victim of such attacks, I do ask this: **Why? Why are the attacks against pregnant women like Laci Peterson so egregious? Why should they merit harsher penalties? Why do all people in all cultures, naturally, instinctively, recoil at such attacks? It is the vulnerability of the pregnant mother, to be sure, but it is also the innocence and the very being of the unborn child.**

Civilized society has an obligation to punish injustice, no matter the size, strength or political inconvenience of its victim. Laci Peterson's son may have been robbed from this world before he ever touched it, but, Mr. Speaker, he was here. Today he may be looking down on us from the nurseries of Heaven, protected for eternity by the God who knit him together in the womb, nestled in the loving embrace of the mother who gave him his name, but before Conner Peterson was taken, Mr. Speaker, he was here.

Conner Peterson was here. Vote yes, and have the courage to say so.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to support the Lofgren substitute to the Unborn Victims of Violence Act (H.R. 1997), legislation to create a second Federal offense for harm to a pregnant woman without creating the second legal "person." The Lofgren substitute accomplishes the stated goals of the Unborn Victims of Violence Act, the deterrence and punishment of violent acts against pregnant women. By allowing for a second Federal offense against a pregnant woman, perpetrators of violence will be punished to the full extent of the law and their crimes. **H.R. 1997, without the Lofgren substitute, will do nothing to prevent violence against women and further undermines their reproductive freedom. Recognizing the fetus as a second legal "person" would be the equivalent of rolling back a well recognized right that was established over 30 years ago.** The Lofgren substitute would preserve that right. Mr. Speaker, I urge my colleagues to support the Lofgren substitute.

Mr. LANTOS. Mr. Speaker, I rise in support of this amendment sponsored by my good friend and fellow Californian Congresswoman Zoe Lofgren. This amendment clearly recognizes that crimes committed against pregnant women are especially egregious acts that should be subject to more stringent punishment. Specifically, this amendment would make it a separate Federal crime to cause, whether intentionally or not, a prenatal injury or the termination of the pregnancy of the victim during commission of a number of specified Federal offenses.

Mr. Speaker, I am certain all of my colleagues will agree that any violent crime against a person is deplorable in and of itself; however, crimes against expectant mothers are especially heinous and should be dealt with more severely. I applaud Congresswoman Lofgren for introducing this amendment.

While I strongly support the amendment we are debating and am a cosponsor of similar legislation that was introduced by Congresswoman Lofgren--the Motherhood Protection Act (H.R. 2247)--I feel an obligation to express my concerns and my strong opposition to the underlying legislation we are considering today, H.R. 1997, the Unborn Victims of Violence Act. Although these two bills appear similar at first blush, they are based on completely different premises.

The Lofgren amendment is based on the belief that when the normal course of pregnancy is disturbed by a violent crime, the mother is robbed of her chance to bring a child into this world. Such an act is intolerable and the offender should be subjected to additional punishment.

On the other hand, Mr. Speaker, the **Unborn Victims of Violence Act extends victim status beyond the expectant mother and assigns legal status and protection to an unborn embryo or fetus. I believe this is nothing more than a thinly-veiled attempt to undermine the rights of women established in Roe v. Wade. Assigning legal rights to an unborn embryo or fetus is the first step in granting "personhood" to an entity which does not yet meet the current threshold for the legal definition of a person. Passing this legislation would be the beginning of the slippery slope that will ultimately be used to limit a woman's right to choose.**

Mr. Speaker, the **legislation we are considering today is simply a politically-motivated effort by some of our colleagues to chip away at the underlying basis of Roe v. Wade. We, as legislators, have the responsibility to see through these extremist and extreme views, and to enact legislation that does not threaten our citizens with the loss of their Constitutional rights.**

Mr. Speaker, a crime against a pregnant woman is an appalling and deplorable act that deserves the severe punishments specified in the Lofgren amendment. Without this amendment, the adoption of the Unborn Victims of Violence Act is simply a deplorable effort to take away from the women of this country the rights for which many have fought. I urge all of my colleagues to support the Lofgren substitute amendment to protect expectant mothers.

Ms. JACKSON of Texas. Mr. Speaker, I am here today because we have a better alternative to the Unborn Victims of Violence Act. I support Congresswoman Zoe Lofgren's substitute, the "Motherhood Protection Act." This is a crime bill that is designed to protect pregnant women from violence. The Motherhood Protection Act embodies many of the same principles that I offered as amendments in the House Judiciary Committee, where the Unborn Victims of Violence Act was originally introduced. I have always supported the intent of this bill, to protect the life of the pregnant mother who has suffered as a victim of a crime of violence and the viability of her pregnancy. However, I oppose the means which the drafters of the Unborn Victims of Violence Act have used to achieve its end. Like The Motherhood Protection Act, all my offered amendments referred to changing language in the bill, focusing on the pregnant mother instead of the fetus.

As a legislator, and as a mother, I want to protect the rights of women and children. As Chair of the Congressional Children's Caucus, I know how valuable and precious the lives of children are, and I will do everything in my power to ensure that any injustices are met with severe punishment. Unborn Victims of Violence does not do this, rather, the Motherhood Protection Act does.

The Motherhood Protection Act creates a second, separate offense with separate, strict, and consistent penalties for assault resulting in the termination of a pregnancy or assault resulting in prenatal injury.

The Motherhood Protection Act recognizes the pregnant woman as the primary victim of an assault that causes the termination of her pregnancy, and it creates a separate crime to punish this offense. In this way, the bill accomplishes the stated goals of the Unborn Victims of Violence Act--the deterrence and punishment of violent acts against pregnant women--**while avoiding any undermining of the right of choose.**

Unborn Victims of Violence fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Nearly one in every three adult women experiences at least one physical assault by a partner during adulthood.

Congress can protect pregnant women from violence without resorting to controversial bills like Unborn Victims of Violence that undermine Roe v. Wade. We must take strong steps to prevent such attacks and must recognize the unique tragedy suffered by a woman whose pregnancy is lost or harmed as a result of violence. I am calling on Congress to support tough criminal laws that focus on the harm suffered by women who are victimized while pregnant, as well as a range of programs that promote healthy childbearing and family planning.

While I am pleased to see the Bush administration taking an active interest in women and children, I hope they will see that their goals can be met in other areas. I would like to see the Bush administration focus their efforts on caring for a pregnant woman by providing her decent medical care. I hope the Bush administration ensures more happy pregnancies and births, both with proper family planning and prenatal care. I call on the Bush administration to have care for the millions of children already living and breathing in our country, who go to school in overcrowded classrooms and dilapidated buildings.

We have a wide range of programs in place to help women and children. I would like my colleagues to spend more time encouraging and funding these, **rather than once again undermining a woman's right to choose.**

Ms. HARMAN. Mr. Speaker, I rise today in opposition to the so-called Unborn Victims of Violence

Act, H.R. 1997. Proponents of this bill claim it addresses violence against pregnant women.

Let's be honest here. H.R. 1997 is not an anticrime bill, it is an antiabortion bill. This bill does not address the women who are victims of violence. In fact, this bill makes no mention of the woman and the harm to her that results

[[Page H667]]

from an involuntary termination of her pregnancy.

Legislation that truly addresses the devastation of a pregnancy lost due to a violent crime should focus on the attack on the woman and resulting harm to her fetus, as does the amendment offered by my friend and colleague, the gentlewoman from California (Zoe Lofgren).

I rise in support of this amendment, as it ensures efficient prosecution of the criminal wrongdoer and would not undermine the legal principles underlying a woman's right to choose.

Mr. Speaker, if what we are trying to do is protect pregnant women, then let us protect them. Let us not insult the intelligence of women in this country by attacking their rights under the guise of protecting unborn fetuses.

The Venice Family Clinic and Westside Family Health Center, both located in my district, have programs in place that identify pregnant women at risk of domestic violence and work closely with the family throughout the pregnancy and for at least 1 year after the baby is born. These programs have had positive results at reducing domestic violence before it occurs.

Mr. Speaker, I urge support for this amendment and rise in opposition to the underlying bill.

The SPEAKER pro tempore (Mr. LaHood). All time has expired.

Pursuant to House Resolution 529, the previous question is ordered on the bill, as amended, and on the further amendment offered by the gentlewoman from California (Ms. Lofgren).

The question is on the amendment in the nature of a substitute offered by the gentlewoman from California (Ms. Lofgren).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were--yeas 186, nays 229, not voting 18, as follows:

[Roll No. 30]

YEAS--186

Abercrombie Ackerman Allen Andrews Baca Baird Baldwin Ballance Bass
Becerra Berkley Berman Biggert Bishop (GA) Bishop (NY) Blumenauer Boehlert
Bono Boswell Boucher Boyd Bradley (NH) Brady (PA) Brown (OH) Brown, Corrine
Capps Capuano Cardin Carson (IN) Case Castle Clay Clyburn Conyers Cooper
Crowley Cummings Davis (AL) Davis (CA) Davis (FL) Davis (IL) DeFazio DeGette
Delahunt DeLauro Deutsch Dicks Dingell Dooley (CA) Dunn Edwards Emanuel
Engel Eshoo Etheridge Evans Farr Fattah Filner Ford Frank (MA) Frelinghuysen
Frost Gephardt Gonzalez Gordon Granger Green (TX) Greenwood Grijalva
Gutierrez Harman Hastings (FL) Hill Hinchey Hinojosa Hobson Hoeffel Holt
Hooley (OR) Houghton Hoyer Inslee Israel Jackson (IL) Jackson-Lee (TX) Jefferson
Johnson (CT) Johnson, E. B. Jones (OH) Kaptur Kelly Kennedy (RI) Kilpatrick Kind

Kolbe Lampson Larsen (WA) Larson (CT) Leach Lee Levin Lewis (GA) Lofgren
Lowey Lynch Majette Maloney Markey Matheson Matsui McCarthy (MO)
McCarthy (NY) McCollum McDermott McGovern Meehan Meek (FL) Miller (NC)
Miller, George Moore Moran (VA) Nadler Napolitano Neal (MA) Obey Ose
Owens Pallone Pascrell Pastor Payne Pelosi Pomeroy Price (NC) Pryce (OH)
Rangel Reyes Rodriguez Ross Rothman Roybal-Allard Roppersberger Rush Sabo
Sanchez, Linda T. Sanchez, Loretta Sanders Sandlin Schakowsky Schiff Scott (GA)
Scott (VA) Serrano Shays Sherman Simmons Slaughter Smith (WA) Snyder Solis
Spratt Stark Strickland Sweeney Tanner Tauscher Thomas Thompson (CA)
Thompson (MS) Tierney Towns Turner (TX) Udall (CO) Udall (NM) Van Hollen
Velazquez Waters Watson Watt Waxman Weiner Wexler Woolsey Wu Wynn

NAYS--229

Aderholt Akin Alexander Bachus Baker Ballenger Barrett (SC) Bartlett (MD)
Barton (TX) Beauprez Bereuter Berry Bilirakis Bishop (UT) Blackburn Blunt
Boehner Bonilla Bonner Boozman Brown (SC) Brown-Waite, Ginny Burgess Burns
Burr Burton (IN) Calvert Camp Cannon Cantor Capito Cardoza Carson (OK)
Carter Chabot Chandler Chocola Coble Cole Costello Cox Cramer Crane
Crenshaw Cubin Culberson Cunningham Davis (TN) Davis, Jo Ann Davis, Tom
Deal (GA) DeLay DeMint Diaz-Balart, L. Diaz-Balart, M. Doolittle Doyle Dreier
Duncan Ehlers Emerson English Everett Feeney Ferguson Flake Foley Fossella
Franks (AZ) Gallegly Garrett (NJ) Gerlach Gibbons Gilchrest Gillmor Gingrey
Goode Goodlatte Goss Graves Green (WI) Gutknecht Hall Harris Hart
Hastings (WA) Hayes Hayworth Hefley Hensarling Herger Hoekstra Holden
Hostettler Hulshof Hunter Hyde Isakson Issa Istook Jenkins John Johnson (IL)
Johnson, Sam Jones (NC) Kanjorski Keller Kennedy (MN) Kildee King (IA) King
(NY) Kingston Kline Knollenberg LaHood Langevin Latham LaTourette Lewis
(CA) Lewis (KY) Linder Lipinski LoBiondo Lucas (KY) Lucas (OK) Manzullo
Marshall McCotter McCrery McHugh McIntyre McKeon McNulty Mica Michaud
Miller (FL) Miller (MI) Miller, Gary Mollohan Moran (KS) Murphy Murtha
Musgrave Myrick Nethercutt Neugebauer Ney Norwood Nunes Nussle Oberstar
Ortiz Osborne Otter Oxley Paul Pearce Pence Peterson (MN) Peterson (PA) Petri
Pickering Pitts Platts Pombo Porter Portman Putnam Radanovich Rahall
Ramstad Regula Rehberg Renzi Reynolds Rogers (AL) Rogers (KY) Rogers (MI)
Rohrabacher Ros-Lehtinen Royce Ryan (OH) Ryan (WI) Ryun (KS) Saxton Schrock
Sensenbrenner Sessions Shadegg Shaw Sherwood Shimkus Shuster Simpson
Skelton Smith (MI) Smith (NJ) Smith (TX) Souder Stearns Stenholm Stupak
Sullivan Tancredo Tauzin Taylor (MS) Taylor (NC) Terry Thornberry Tiahrt Tiberi
Toomey Turner (OH) Upton Visclosky Vitter Walden (OR) Walsh Wamp
Weldon (FL) Weldon (PA) Weller Whitfield Wicker Wilson (NM) Wilson (SC) Wolf
Young (AK) Young (FL)

NOT VOTING--18

Bell Brady (TX) Buyer Collins Doggett Forbes Honda Kirk Kleczka
Kucinich Lantos McInnis Meeks (NY) Menendez Millender-McDonald Northup
Olver Quinn

Announcement by the Speaker Pro Tempore

The SPEAKER pro tempore (Mr. LaHood) (during the vote). Members are advised there are 2 minutes remaining to vote.

{time} 1336

Messrs. SHIMKUS, SMITH of Texas, GARRETT of New Jersey and BERRY changed their vote from ``yea" to ``nay."

Mr. TOWNS changed his vote from ``nay" to ``yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KIRK. Mr. Speaker, on rollcall No. 30 I was unavoidably detained. Had I been present, I would have voted ``yea."

Mr. OLVER. Mr. Speaker, for rollcall vote No. 30, had I been present, I would have voted in the affirmative.

The SPEAKER pro tempore (Mr. LaHood). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

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

Recorded Vote

Mr. CHABOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were--ayes 254, noes 163, not voting 16, as follows:

[Roll No. 31]

AYES--254

Aderholt Akin Alexander Bachus Baker Ballenger Barrett (SC) Bartlett (MD)
Barton (TX) Beauprez Bereuter Berry Bilirakis Bishop (GA) Bishop (UT) Blackburn
Blunt Boehner Bonilla Bonner Boozman Bradley (NH) Brown (SC) Brown-Waite,
Ginny Burgess Burns Burr Burton (IN) Calvert

[[Page H668]]

Camp Cannon Cantor Capito Cardoza Carson (OK) Carter Castle Chabot
Chandler Chocola Coble Cole Costello Cox Cramer Crane Crenshaw Crowley
Cubin Culberson Cunningham Davis (TN) Davis, Jo Ann Davis, Tom Deal (GA)
DeLay DeMint Diaz-Balart, L. Diaz-Balart, M. Doolittle Doyle Dreier Duncan
Dunn Ehlers Emerson English Everett Feeney Ferguson Flake Foley Fossella
Franks (AZ) Frelinghuysen Gallegly Garrett (NJ) Gerlach Gibbons Gilchrest Gillmor
Gingrey Goode Goodlatte Gordon Goss Granger Graves Green (WI) Gutknecht
Hall Harris Hart Hastings (WA) Hayes Hayworth Hefley Hensarling Herger Hill

Hobson Hoekstra Holden Hostettler Hulshof Hunter Hyde Isakson Issa Istook
Jefferson Jenkins John Johnson (IL) Johnson, Sam Jones (NC) Kanjorski Kaptur
Keller Kennedy (MN) Kildee Kind King (IA) King (NY) Kingston Kline
Knollenberg LaHood Langevin Latham LaTourette Leach Lewis (CA) Lewis (KY)
Linder Lipinski LoBiondo Lucas (KY) Lucas (OK) Lynch Manzullo Marshall
Matheson McCotter McCrery McHugh McIntyre McKeon McNulty Mica Miller
(FL) Miller (MI) Miller, Gary Molloy Moran (KS) Murphy Murtha Musgrave
Myrick Neal (MA) Nethercutt Neugebauer Ney Norwood Nunes Nussle Oberstar
Obey Ortiz Osborne Ose Otter Oxley Pearce Pence Peterson (MN) Peterson (PA)
Petri Pickering Pitts Platts Pombo Pomeroy Porter Portman Pryce (OH) Putnam
Radanovich Rahall Ramstad Regula Rehberg Renzi Reynolds Rogers (AL) Rogers
(KY) Rogers (MI) Rohrabacher Ros-Lehtinen Ross Royce Ryan (OH) Ryan (WI)
Ryun (KS) Saxton Schrock Scott (GA) Sensenbrenner Sessions Shadegg Shaw
Sherwood Shimkus Shuster Simpson Skelton Smith (MI) Smith (NJ) Smith (TX)
Souder Spratt Stearns Stenholm Stupak Sullivan Sweeney Tancredo Tanner
Tauzin Taylor (MS) Taylor (NC) Terry Thomas Thornberry Tiahrt Tiberi Toomey
Turner (OH) Turner (TX) Upton Vitter Walden (OR) Walsh Wamp Weldon (FL)
Weldon (PA) Weller Whitfield Wicker Wilson (NM) Wilson (SC) Wolf Young (AK)
Young (FL)

NOES--163

Abercrombie Ackerman Allen Andrews Baca Baird Baldwin Ballance Bass
Becerra Berkley Berman Biggert Bishop (NY) Blumenauer Boehlert Bono Boswell
Boucher Boyd Brady (PA) Brown (OH) Brown, Corrine Capps Capuano Cardin
Carson (IN) Case Clay Clyburn Conyers Cooper Cummings Davis (AL) Davis
(CA) Davis (FL) Davis (IL) DeFazio DeGette Delahunt DeLauro Deutsch Dicks
Dingell Dooley (CA) Edwards Emanuel Engel Eshoo Etheridge Evans Farr
Fattah Filner Ford Frank (MA) Frost Gephardt Gonzalez Green (TX) Greenwood
Grijalva Gutierrez Harman Hastings (FL) Hinchey Hinojosa Hoeffel Holt Hooley
(OR) Houghton Hoyer Inslee Israel Jackson (IL) Jackson-Lee (TX) Johnson (CT)
Johnson, E. B. Jones (OH) Kelly Kennedy (RI) Kilpatrick Kirk Kolbe Lampson
Larsen (WA) Larson (CT) Lee Levin Lewis (GA) Lofgren Lowey Majette Maloney
Markey Matsui McCarthy (MO) McCarthy (NY) McCollum McDermott McGovern
Meehan Meek (FL) Michaud Miller (NC) Miller, George Moore Moran (VA) Nadler
Napolitano Olver Owens Pallone Pascrell Pastor Paul Payne Pelosi Price (NC)
Rangel Reyes Rodriguez Rothman Roybal-Allard Ruppertsberger Rush Sabo
Sanchez, Linda T. Sanchez, Loretta Sanders Sandlin Schakowsky Schiff Scott (VA)
Serrano Shays Sherman Simmons Slaughter Smith (WA) Snyder Solis Stark
Strickland Tauscher Thompson (CA) Thompson (MS) Tierney Towns Udall (CO)
Udall (NM) Van Hollen Velazquez Visclosky Waters Watson Watt Waxman
Weiner Wexler Woolsey Wu Wynn

NOT VOTING--16

Bell Brady (TX) Buyer Collins Doggett Forbes Honda Kleczka Kucinich
Lantos McInnis Meeks (NY) Menendez Millender-McDonald Northup Quinn

Announcement by the Speaker Pro Tempore

The SPEAKER pro tempore (Mr. LaHood) (during the vote). There are 2 minutes remaining in this vote.

{time} 1355

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.
