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This is the language that the Senator from North Carolina (Mr. HELMS) has brought before the Senate. Of the four major proposals for amending the Constitution that have been introduced, the Helms amendment is the most absolute and inflexible. It provokes the most controversy and inflicts the highest emotional tensions into a public discussion that requires deep sensitivity and strong reasoning.

This proposal, Senate Joint Resolution 178, raises many more important and difficult questions than it answers. Why does it not provide for an exception to save the life of a woman whose pregnancy could be fatal? What would be the effect of this amendment on the legality of the intrauterine device as a means of preventing conception? Would the proposed language prohibit the manufacture and sale of the morning-after contraceptive pill, which can be regarded as an abortive substance?

How would the amendment's provision protecting the unborn "from the moment of fertilization" apply in cases involving conception after rape or incest? Would it permit traditional medical treatment at any time up to a week, even if conception occurred, or would it prohibit such treatment altogether?

Underlying these questions about how the Helms amendment would be implemented is the basic question that is the essence of the issue: When does embryonic life become sufficiently viable and promising to warrant equal consideration with its mother in the protection of their constitutional rights?

Senator HELMS asserts in his amendment that this occurs at the moment of fertilization. It may well be that legal and theological thought may in time evolve to this point, but the undisputed fact is that no such consensus now exists. Legal and theological witnesses before the Senate Subcommittee on Constitutional Amendments and the House Subcommittee on Civil and Constitutional Rights have answered this fundamental question with widely differing pronouncements. It can be assumed that they give widely differing advice to those who rely upon them for legal and ethical guidance.

The Nation is deeply divided on this issue. No consensus has yet emerged, and without a strong consensus of support, particularly from the churches and the legal institutions of the country, no constitutional amendment of this nature could be enforced. Abortions, although illegal, would be sought and obtained, making a mockery of the law and resulting in grave human misery. Passage of this amendment would instigate an immediate political movement to have it repealed.

Mr. President, my colleagues in the Senate rely upon me, as chairman of the Senate Committee on Labor and Public Welfare, to give them good advice on whether to adopt any of the broad range of labor, health, education, and human resources legislation considered by our committee. In the past, they have sought my counsel on Federal programs for rehabilitating the disabled, providing educational opportunities for handicapped

children, attacking inherited diseases that drain the human potential of the newborn. The Senate and the Congress have adopted these programs for preserving the lives and expanding the horizons of the most unfortunate among us.

I depend upon my colleagues on the Judiciary Committee to give me good advice on matters within their jurisdiction and area of expertise. But there is no advice from the Judiciary Committee to support the passage of the Helms amendment today. We are here considering this immensely complex and momentous issue without the benefit of the Judiciary Committee's recommendations. Senator Helms has chosen to bypass the committee and bring his proposal directly before the Senate.

For all of the reasons that I have stated in this brief time, I shall oppose passage of this proposal at this time and support the motion to table its consideration.

Mr. BROOKE. Mr. President, the issue before us has evoked strong emotions. Both sides have deep and strongly held convictions. And surely no issue has been more difficult for me to decide personally. However, I have supported and shall continue to support the Supreme Court's decision, not with any joy, but with a deep belief that the question of abortion is so personal that it must be left, under the guidelines outlined by the Court, to a woman and to her doctor.

But today we are not deciding whether to pass or to defeat a constitutional amendment designed to overturn the Supreme Court decision. Rather, we are deciding the manner in which Congress will debate and consider this important constitutional issue. And because I believe that we must adhere to the regular procedures of the Senate, I will vote to table the Helms amendment.

I want to strongly emphasize that my vote today and my support of the Supreme Court decision does not mean that I would abide a stifling of the views and beliefs of either side. I have insisted and will continue to insist on a full and free discussion of the issue. But I believe we are having such a discussion. We have debated abortion amendments on the floor of the Senate on several occasions. And I am sure we will continue to do so. The Constitutional Amendments Subcommittee of the Senate Judiciary Committee has devoted 2 years of solid work to studying constitutional amendments similar to the one before us today. It has held 15 days of hearings. Thousands of pages of testimony have been taken. In addition, the House Judiciary Committee is now holding hearings. Surely the Congress is giving the issue a fair hearing.

However, we must combine full discussion with procedural soundness. I am strongly convinced that we cannot accomplish these objectives if we take this highly unusual step of circumventing the Senate's committee system. This system is essential for building a legislative history, and is particularly necessary for a complex and highly complicated piece of legislation like the one before us. In

my opinion we would be derelict in our responsibilities if we passed this particular measure without establishing a clear and proper legislative history on which the American people and the courts can rely.

The submission of a committee report to the Senate is the first step in building such a legislative history. That report and the legislation itself is then debated on the Senate floor. Vague or ambiguous language is explained by a member of the committee which wrote the bill.

In a chamber of 100 members, it is impossible to legislate properly a complex measure without such committee guidance. Some may argue that general floor debate alone is enough to establish a legislative history. But the courts have ruled otherwise.

In *Duplex Company v. Deering* (254 U.S. 443 at 474-475 (1921)), the Supreme Court stated:

By repeated decisions of this Court it has come to be well established that the debates in Congress expressive of the views and motives of individual Members are not a safe guide, and hence may not be resorted to in ascertaining the meaning and purpose of the lawmaking body (citations). But reports of committees of House or Senate stand upon a more solid footing, and may be regarded as an exposition of the legislative intent in a case where otherwise the meaning of a statute is obscure (citation). And this has been extended to include explanatory statements in the nature of a supplemental report made by the committee member in charge of a bill in course of passage.

And in the case of *Imhoff-Berg Silk Dyeing v. U.S.* (43 Fed. 836, at 837-838 (D.C. New Jersey, 1930)), a Federal district court held that:

While legislative debate, partaking of necessity very largely of impromptu statements and opinions, cannot be resorted to with any confidence as showing the true intent of Congress in the enactment of statutes, a somewhat different standard obtains with reference to the pronouncements of committees having in charge the preparation of such proposed laws. These committee announcements do not, of course, carry the weight of a judicial opinion, but are rightly regarded as possessing very considerable value of an explanatory nature regarding legislative intent where the meaning of a statute is obscure.

And finally I would refer my colleagues to *Statutes and Statutory Construction*, by J. S. Sutherland, third edition, by F. E. Horack, Jr., 1943, Volume 2:

Although not decisive, the intent of the legislature as revealed by the committee report is highly persuasive. (p. 490)

Statements by individual members of the legislature as to the meaning of provisions in a bill subsequently enacted into law, made during the general debate on the bill on the floor... are generally held to be inadmissible as an aid in construing the statute. (p. 500)

In the earlier cases courts refused to consider legislative debates completely. This rule has been modified to permit explanatory statements by the member of the standing committee who is in charge of its presentation to the legislative house and leads the debate thereon. (p. 501)

I would emphasize that the establishment of a comprehensive record of what a bill and committee report actually

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mean is essential not only to the courts but to the Senate which must vote on the bill.

Mr. President, it is clear that the best interests of all will not be served by bypassing the committee system. Under this system one cannot assure the victory of one side over the other. The only thing that can be assured is a full, open hearing for both sides. This is what is happening with this issue. And I am sure this will continue to hold true.

It is with this strongly held belief in procedural soundness and in thorough hearings and discussion that I vote today to table the Helms amendment.

Mr. ABOUREZK. Mr. President, I rise in support of the motion to table. As a member of the subcommittee which considered antiabortion amendments, including those of Senator HELMS and Senator BUCKLEY, last September, I hope that the motion to table will carry on procedural grounds alone.

No committee or subcommittee presumes to speak for the entire Senate. But if there is an implication in calling up the "Right to Life" amendment for floor consideration today that the Subcommittee on Constitutional Amendments did not or will not take its responsibility seriously, that implication is untrue.

With the leadership of Senator BAYH, the subcommittee held lengthy hearings on the many pending antiabortion amendments, published and distributed those hearings, debated and voted on the proposals.

Like other subcommittee members, I received hundreds of thoughtful letters and phone calls from my constituents on this issue. If there had been any desire on anyone's part—and there was not—to brush this matter aside or dismiss the implications of our action, the public reminded us forcefully of our responsibility.

We considered every proposal that had been introduced, and even some which had not yet been introduced formally. We debated and voted on each, and all were rejected. I, for one, did not know in advance how the various votes would come out in the subcommittee. I voted as I thought best. I am sure that every subcommittee member will agree that there was no collusion, strategy, or attempt at obstructionism by anyone. The votes were taken and the proposals did not pass.

As a member of the Judiciary Committee, therefore, I consider this attempt to bypass the committee unwarranted.

The procedural issue is important, but more important is that the legislation before us is bad legislation.

Criminal laws against abortion will not stop abortion. An amendment to the Constitution will not reconcile the differing factions in this country who strongly and sincerely disagree on the moral, legal, philosophical, medical, and religious issues of abortion. If anything, approving and enacting into law the particular beliefs of one group in this dispute will deepen the conflicts and diminish respect for the law.

We have learned by hard experience

that Government does a terrible job of solving social and moral disputes with legal absolutes. What a triumph it would be if the Senate had such power and influence that we could pass a law here today which would settle for all times the question of when life begins. But this is not going to happen no matter how hard we try.

I consider abortion a repulsive alternative to preventive birth control. In good conscience, I could not recommend or advocate abortion. But like my own beliefs, the decision by a woman with an unwanted pregnancy is a matter of individual conscience. I would personally urge the choice of adoption or another alternative to abortion, but the final choice must rest with the individual, not politicians or policemen.

To a certain extent it concerns me that the Senator from New York (Mr. BUCKLEY), the Senator from North Carolina (Mr. HELMS) and others who have, with great eloquence and conviction, spoken out against big government and the increasing power of Government over Americans' personal lives, want Government to have a role in the most personal and intimate decisions concerning pregnancy.

There are actual, practical consequences of the pending amendment which are frightening to me. How will police know whether laws are being broken? Will all conceptions have to be reported? Will aborted women be expected to testify against themselves on criminal charges? How could enforcement of antiabortion laws be other than haphazard, arbitrary, and discriminatory? How could the law be enforced for wealthy women who could afford to go abroad for abortions?

I do not know all the answers to these questions. But I do know that the 1973 Supreme Court decision on abortion did not change my personal feelings about the rightness or wrongness of abortion. Likewise, a "Right to Life" amendment will not change the minds of those who do not consider abortion immoral.

Approval of the pending constitutional amendment will create many more problems than it would solve. It is not good legislation. I urge the Senate to approve the motion to table.

Mr. HATFIELD. Mr. President, today the Senate is giving consideration to an issue which is of extreme importance and which has generated very strong feelings among our people. I am confident that the Congress has just begun to deal with this issue, even though it has spent a number of months engaged in hearings on abortion since the fateful Supreme Court decision of January 1973.

I intend to vote against the motion to table the motion to proceed with the deliberation of Senate Joint Resolution 178, the Helms resolution. I am doing this in order that the Senate might proceed to deal with the substance of the abortion question and the actual merits of referring an amendment to the State legislatures. My vote does not indicate satisfaction with the language of the Helms resolution, for I share misgivings of a number of my colleagues about this particular resolution. If the opportunity

had been given I was prepared to support a substitute amendment which would assure that abortions would be allowed to save the life of a mother. I had also talked with some of my colleagues about language which would substitute the moment of implantation for the moment of fertilization as the point at which protection would be given to the unborn. If these modifications had not been accepted I would also have supported versions which would at least refer the question to the State legislatures of allowing these State legislatures to subsequently make laws restricting abortion.

Whatever the outcome of this vote, I think it is important to remember that it is a vote strictly on the question of proceeding to consider the Helms resolution. A defeat of this effort is not the final chapter on the abortion question. We are engaged in a long-range consideration of a matter of great consequence. The Congress, in this session or in subsequent sessions, may well want to give additional consideration to the substance of the matter.

I thank the leadership for reserving time for me on this matter and regret that my participation in the conference committee on the Federal Election Commission bill did not allow me to participate more actively.

Mr. BAYH. I am again prepared to yield back my time.

The PRESIDING OFFICER (Mr. HANSEN). It would require unanimous consent for all time to be yielded back.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that all time be yielded back.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

All time is yielded back. The question is on agreeing to the motion to lay on the table the motion to proceed to the consideration of Senate Joint Resolution 178.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until there is order in the Chamber.

The legislative clerk resumed and concluded the call of the roll.

Mr. MANSFIELD. Mr. President, on this vote I have a pair with the distinguished Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator