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4 MARKUP OF H.R. 3541, THE SUSAN B. ANTHONY AND FREDERICK

5 DOUGLASS PRENATAL NONDISCRIMINATION ACT OF 2011

6 Wednesday, February 8, 2012

7 House of Representatives

8 Committee on the Judiciary

9 Washington, D.C.

10       The committee met, pursuant to call, at 1:04 p.m., in  
11 Room 2141, Rayburn Office Building, Hon. Lamar Smith  
12 [chairman of the committee] presiding.

13       Present: Representatives Smith, Sensenbrenner, Coble,  
14 Gallegly, Goodlatte, Lungren, Chabot, Issa, Forbes, King,  
15 Franks, Gohmert, Jordan, Poe, Chaffetz, Griffin, Marino,  
16 Gowdy, Ross, Adams, Quayle, Conyers, Nadler, Scott, Watt,

17 Lofgren, Jackson Lee, Waters, Cohen, Johnson, Pierluisi,  
18 Quigley, Chu, Deutch, and Sanchez.

19 Staff present: Sean McLaughlin, Chief of Staff; Travis  
20 Norton, Parliamentarian, Sarah Kish, Clerk; Perry Apelbaum,  
21 Minority Staff Director; and David Lachmann, Minority  
22 Counsel.

23

24 Chairman Smith. The Judiciary Committee will come to  
25 order.

26 Without objection, the chair is authorized to declare  
27 recesses of the committee at any time.

28 And the clerk will call the roll to establish a quorum?

29 Ms. Kish. Mr. Smith?

30 Chairman Smith. Present.

31 Mr. Sensenbrenner?

32 Mr. Coble?

33 Mr. Gallegly?

34 Mr. Gallegly. Present.

35 Ms. Kish. Mr. Goodlatte?

36 Mr. Lungren?

37 Mr. Chabot?

38 Mr. Issa?

39 Mr. Pence?

40 Mr. Forbes?

41 Mr. King?

42 Mr. Franks?

43 Mr. Franks. Here.

44 Ms. Kish. Mr. Gohmert?

45 Mr. Jordan?  
46 Mr. Poe?  
47 Mr. Chaffetz?  
48 Mr. Chaffetz. Present.  
49 Ms. Kish. Mr. Griffin?  
50 Mr. Marino?  
51 Mr. Marino. Present.  
52 Ms. Kish. Mr. Gowdy?  
53 Mr. Ross?  
54 Ms. Adams?  
55 Ms. Adams. Present.  
56 Mr. Quayle?  
57 Mr. Amodei?  
58 Mr. Conyers?  
59 Mr. Berman?  
60 Mr. Nadler?  
61 Mr. Nadler. Here.  
62 Ms. Kish. Mr. Scott?  
63 Mr. Watt?  
64 Ms. Lofgren?  
65 Ms. Jackson Lee?

66 Ms. Waters?

67 Mr. Cohen?

68 Mr. Johnson?

69 Mr. Pierluisi?

70 Mr. Quigley?

71 Ms. Chu?

72 Mr. Deutch?

73 Ms. Sanchez?

74 Mr. Polis?

75 Mr. Gallegly. [Presiding] Are there additional members

76 who wish to record their presence? The clerk will report?

77 Ms. Kish. Mr. Chairman, 8 members responded present.

78 Mr. Gallegly. Is that all we need for a working quorum?

79 We will just keep it open here for a couple of minutes until

80 we get five more members.

81 Mr. Franks, you are recorded.

82 Mr. Pierluisi?

83 Mr. Pierluisi. Present.

84 Chairman Smith. [Presiding] Okay. The gentleman from

85 Georgia, Mr. Johnson?

86 Mr. Johnson. I am present.

87 Chairman Smith. Is present.

88 The gentleman from Puerto Rico? Present, okay.

89 The gentlewoman from California?

90 The gentleman from Illinois?

91 The gentlewoman from California, Ms. Lofgren?

92 Ms. Lofgren. Present.

93 Chairman Smith. Another gentlewoman from California,

94 Ms. Chu?

95 Ms. Chu. Present.

96 Chairman Smith. And gentleman from Florida, Mr. Ross?

97 Mr. Ross. Present.

98 Chairman Smith. The clerk will report?

99 Ms. Kish. Mr. Chairman, 14 members responded present.

100 Chairman Smith. A working quorum is present, so we will

101 proceed now to the amendment that we were considering

102 yesterday when votes were called. And it was an amendment

103 offered by the gentleman from Arizona, Mr. Franks. And the

104 gentleman from Arizona, I had finished offering the

105 amendment, and it was the gentleman from New York, Mr.

106 Nadler, who was in the process of responding to that

107 amendment. So, the gentleman from New York is recognized?

108 Mr. Nadler. Thank you, Mr. Chairman. I move to strike  
109 the last word.

110 Chairman Smith. The gentleman is recognized for five  
111 minutes?

112 Mr. Nadler. Mr. Chairman, I am having a bit of trouble  
113 with this amendment that I think that it greatly broadens  
114 the right to sue. The bill limits suits to violations of  
115 Subsection (a)(2), which is the use of "force or the threat  
116 of force to intentionally injure or intimidate any person  
117 for the purpose of coercing a sex selection or race  
118 selection abortion."

119 The gentleman's amendment now says that "A woman upon  
120 whom an abortion has been performed pursuant to a violation  
121 of Subsection (a)(2) may in a civil action against any  
122 person who engaged in a violation of Subsection (a) obtain  
123 appropriate relief."

124 First, I am not at all clear what the word "pursuant"  
125 means in this context. *Black's Law Dictionary* defines  
126 pursuant to "as either in compliance with, in accordance  
127 with, or as authorized by." So, I have no idea what an  
128 abortion performed pursuant to a violation of law could

129 possibly be. Maybe authorized by a violation of law? I  
130 just do not what the amendment means here.

131 Second, the course of action seems no longer to be  
132 limited to Subsection (a)(2). It now applies to all of  
133 Subsection (a). Subsection (a)(2) is someone who coercively  
134 performs an abortion for certain purposes. Section A does  
135 not need coercion. It applies to anyone who performs an  
136 abortion, anyone who solicits or accepts funds for the  
137 performance of an abortion, or transports a woman into the  
138 U.S., or across State lines to obtain an abortion. That is  
139 not a clarification; it is a tremendous expansion of the  
140 courses of action and the people might be sued.

141 The amendment is unclear in part and broadens a bad  
142 policy to even more ludicrous dimensions. So, first of all,  
143 I hope that we can clarify what "pursuant to" means, and how  
144 it changes the meaning of the original bill. And, second of  
145 all, I urge the defeat of the amendment insofar as it  
146 broadens what the bill purports to do.

147 I yield back.

148 And before I yield back, I would ask, can we get the  
149 intent of what "pursuant to" is supposed to be mean here,

150 what the amendment is trying to do, because it frankly does  
151 not seem to -- it either does nothing or it does something,  
152 and I am not clear what.

153 Chairman Smith. Thank you, Mr. Nadler. I will yield  
154 myself five minutes to say that I support the amendment.  
155 And I will yield to the gentleman from Arizona, Mr. Franks?

156 Mr. Franks. Well, thank you, Mr. Chairman.

157 Mr. Chairman, sincerely this is meant to make sure that  
158 the coerced woman has the same action capability as those  
159 others mentioned in the bill, the civil action by relatives.  
160 It was just an ambiguity there where the original intent of  
161 the bill was to give the coerced woman the chance to pursue  
162 civil action on all four of the paragraphs under Section A  
163 if you look at that.

164 Mr. Nadler. Would the gentleman yield?

165 Mr. Franks. Yes.

166 Mr. Nadler. The language of the bill without the  
167 amendment, on page 14, "A woman upon whom an abortion has  
168 been performed or attempted in violation of Subsection  
169 (a)(2)," that is coercively, "may in a civil action against  
170 any person who engaged in the violation obtain appropriate

171 relief." How is that not clear already?

172 Mr. Franks. Well, it only references Section (a)(2),  
173 and if you look at that, it does not give her the ability to  
174 deal with the same -- if you look on line 7, page 14, if you  
175 will notice, in violation of Subsection (a). It would mean  
176 that grandparents or others would have a greater flexibility  
177 to have civil action than the mother who had been coerced.  
178 And all we wanted to do was make to make the field even  
179 there. And the "pursuant to" just means as a result of.

180 Mr. Nadler. It does not matter. I yield back.

181 Chairman Smith. The gentleman from Arizona has the  
182 time. Does he yield back?

183 Mr. Franks. Mr. Chairman, I yield back.

184 Chairman Smith. Okay. Are there any other members who  
185 wish to be recognized on the amendment?

186 If not --

187 Mr. Conyers. Could I?

188 Chairman Smith. The gentleman from Michigan is  
189 recognized?

190 Mr. Conyers. Just briefly, Mr. Chairman.

191 I will yield back.

192 Chairman Smith. The gentleman yields back.

193 The question is on the amendment.

194 All in favor, say aye?

195 [A chorus of ayes.]

196 Chairman Smith. All opposed, nay?

197 [A chorus of noes.]

198 Chairman Smith. In the opinion of the chair, the ayes

199 have it, and the amendment is agreed to.

200 Mr. Conyers. Record vote, please.

201 Chairman Smith. A record vote has been requested. The

202 clerk will call the roll?

203 Ms. Kish. Mr. Smith?

204 Chairman Smith. Aye.

205 Ms. Kish. Mr. Smith votes aye.

206 Mr. Sensenbrenner?

207 [No response.]

208 Ms. Kish. Mr. Coble?

209 Mr. Coble. Aye.

210 Ms. Kish. Mr. Coble votes aye.

211 Mr. Gallegly?

212 [No response.]

213 Ms. Kish. Mr. Goodlatte?  
214 [No response.]  
215 Ms. Kish. Mr. Lungren?  
216 [No response.]  
217 Ms. Kish. Mr. Chabot?  
218 [No response.]  
219 Ms. Kish. Mr. Issa?  
220 [No response.]  
221 Ms. Kish. Mr. Pence?  
222 [No response.]  
223 Ms. Kish. Mr. Forbes?  
224 [No response.]  
225 Ms. Kish. Mr. King?  
226 [No response.]  
227 Ms. Kish. Mr. Franks?  
228 Mr. Franks. Aye.  
229 Ms. Kish. Mr. Franks votes aye.  
230 Mr. Gohmert?  
231 [No response.]  
232 Ms. Kish. Mr. Jordan?  
233 [No response.]

234 Ms. Kish. Mr. Poe?  
235 [No response.]  
236 Ms. Kish. Mr. Chaffetz?  
237 Mr. Chaffetz. Aye.  
238 Ms. Kish. Mr. Chaffetz votes aye.  
239 Mr. Griffin?  
240 [No response.]  
241 Ms. Kish. Mr. Marino?  
242 Mr. Marino. Aye.  
243 Ms. Kish. Mr. Marino votes aye.  
244 Mr. Gowdy?  
245 Mr. Ross?  
246 Mr. Ross. Aye.  
247 Ms. Kish. Mr. Ross votes aye.  
248 Ms. Adams?  
249 Ms. Adams. Aye.  
250 Ms. Kish. Ms. Adams votes aye.  
251 Mr. Quayle?  
252 [No response.]  
253 Mr. Amodei?  
254 [No response.]

255 Ms. Kish. Mr. Conyers?

256 Mr. Conyers. No.

257 Ms. Kish. Mr. Conyers votes no.

258 Mr. Berman?

259 [No response.]

260 Ms. Kish. Mr. Nadler?

261 Mr. Nadler. No.

262 Ms. Kish. Mr. Nadler votes no.

263 Mr. Scott?

264 Mr. Scott. No.

265 Ms. Kish. Mr. Scott votes no.

266 Mr. Watt?

267 Mr. Watt. No.

268 Ms. Kish. Mr. Watt votes no.

269 Ms. Lofgren?

270 Ms. Lofgren. No.

271 Ms. Kish. Ms. Lofgren votes no.

272 Ms. Jackson Lee?

273 [No response.]

274 Ms. Kish. Ms. Waters?

275 [No response.]

276 Ms. Kish. Mr. Cohen?  
277 [No response.]  
278 Ms. Kish. Mr. Johnson?  
279 Mr. Johnson. No.  
280 Ms. Kish. Mr. Johnson votes no.  
281 Mr. Pierluisi?  
282 Mr. Pierluisi. No.  
283 Ms. Kish. Mr. Pierluisi votes no.  
284 Mr. Quigley?  
285 Mr. Quigley. No.  
286 Ms. Kish. Mr. Quigley votes no,  
287 Ms. Chu?  
288 Ms. Chu. No.  
289 Ms. Kish. Ms. Chu votes no.  
290 Mr. Deutch?  
291 Mr. Deutch. No.  
292 Ms. Kish. Mr. Deutch votes no.  
293 Ms. Sanchez?  
294 [No response.]  
295 Ms. Kish. Mr. Polis?  
296 [No response.]

297 Mr. Sensenbrenner. Mr. Chairman?

298 Chairman Smith. The gentleman from Wisconsin?

299 Mr. Sensenbrenner. Aye.

300 Ms. Kish. Mr. Sensenbrenner votes aye.

301 Chairman Smith. The gentleman from California?

302 Mr. Gallegly. Aye.

303 Ms. Kish. Mr. Gallegly votes aye.

304 Chairman Smith. Another gentleman from California?

305 Mr. Lungren. Aye.

306 Ms. Kish. Mr. Lungren votes aye.

307 Chairman Smith. A third gentleman from California?

308 Mr. Issa. Aye.

309 Ms. Kish. Mr. Issa votes aye.

310 Chairman Smith. The gentleman from Virginia, Mr.

311 Forbes, in the back?

312 Mr. Forbes. Aye.

313 Ms. Kish. Mr. Forbes votes aye.

314 Chairman Smith. The clerk will report?

315 Ms. Kish. Mr. Chairman, 12 members voted aye, 10

316 members voted nay.

317 Chairman Smith. Okay. A majority having voted in favor

318 of the amendment, the amendment is agreed to.

319 Are there other amendments?

320 Mr. Conyers. Mr. Chairman, I have an amendment at the  
321 desk.

322 Chairman Smith. The gentleman from Michigan, Mr.  
323 Conyers, is recognized to offer an amendment. And the clerk  
324 will report the amendment?

325 Ms. Kish. Amendment to H.R. 3541, offered by Mr.  
326 Conyers of Michigan, page 2, beginning on line 2.

327 Chairman Smith. Without objection, the amendment will  
328 be considered as read.

329 [The amendment of Mr. Conyers follows:]

330

331 Chairman Smith. And the gentleman from Michigan is  
332 recognized to explain the amendment?

333 Mr. Conyers. Mr. Chairman and members, I have been  
334 troubled by the title of this bill from the beginning, and  
335 this amendment is an effort to strike the names "Susan  
336 Anthony" and "Frederick Douglass" from the Prenatal  
337 Nondiscrimination Act.

338 The names of two great civil rights pioneers have been  
339 put on the short title of this bill. And as one who has  
340 perhaps studied and appreciated Frederick Douglass as much  
341 as anyone on the committee, I have not been able to discover  
342 what his name on this bill and his connection to it are.  
343 And I think the same thing applies to this great women's  
344 right advocate, Susan B. Anthony.

345 So, it is in this spirit that we at least accurately  
346 entitle this bill, but to use these two people on the bill I  
347 think is very misleading, and it sets up a very bad policy.

348 And what I want to do is get, I hope, to the position  
349 where we can work on some of the problems when it comes to  
350 access to family planning services. The African-American  
351 and Hispanic communities are under served when it comes to

352 prenatal care and maternal and child health care services.  
353 African-Americans have shorter life spans, higher infant  
354 mortality rates, higher rates of low birth weight babies.  
355 By every measure our community is medically underserved, and  
356 the outcomes only reinforce that.

357 And so, those are the issues I would like to direct our  
358 attention toward, and I think that in some ways the measure  
359 before us signifies an important retreat from civil rights  
360 initiatives. And it is in this sense that I hope you will  
361 join me in removing these two great Americans' names from  
362 the title.

363 And I yield back my time.

364 Mr. Goodlatte. Mr. Chairman?

365 Chairman Smith. Thank you, Mr. Conyers.

366 The gentleman from Virginia, Mr. Goodlatte, is  
367 recognized?

368 Mr. Goodlatte. Thank you, Mr. Chairman. I just want it  
369 noted in the record that I was on the previous recorded vote  
370 on the amendment offered by the gentleman from Arizona, Mr.  
371 Franks. I was unavoidably detained. Had I been present, I  
372 would have voted aye for the amendment.

373 Mr. Franks. Mr. Chairman, I move to strike the last  
374 word.

375 Chairman Smith. Okay. Let me check. Are there other  
376 members who wish to be heard on the amendment? The  
377 gentleman from Arizona is recognized for five minutes?

378 Mr. Franks. Well, thank you, Mr. Chairman.

379 Mr. Chairman, there is a great deal of respect on my  
380 part toward the gentleman offering the amendment, and if you  
381 will bear with me here, I will try to respond to the  
382 gentleman's concern.

383 Naming this bill or using the namesake of Frederick  
384 Douglass was, in my estimation, an honor to his life. This  
385 abolitionist's life work was about eradicating slavery,  
386 working to save and enrich the lives of the African-American  
387 people, men, women, and children alike, so that they could  
388 enjoy that which we all are promised in America, life,  
389 liberty, and the pursuit of happiness. And I do not know  
390 that there could be a greater namesake for the bill, and I  
391 would certainly oppose changing it certainly for the same  
392 reason Susan B. Anthony fought for women's rights, women's  
393 equality.

394           And I just want to submit for the record a letter of  
395 endorsement for PRENDA from the Frederick Douglass  
396 Foundation, and I want to say very sincerely, this letter is  
397 dated June 25th, 2010, and did not anticipate Mr. Conyers'  
398 amendment at all. There is no response here. This was  
399 something that was done a long time ago.

400           And if I could, the heading of the letter has a quote by  
401 Frederick Douglass. He said, "Where justice is denied,  
402 where poverty is enforced, where ignorance prevails, and  
403 where one class is made to feel that society is an organized  
404 conspiracy to oppress, rob, and degrade them, neither  
405 persons nor property will be safe."

406           And the letter is addressed to me. It says, "Dear  
407 Congressman Franks." I will not read the whole letter, but  
408 it says, the Prenatal --

409           Mr. Watt. Mr. Chairman, may we request a copy of the  
410 letter?

411           Mr. Franks. Certainly. With your permission --

412           Mr. Watt. Could we see it?

413           Mr. Franks. I would be glad to do that, and I would  
414 like to offer it as a --

415 Mr. Watt. Before you decide not to include all of it?

416 Mr. Franks. I would like to include all of it in the  
417 record, if I could.

418 Chairman Smith. Without objection, both the letters  
419 referred to by the gentleman will be made a part of the  
420 record.

421 [The information follows:]

422

423 Mr. Watt. Reserving the right to object, Mr. Chairman.  
424 Because we do not have it, how could we evaluate whether to  
425 put it in the record? I am asking for a copy of it before  
426 it be put in the record. I mean, I obviously do not --

427 Mr. Franks. We will be happy to pass copies around to  
428 you, sir. I am asking the staff to do that now.

429 Chairman Smith. Does the gentleman from North Carolina  
430 still object to the inclusion of the letter?

431 Mr. Watt. I reserve the right to object until I see the  
432 letter, Mr. Chairman.

433 Mr. Franks. Well, I have a few more things to say here  
434 in the meantime, if it is all right, Mr. Chairman --

435 Chairman Smith. Okay.

436 Mr. Franks. -- to use the rest of my time here.

437 Chairman Smith. Yeah. Let me just say to the gentleman  
438 from North Carolina that the inclusion of documents in the  
439 record has always been a courtesy that has been extended to  
440 all members on both sides virtually for any reason. And I  
441 would not like that tradition to necessarily be interrupted.

442 Mr. Watt. Mr. Chairman, and I thoroughly respect that,  
443 but it also has been the tradition to make the letters

444 available, or whatever is going into the record available if  
445 somebody wants it.

446 Chairman Smith. I am not sure that has been a  
447 tradition, but in any case we will see that the gentleman  
448 has a copy of the letter.

449 Mr. Watt. And I want to assure the chairman I am not  
450 trying to break that tradition. I think essentially  
451 whatever people want to put in the record ought to be  
452 allowed to be put into the record. And ultimately I am not  
453 going to continue the objection, but if he is going to quote  
454 and say I am going to read part of the letter, I think we  
455 are entitled to see the letter. With respect to anything  
456 that goes into the record, we are entitled to see it.

457 Chairman Smith. The chairman does not question what the  
458 gentleman is entitled to do. I was referring to simply past  
459 precedent on the committee and the tradition that the  
460 gentleman himself just recognized.

461 I will take the gentleman at his word that he does not  
462 intend to object, but I also will look forward to his  
463 reading the letter.

464 The gentleman from Arizona continues to have the time?

465 Mr. Franks. Thank you, Mr. Chairman.

466 Mr. Chairman, the reality here is that if one just looks  
467 at present statistics, and I will try to make this as  
468 concise as I can, according to Alan Guttmacher, about 37  
469 percent of the 1.2 million abortions a year in America are  
470 on African-American babies, about 444,000.

471 The challenge with that statistic, sir, is that we have  
472 a complete record of births of African-American children  
473 being about 620,000 per year. But many of the States in  
474 terms of the abortion statistics are left out. When one  
475 corrects in the most conservative way we can think of doing  
476 so, that means that the floor is around 42 percent -- the  
477 floor around 42 percent of all African-Americans are aborted  
478 before they are born.

479 Now, I would stipulate, I know that the former chairman  
480 suggested in another hearing that Mr. Douglass never opined  
481 on *Roe versus Wade*. And I would suggest that, you know, I  
482 will stipulate to that. But to suggest that this man who  
483 fought for equality would not be outraged at 42 percent or  
484 more of African-Americans being aborted before they are  
485 born, I think, is a terrible disservice to him. And I know

486 it is not one that the gentleman offers.

487 But I am convinced that this honors the name of  
488 Frederick Douglass, and continues the great work he did to  
489 see that all of God's children, no matter who they are, get  
490 an equal chance at life, liberty, and the pursuit of  
491 happiness.

492 And with that, Mr. Chairman, I will yield back.

493 Chairman Smith. Thank you, Mr. Franks.

494 Mr. Watt. Mr. Chairman?

495 Chairman Smith. And without objection --

496 Mr. Watt. Move to strike the last word.

497 Chairman Smith. First of all, without objection, the  
498 two letters that the gentleman from Arizona referred to will  
499 be made a part of the record.

500 [The information follows:]

501

502 Chairman Smith. The gentleman from North Carolina?

503 Mr. Watt. I move to strike the last word.

504 Chairman Smith. The gentleman is recognized for five  
505 minutes?

506 Mr. Watt. Mr. Chairman, I really came to this markup  
507 without the intent to be involved in it because I was so  
508 insulted by the use of these two giants' names. And now I  
509 am insulted because we have had our whole committee  
510 misrepresented the fact that somehow this Foundation has  
511 authorized the use of the name. There is nothing in this  
512 letter that says that they authorized the use of the  
513 Frederick Douglass name on this legislation.

514 And we do not know what position Frederick Douglass or  
515 Susan B. Anthony would have had on this legislation. I  
516 think it is just an absolute insult to these people to be  
517 trying to tie them to this movement that Mr. Franks  
518 professes to be leading the band on.

519 We ought to name the bill the Frank whatever it is, I  
520 mean, you know. Name it in favor of yourself. We know what  
521 you stand for. But you do not have a clue what Frederick  
522 Douglass stood for when it comes to this issue.

523           None of us believe in discrimination, and that is what  
524 the letter says. And that is really all the letter says  
525 when you get right down to it. But this is an insult to the  
526 memory of two giants in our history. To try to drag them  
527 down into some current day debate about whether abortion, or  
528 life begins at conception, or viability, when that was not  
529 even an issue when they were around, is just an abomination,  
530 in my opinion.

531           And, I mean, then to be insulted by saying that the  
532 letter stands for the proposition that their names should be  
533 used on this legislation is a further insult to me and the  
534 members of this committee.

535           Mr. Chairman, I --

536           Mr. Conyers. Would the gentleman yield?

537           Mr. Watt. I would be happy to yield. Maybe I can bring  
538 myself to compose myself at what is being done here in this  
539 committee. This is an abomination. I will yield to the  
540 gentleman.

541           Mr. Conyers. And I thank you for your passion and the  
542 deep feeling that you have that these two leaders for human  
543 decency would have their names posthumously attached to

544 legislation that is not at all clear they would support.

545 I asked you to yield, Chairman Watts, because the  
546 Leadership Conference on Civil Rights has sent a letter to  
547 the members of the House Judiciary Committee, a coalition of  
548 over 200 organizations dedicated to ending discrimination in  
549 all aspects of American life. And they urge to oppose this  
550 bill, H.R. 3541, because it does not in any way address  
551 discrimination on the basis of sex or race. Rather it is a  
552 veiled attempt to restrict health care for women of color  
553 under the guise of civil rights.

554 And so, I will at the appropriate time ask unanimous  
555 consent that this letter be introduced into the record.

556 And I thank you for your --

557 Mr. Watt. Reclaiming my time.

558 Mr. Chaffetz. Will the gentleman yield?

559 Mr. Watt. I will be happy to yield to the gentleman.

560 Mr. Chaffetz. Thank you.

561 Mr. Chairman, I just want to simply state I  
562 wholeheartedly support the bill. But I am inclined to  
563 support Chairman Conyers' amendment. I think some things  
564 are worth arguing, and the content of a bill and the

565 discussion that we have should be a vigorous one. But the  
566 title is certainly something we can be sensitive on both  
567 sides of the aisle to.

568 I think if somebody is offended or has objection to  
569 that, that is certainly something that as a professional  
570 courtesy we should take care of. And I would be inclined to  
571 support Chairman Conyers' --

572 Mr. Watt. I ask unanimous consent for two additional  
573 minutes, Mr. Chairman.

574 Chairman Smith. The gentleman, if it is all right,  
575 would be recognized. Let me just say to the gentleman from  
576 North Carolina, we are not going to conclude debate on this  
577 amendment. We are going to go vote and then return. So, if  
578 it is all right, I would like to have some other members  
579 speak before we go.

580 Mr. Watt. Well --

581 Chairman Smith. The gentleman without objection is  
582 recognized for an additional minute?

583 Mr. Watt. Let me yield to the gentleman from New York.

584 Mr. Nadler. Thank you.

585 Mr. Chairman, this bill is not the only thing that

586 appropriates a name without permission apparently. I just  
587 Googled the Frederick Douglass Foundation. Their home page  
588 describes themselves as follows: "The Frederick Douglass  
589 Foundation is a national grass roots public policy and  
590 educational organization which bring the sanctity of free  
591 market and limited government ideas to bear on the hardest  
592 problems facing our Nation. Our goals: By being the  
593 liaison to black faith-based organizations, conservative  
594 candidates, party, and elected officials." And it goes on.

595 So, it is a conservative organization. It is entitled  
596 to be, but it certainly does not necessarily represent the  
597 views of Frederick Douglass or what he might think today.  
598 So, to use this letter in anything, all this says is that a  
599 conservative organization, which presents itself as a  
600 conservative policy organization, agrees with the bill,  
601 which is not surprising.

602 So, I also think we should not be appropriating the  
603 names of people who we have no idea what they --

604 Mr. Watt. Reclaiming my time just long enough to ask  
605 the ranking member whether he might agree to a friendly  
606 amendment to his amendment that changes the name of the bill

607 to the Trent Franks bill. I do not care if we use his name,  
608 you know. It is the insult to the memory of these people  
609 that I am concerned about.

610 Chairman Smith. The gentleman's time has expired.

611 The gentleman from Iowa, Mr. King, is recognized?

612 Mr. King. Thank you, Mr. Chairman. I move to strike  
613 the last word.

614 Chairman Smith. The gentleman is recognized for five  
615 minutes?

616 Mr. King. Thank you, Mr. Chairman. I just listened to  
617 this debate, and curiously it is coming sometimes from  
618 people that were not going to be engaged in the debate. And  
619 the gentleman from North Carolina when he says discussion  
620 about the debate on when life begins, I actually do not  
621 think it is the subject of this bill.

622 But whether we agree or disagree on when life begins, I  
623 think we can agree that life ends at abortion. And this  
624 bill is targeted at race and sex selection of babies for  
625 abortion.

626 And then as I listened to some of the other discussion  
627 and debate about whether or not we can take offense on

628 behalf of people long since passed away, such as Susan B.  
629 Anthony and Frederick Douglass, you know, I do not how we  
630 can posture ourselves in that fashion and decide we are  
631 going to be opposed to an amendment to the title in a bill  
632 because somebody professes to be offended or potentially  
633 offended on behalf of someone who has checked into the next  
634 life.

635       And so, I believe that we are very, very consistent with  
636 Susan B. Anthony and the principles that she lived and stood  
637 for, and I think we are very, very consistent with Frederick  
638 Douglass.

639       And to make that point more emphatically than myself, I  
640 would be happy to yield to the gentleman from Arizona.

641       Mr. Franks. Well, Mr. Chairman, thank you, sir. I do  
642 not want to belabor this. I would just suggest to you that  
643 if we cannot hearken back to the heroes of the past that  
644 have stood for things like fighting discrimination and  
645 protecting all classes of people to further the same cause  
646 today, then we have to take all these pictures down here on  
647 the walls, and just forget about any comments of tying a  
648 George Washington to freedom or the founding of America.

649 I mean, the bottom line is that Mr. Douglass fought to  
650 preserve the African-American people in this country when  
651 they were being persecuted in the worst possible ways. And  
652 yet the reality today that 14 million African-American  
653 children have been aborted in this country since *Roe versus*  
654 *Wade*, 14 million, which far outpaces the death caused even  
655 in the days of slavery.

656 And I would suggest to you that if we are looking for an  
657 abomination, there it is. When 42 percent or more African-  
658 Americans are aborted, and that is what this bill seeks to  
659 purport.

660 Now, if it is a notion that we need to deal with  
661 underserved people, let me just say to you, if Planned  
662 Parenthood and the abortion industry continues to serve the  
663 underserved like they have been doing, pretty soon there  
664 will not be any underserved to serve.

665 Mr. King. Will the gentleman yield?

666 Mr. Franks. And with that, I would yield back.

667 Mr. King. Mr. Chairman --

668 Chairman Smith. The gentleman yields back his time.

669 Mr. King. Reclaiming my time. Reclaiming my time.

670 Chairman Smith. Oh, you are right. The gentleman from  
671 Iowa, Mr. King, has the time?

672 Mr. King. Thank you, Mr. Chairman. I would conclude my  
673 statement having reclaimed my time. And I have in front of  
674 me a letter from the Frederick Douglass Foundation, not  
675 having just Googled it, but I have it actually in print in  
676 front of me. And it says, it is a letter actually to the  
677 gentleman from Arizona, Mr. Franks. And it says in part,  
678 "It is most disturbing to think that anyone would be allowed  
679 to terminate the life of the baby because of their race or  
680 gender. That is discrimination in its purest form, just as  
681 heinous as the Jim Crow laws." That is the letter in part.

682 I would ask unanimous consent to introduce it into the  
683 record, and I would yield back the balance of my time.

684 Ms. Waters. Mr. Chairman?

685 Chairman Smith. The entire letter has already been made  
686 a part of the record.

687 Ms. Waters. Mr. Chairman?

688 Chairman Smith. The gentleman's time has expired.

689 The committee is going to stand in recess until  
690 immediately after this series of two votes, which will be in

691 about 20 minutes. I would expect to resume markup.

692 [Recess.]

693 Chairman Smith. The Judiciary Committee will resume  
694 markup of H.R. 3541. And the amendment by the gentleman  
695 from Michigan, Mr. Conyers, is currently under discussion.

696 Mr. Sensenbrenner. Mr. Chairman, I ask unanimous  
697 consent the committee recess subject to the call of the  
698 chair.

699 Chairman Smith. Would the gentleman from Wisconsin  
700 consider withdrawing his --

701 Mr. Sensenbrenner. Anything the chair asks.

702 [Laughter.]

703 Chairman Smith. We will get that in writing. Thank  
704 you.

705 [Laughter.]

706 Chairman Smith. A working quorum being present, the  
707 vote is on the amendment.

708 All in favor say aye?

709 [A chorus of ayes.]

710 Chairman Smith. All opposed, no?

711 [A chorus of noes.]

712 Chairman Smith. In the opinion of the chair, the ayes  
713 have it, and the amendment is agreed to.

714 The gentleman --

715 Ms. Waters. You indicated there was going to be  
716 discussion when we came back.

717 Chairman Smith. The vote has occurred on the amendment,  
718 and we will now go to the next amendment.

719 Mr. Nadler. Mr. Chairman.

720 Ms. Waters. You said it was a pending discussion.

721 Chairman Smith. A record vote has been requested, and  
722 the clerk will call the roll?

723 Mr. Nadler. Mr. Chairman? Mr. Chairman?

724 Chairman Smith. We are going to call the roll on the  
725 vote.

726 Mr. Nadler. Mr. Chairman, parliamentary inquiry.

727 Chairman Smith. The gentleman will state his  
728 parliamentary request?

729 Mr. Nadler. When we left, the statement of the chair  
730 was that the amendment was still pending, and that there  
731 would be discussion when we returned. The chair did not  
732 give us time for discussion.

733 Chairman Smith. The gentleman knows better than I that  
734 individuals on his side of the dais chose intentionally not  
735 to return, and we had a vote on the amendment. And the  
736 clerk will now call the roll.

737 Mr. Nadler. Has a quorum been established?

738 Chairman Smith. Will the clerk call the roll, please?

739 Ms. Kish. Mr. Smith?

740 Chairman Smith. Aye.

741 Ms. Kish. Mr. Smith votes aye.

742 Mr. Sensenbrenner?

743 Mr. Sensenbrenner. Aye.

744 Ms. Kish. Mr. Sensenbrenner votes aye.

745 Mr. Coble?

746 Mr. Coble. Aye.

747 Ms. Kish. Mr. Coble votes aye.

748 Mr. Gallegly?

749 [No response.]

750 Ms. Kish. Mr. Goodlatte?

751 Mr. Goodlatte. Aye.

752 Ms. Kish. Mr. Goodlatte votes aye.

753 Mr. Lungren?

754 Mr. Lungren. Aye.

755 Ms. Kish. Mr. Lungren votes aye.

756 Mr. Chabot?

757 Mr. Chabot. Aye.

758 Ms. Kish. Mr. Chabot votes aye.

759 Mr. Issa?

760 [No response.]

761 Ms. Kish. Mr. Pence?

762 [No response.]

763 Ms. Kish. Mr. Forbes?

764 [No response.]

765 Ms. Kish. Mr. King?

766 Mr. King. No.

767 Ms. Kish. Mr. King votes no.

768 Mr. Franks?

769 Mr. Franks. Aye.

770 Ms. Kish. Mr. Franks votes aye.

771 Mr. Gohmert?

772 [No response.]

773 Ms. Kish. Mr. Jordan?

774 Mr. Jordan. Yes.

775 Ms. Kish. Mr. Jordan votes yes.  
776 Mr. Poe?  
777 [No response.]  
778 Ms. Kish. Mr. Chaffetz?  
779 Mr. Chaffetz. Aye.  
780 Ms. Kish. Mr. Chaffetz votes aye.  
781 Mr. Griffin?  
782 Mr. Griffin. Aye.  
783 Ms. Kish. Mr. Griffin votes aye.  
784 Mr. Marino?  
785 [No response.]  
786 Mr. Gowdy?  
787 Mr. Gowdy. Aye.  
788 Ms. Kish. Mr. Gowdy votes aye.  
789 Mr. Ross?  
790 [No response.]  
791 Ms. Kish. Ms. Adams?  
792 Ms. Adams. Aye.  
793 Ms. Kish. Ms. Adams votes aye.  
794 Mr. Quayle?  
795 Mr. Quayle. Aye.

796 Ms. Kish. Mr. Quayle votes aye.  
797 Mr. Amodei?  
798 [No response.]  
799 Ms. Kish. Mr. Conyers?  
800 [No response.]  
801 Ms. Kish. Mr. Berman?  
802 [No response.]  
803 Ms. Kish. Mr. Nadler?  
804 Mr. Nadler. Aye.  
805 Ms. Kish. Mr. Nadler votes aye.  
806 Mr. Scott?  
807 Mr. Scott. Aye.  
808 Ms. Kish. Mr. Scott votes aye.  
809 Mr. Watt?  
810 Mr. Watt. Aye.  
811 Ms. Kish. Mr. Watt votes aye.  
812 Ms. Lofgren?  
813 [No response.].  
814 Ms. Kish. Ms. Jackson Lee?  
815 Ms. Jackson Lee. Aye.  
816 Ms. Kish. Ms. Jackson Lee votes aye.

817 Ms. Waters?

818 [No response.]

819 Ms. Kish. Mr. Cohen?

820 [No response.]

821 Ms. Kish. Mr. Johnson?

822 Mr. Johnson. Aye.

823 Ms. Kish. Mr. Johnson votes aye.

824 Mr. Pierluisi?

825 Mr. Pierluisi. Aye.

826 Ms. Kish. Mr. Pierluisi votes aye.

827 Mr. Quigley?

828 Mr. Quigley. Aye.

829 Ms. Kish. Mr. Quigley votes aye.

830 Ms. Chu?

831 [No response.]

832 Ms. Kish. Mr. Deutch?

833 Mr. Deutch. Aye.

834 Ms. Kish. Mr. Deutch votes aye.

835 Ms. Sanchez?

836 Ms. Sanchez. Aye.

837 Ms. Kish. Ms. Sanchez votes aye.

838 Ms. Kish. Mr. Polis?

839 [No response.]

840 Mr. Nadler. Mr. Chairman?

841 Chairman Smith. The gentleman from Pennsylvania, aye?

842 Ms. Kish. Mr. Marino votes aye.

843 Chairman Smith. Are there other members who wish to be  
844 recorded?

845 The gentleman from Florida, Mr. Ross?

846 Mr. Ross. Aye.

847 Ms. Kish. Mr. Ross votes aye.

848 Chairman Smith. The clerk will report?

849 Mr. Nadler. Mr. Chairman? How am I recorded, please?

850 Chairman Smith. How is the gentleman from New York  
851 recorded?

852 Ms. Kish. Mr. Nadler is recorded as aye.

853 Mr. Nadler. Thank you.

854 Chairman Smith. The clerk will report?

855 Ms. Kish. Mr. Chairman, 24 members voted aye, 1 member  
856 voted nay.

857 Chairman Smith. A majority having voted in favor of the  
858 amendment, the amendment is agreed to.

859           The gentleman from Arizona, Mr. Franks, will be  
860 recognized out of order?

861           Mr. Franks. Thank you, Mr. Chairman.

862           Mr. Chairman, I just wanted to ask unanimous consent to  
863 speak out of order for a moment here quickly?

864           Chairman Smith. Without objection, the gentleman is  
865 recognized for five minutes?

866           Mr. Franks. Thank you. I just wanted to try to explain  
867 to my friend on the minority side that this was a decision  
868 that I encouraged all of my fellow Republicans to accept the  
869 amendment.

870           I want to go ahead and make sure everyone knows that I  
871 truly believe that we did no harm, nor did we do any insult  
872 to the leaders that we tied this bill to. We believe it is  
873 all together appropriate. Susan B. Anthony's pro-life  
874 credentials are absolutely clear in her writings. Mr.  
875 Douglass' comments I have quoted in my opening statement.

876           But I was afraid that perhaps we might take our eye off  
877 of the real issue here. And for me, no matter what it may  
878 seem, I know that everything that is done in this place is  
879 suspect. But for me, my goal is to see us somehow in

880 America open our eyes to the reality of what is happening to  
881 unborn children in the land of the free and the home of the  
882 brave.

883 This does not reflect who we are. If abortion on demand  
884 is really who we are, then it is time to realize that all of  
885 those individuals lying out in Arlington National Cemetery  
886 probably died in vain.

887 And I just am convinced that we are never quite so  
888 eloquent as when we decry the crimes of past generations.  
889 The genocides that have taken place before, we never seem to  
890 be so careful in how we parce out the realities. But we  
891 seem to be almost blind to great genocides in our own time.  
892 And today, every fourth child in America is aborted. Four  
893 thousand will die before the sunset occurs today in our  
894 country.

895 And no matter what anyone says, when we close our eyes  
896 to that, it absolutely undermines everything that we are as  
897 a people. It undermines this notion that we are all created  
898 equal. It is a fundamental crack, and this Nation cannot  
899 survive when its very foundations are stained by the blood  
900 of its own children.

901           And I just somehow hope that the efforts here to try to  
902 step away from the title of this bill are seen in two  
903 lights. Number one, a genuine desire on my heart to focus  
904 on what the real issue is, and, number two, a desire on my  
905 heart to invite you to look at the substance of the bill,  
906 and to search your conscience and hearts, and all of us have  
907 an inward reflection for what is really happening here.

908           The reason that this bill was named the Susan B.  
909 Anthony/Frederick Douglass Act in fundamental terms was  
910 because Susan B. Anthony fought for women's rights in a way  
911 that I believe honored the whole country. Frederick  
912 Douglass was someone that spoke into the heart of Abraham  
913 Lincoln and probably catalyzed the end of 7,000 years of  
914 dehumanizing another human being.

915           And I am just convinced, Mr. Chairman, that that is what  
916 the intent of this bill is to try to do, is to cause us to  
917 relook at this issue. And I would hope that somehow that we  
918 would do that and that we would realize the real question  
919 really is simply, does abortion kill a baby? If it does  
920 not, let us quit talking about it. But if it does, let us  
921 get together and change this. Let us remind ourselves who

922 we are.

923 And with that, I yield back.

924 Ms. Jackson Lee. Mr. Chairman, I would like to strike  
925 the last word.

926 Chairman Smith. Would the gentleman yield to the  
927 gentleman from South Carolina before he yields back?

928 Mr. Franks. Certainly.

929 Mr. Gowdy. Thank you, Mr. Chairman. I thank the  
930 gentleman from Arizona. I just wanted to say to the  
931 gentleman from Arizona, there is no one who has worked  
932 harder to defend the defenseless, to give voice to the  
933 voiceless, to be an advocate for those who do not have an  
934 advocate, than you.

935 And irrespective of the title of your bill, it is  
936 meritorious on the four corners of the document alone. And  
937 you are to be commended for your steadfastness and your  
938 character.

939 I yield back.

940 Ms. Jackson Lee. Mr. Chairman, I would move to strike  
941 the last word, ask unanimous consent to speak out of order.

942 Chairman Smith. The gentleman from New York, Mr.

943 Nadler, is recognized?

944 Mr. Nadler. Thank you. I ask unanimous consent to  
945 speak out of order for a moment.

946 Chairman Smith. The gentleman is recognized for five  
947 minutes.

948 Let me say to the members, I am hoping that with one  
949 member having spoken on each side in regards to the  
950 amendment that has been passed --

951 Ms. Jackson Lee. Mr. Chairman?

952 Chairman Smith. -- nearly unanimously, then we can move  
953 on to other amendments.

954 Mr. Nadler. Thank you.

955 Chairman Smith. The gentleman from New York is  
956 recognized?

957 Mr. Nadler. I will not take the five minutes. I just  
958 want to say this.

959 First of all, I want to express my appreciation to the  
960 gentleman from Arizona for his gesture in agreeing to pass  
961 this amendment.

962 And let me say, I do not have any doubt whatsoever as to  
963 the authenticity and the heartfelt devotion of the gentleman

964 from Arizona to his point of view as he expressed it. And I  
965 do not have any doubt as to many other people having, you  
966 know, the same point of view.

967 There is a very fundamental disagreement in this  
968 country, in this Congress, and in this committee on the  
969 rightness of abortion, on the rightness of choice, et  
970 cetera. And I am not going to debate that in this context  
971 right now.

972 We do not believe it to be true most of what the  
973 gentleman said. All I can say about the amendment is, and  
974 we will debate that in the course of debating this, and I am  
975 sure many other bills.

976 I think we do not know really, and the historical record  
977 really does not show us anything about the view of Frederick  
978 Douglass or Susan B. Anthony on abortions frankly. Now, one  
979 can assume, given your own view, that, of course, they would  
980 agree with you, or I can assume they would agree with me  
981 because my views are as intensely held. But we do not  
982 really know.

983 Be that as it may, I think it is wrong to appropriate  
984 their name to one view, which we do not really know that

985 they held, which today people hold very strongly and believe  
986 is moral and so forth. But we should debate the bill on its  
987 merits. We should debate the bill on our different moral  
988 viewpoints on the whole question of abortion and choice, and  
989 leave heroes who are no longer with us to their opinions.

990 And that is why I appreciate that we are not going to  
991 deal with the history of Frederick Douglass and Susan B.  
992 Anthony. People can debate that to their heart's content,  
993 but it should not really be put on a bill, which many people  
994 oppose and which many people would think does not honor to  
995 their names. Some people would think it does. I am glad  
996 that we are not getting into that.

997 Ms. Jackson Lee. Mr. Chairman?

998 Mr. Nadler. And so, I appreciate the gentleman's  
999 gesture, and I yield back.

1000 Chairman Smith. Would the gentleman yield to the  
1001 gentlewoman from Texas?

1002 Mr. Nadler. Oh, sure. Yes.

1003 Ms. Jackson Lee. I thank the gentleman from New York,  
1004 and I thank the chairman for referring.

1005 I think I can add my comments as well. I have known Mr.

1006 Franks on this committee for a very long time, and know that  
1007 he has true commitment to this issue.

1008 But I want to raise several points, and maybe as we all  
1009 think about naming bills, Mr. Franks will be sensitive to  
1010 it.

1011 Susan B. Anthony is known as a suffragette by and large,  
1012 and Frederick Douglass as an abolitionist. And the question  
1013 that I raise is whether anyone had secured permission or had  
1014 inquired of any of their --

1015 Chairman Smith. Would the gentlewoman yield? Is the  
1016 gentlewoman aware that those names have been removed from  
1017 the bill?

1018 Ms. Jackson Lee. I am aware. I am making the point in  
1019 trying to speak to the sincerity of Mr. Franks, just as Mr.  
1020 Nadler was.

1021 Chairman Smith. Okay.

1022 Ms. Jackson Lee. Anyone inquired of any of those family  
1023 members as to whether this would give credit to them.

1024 The other part, Mr. Franks, is that as I look at the  
1025 bill in its totality and what you were, I assume, having Ms.  
1026 Anthony representing the gender, and having Frederick

1027 Douglass representing the race. An abolitionist was a very  
1028 serious entity during one of the most horrific times of our  
1029 eras. That is slavery, enslavement and killing, and  
1030 sometimes dastardly things happened to both mother and child  
1031 just out of the fact that they were slaves.

1032 It does not equate to your intent, which is your right  
1033 to discuss the issue of abortion and how extensive it is in  
1034 this country. But, in fact, my understanding is, I see no  
1035 purposeful attempt to abort babies of color on their race.  
1036 I do not where your documentation has come from. And I see  
1037 none as it relates to gender.

1038 And I ask the question whether this bill is an  
1039 international bill. If this bill is only domestic, then it  
1040 seems that your thinking was misdirected. And if I might  
1041 add, in the month of African-American History Month, when I  
1042 first saw the bill, I thought this was a salute to African-  
1043 American history. It is misleading, and I know that the  
1044 names have been changed.

1045 I want to pay tribute to your sincerity, but it was  
1046 offensive. It was offensive to me. And, again, I cannot  
1047 see any documentation where people are aborting babies in

1048 the United States based on gender and race, and why this  
1049 bill is even necessary.

1050 I yield back my time.

1051 Chairman Smith. The gentleman from New York controls  
1052 the time. Does the gentleman from New York yield back his  
1053 time? I assume that he does?

1054 Mr. Deutch. If the gentleman would yield.

1055 Chairman Smith. The gentleman from New York is without  
1056 objection given an additional one minute?

1057 Mr. Nadler. And I will yield to the --

1058 Mr. Deutch. I thank the gentleman. I appreciate Mr.  
1059 Franks' support of the amendment, and I appreciate the  
1060 efforts to tone down the rhetoric. But it must be said that  
1061 to compare the number of abortions to the number of slaves  
1062 who were killed is to compare and equate women exercising  
1063 their constitutional rights to the slave masters and those  
1064 who killed the slaves. That is not acceptable.

1065 Further, to suggest simply because the gentleman does  
1066 not agree with the Supreme Court, and it is the gentleman's  
1067 goal to strip away a woman's reproductive rights, that  
1068 somehow the men and women whose bodies lie in Arlington

1069 National Cemetery died in vain for defending the  
1070 Constitution and the Nation that we love is also  
1071 unacceptable.

1072 I appreciate very much the efforts that the gentleman  
1073 made to tone down the rhetoric in agreeing to the amendment.  
1074 But those kinds of comparisons are simply beyond the pale.

1075 Mr. Franks. Would the gentleman yield for 15 seconds?

1076 Mr. Deutch. I will yield.

1077 Mr. Franks. I would just say to you that there was a  
1078 time when the Supreme Court said slavery was okay, too. And  
1079 we had this discussion a long time ago, and somebody changed  
1080 their mind. And I am just making sure history does not  
1081 repeat itself.

1082 Mr. Deutch. Reclaiming my time. Mr. Chairman, we can  
1083 have this debate throughout this entire markup of this bill.  
1084 But to suggest that because slavery once existed in this  
1085 country, it is now acceptable for us to compare women who  
1086 exercise their reproductive rights with slave masters who  
1087 killed their slaves, I find unacceptable. But if that is  
1088 the direction that this markup will take, I will look  
1089 forward to participating.

1090 Mr. Johnson. Will the gentleman yield? Will the  
1091 gentleman yield?

1092 Mr. Deutch. I will. I yield back to the gentleman from  
1093 New York.

1094 Mr. Johnson. Would the gentleman from New York yield?

1095 Mr. Nadler. Do I have any time? I will then yield to  
1096 the gentleman from Georgia.

1097 Mr. Johnson. Just for the record, I think it should be  
1098 stated that the Frederick Douglass Foundation is a one-man  
1099 band apparently, founded by Timothy F. Johnson, Ph.D., who  
1100 is also the president. It is a political organization  
1101 because it is says on the website, "We believe in the  
1102 sanctity of human life and the protection of traditional  
1103 marriage." And it is also a devoted Christians, proud  
1104 Americans, active Republicans is what it stands for.

1105 And so, this is owned and operated by a Ph.D. Timothy F.  
1106 Johnson, whose Ph.D. has been put in question. The man may  
1107 not even be a doctor, but yet he is the head of the  
1108 Frederick Douglass Foundation. So --

1109 Ms. Waters. Will the gentleman yield?

1110 Mr. Johnson. I will.

1111 Ms. Waters. Are you telling this committee that there  
1112 is a front organization --

1113 Mr. Johnson. Reclaiming my time.

1114 Ms. Waters. -- with the name Frederick Douglass that is  
1115 being used by a member of this committee who wants everybody  
1116 to believe in the sincerity. And many of you members have  
1117 honored by saying that you believe his intentions are good?  
1118 And now you are telling me that he is hiding behind a front  
1119 organization?

1120 Mr. Nadler. Reclaiming my time. The gentleman has  
1121 withdrawn his amendment. We have made the comments. I do  
1122 not think we have to -- I mean, the gentleman has acceded to  
1123 passing the amendment. The bona fides of the Frederick  
1124 Douglass Foundation, which tell you right up front they are  
1125 a conservative political organization, I do not think we  
1126 ought to debate that any more. Anybody can make of them  
1127 what they want.

1128 Mr. Johnson. Well, just for the record.

1129 Mr. Nadler. And I am glad that the amendment has passed  
1130 and this is not on the bill anymore. I yield back.

1131 Mr. Waters. Will the gentleman yield?

1132 Chairman Smith. Okay. Appreciate the comments by the  
1133 gentleman from New York. The gentleman's time has expired.

1134 Mr. Watt. Mr. Chairman?

1135 Chairman Smith. The gentleman from North Carolina, Mr.  
1136 Watt?

1137 Mr. Watt. I ask unanimous consent to speak out of  
1138 order.

1139 Chairman Smith. The gentleman moves to strike the last  
1140 word, and he is recognized for five minutes?

1141 Mr. Watt. Let me just say this, Mr. Chairman. To the  
1142 extent I started the escalation of emotions on this issue, I  
1143 regret. Many of the members who have served with me for the  
1144 entirety of my service in Congress know that it was not  
1145 unusual for me in my early years in this body to be a lot  
1146 more, how should I, in your face than I have tried to  
1147 become.

1148 I thought I had turned that corner. Every once in a  
1149 while, somebody pushes the wrong button or pushes the  
1150 button. I should not say the wrong button because that is a  
1151 judgmental term. Pushes that button and that member of  
1152 Congress who is still there, who still believes in the

1153 things as vigorously as he did, but tries not to express  
1154 them in the same way, that person comes out every once in a  
1155 while.

1156 I think we should get on with the consideration of the  
1157 bill. We passed the amendment. I appreciate the gentleman  
1158 and others who voted for Mr. Conyers' amendment. It does  
1159 not resolve all of the concerns that people have about the  
1160 bill, but at least we can turn our attention to the  
1161 substance of the bill as opposed to, you know, well, if  
1162 there is any substance of the bill, as my colleague says, as  
1163 opposed to the name of the bill.

1164 So, having said that, Mr. Franks and I had a discussion  
1165 on the floor. I got some of my emotions out, and I will  
1166 apologize to him privately for some of the emotions that I  
1167 expressed to him on the floor. But for now, let us try to  
1168 get on with what we are here, and focus on the content of  
1169 the bill, whatever the motivations for it might be.

1170 Mr. Johnson. Would the gentleman yield?

1171 Mr. Watt. No. I think I am going to yield back my time  
1172 and encourage us to get on with the --

1173 Chairman Smith. Thank you, Mr. Watt.

1174 Mr. Johnson. Mr. Chairman, I have been raising my hand  
1175 since before we left for the break.

1176 Chairman Smith. Thank you, Mr. Watt.

1177 Mr. Johnson. I would like to get out what I --

1178 Chairman Smith. I was hoping everybody would heed Mr.  
1179 Watt's comment.

1180 Ms. Waters. No.

1181 Mr. Johnson. Yeah. I will heed them --

1182 Ms. Waters. I do not care what he says.

1183 Mr. Johnson. -- after I finish downloading --

1184 Chairman Smith. The gentleman from Georgia, Mr.  
1185 Johnson, is recognized?

1186 Mr. Johnson. Thank you, Mr. Chairman.

1187 The reason why this continues is because it is such an  
1188 egregious act to misappropriate the name of a dead man, who  
1189 happens to be a hero, who stood for certain things. And to  
1190 go back and revise that history, that legacy, for purely  
1191 political purposes is what is objectionable to me. I know  
1192 that Mr. Franks has very strong beliefs in terms of abortion  
1193 and whether or not it should be legal, and I respect that.

1194 But what I am taking issue with and what I want to

1195 emphasize is that we should not ever misappropriate a name  
1196 and link it to a political cause without having obtained any  
1197 consent from family members of the person whose name is  
1198 being misappropriated, without having any evidence that the  
1199 person whose likeness and name is being misappropriated  
1200 actually stood for the concept that is being promoted by the  
1201 misappropriator.

1202       This should never happen. I know that it can happen,  
1203 but I think that if it does happen, you are subject to the  
1204 same kind of hostility that Mr. Watt exhibited with his  
1205 objection to it. And I appreciate his objection.

1206       I had a couple of amendments. One was to change the  
1207 name of the bill to the Ronald Reagan Impose Your Beliefs on  
1208 a Woman's Womb Act. And I thought that since Ronald Reagan  
1209 was a conservative and Frederick Douglass was a liberal. He  
1210 wanted to change things. Ronald Reagan wanted to keep  
1211 everything as it is, so he would have been opposed to  
1212 Frederick Douglass in that time. And he is certainly more  
1213 of an appropriate figure to name this bill after since he,  
1214 you know, wanted to keep government off the backs of the  
1215 people. And so, we want to get government out of a woman's

1216 womb. Let the woman make the decision.

1217 And so, I was going to pursue that. That is Amendment  
1218 Number 6, which I hereby withdraw.

1219 And also, Amendment Number 7, which was to strike the  
1220 name and replace it with the name The Tea Party Determines  
1221 What Rights a Woman Has Act, which would certainly be  
1222 appropriate. But based on what has happened, I think that  
1223 this amendment would also be moot, and, so, therefore I will  
1224 withdraw it. And I will yield back the balance of my time.

1225 Chairman Smith. Let me make sure I am clear. Mr.  
1226 Johnson, you ask unanimous consent that those two  
1227 amendments, Number 6 and 7 on the roster, be withdrawn?

1228 Mr. Johnson. I do.

1229 Chairman Smith. Okay. Without objection, those two  
1230 amendments are withdrawn.

1231 Mr. Chabot. Mr. Chairman, down this way?

1232 Chairman Smith. The gentleman from Ohio, Mr. Chabot, is  
1233 recognized?

1234 Mr. Chabot. I ask unanimous consent to speak out of  
1235 order.

1236 Chairman Smith. The gentleman is recognized for five

1237 minutes?

1238       Mr. Chabot. I will be very brief. The gentleman has  
1239 just more or less taken Ronald Reagan's name in vain and  
1240 said that had Ronald Reagan been around back in slavery  
1241 times, he would have been for slavery. I do not think that  
1242 is the case.

1243       Ronald Reagan was responsible for freeing millions and  
1244 millions of people who were behind an Iron Curtain, living  
1245 under conditions which may not have been identical or even  
1246 necessarily all that similar to slaves in this country, but  
1247 he was responsible for making the lives of an awful lot of  
1248 people on this earth a whole lot better.

1249       He was also a labor leader, as you might have known,  
1250 early in his career. And he was a Democrat early in his  
1251 career, later on became a Republican. And had early on  
1252 apparently been pro-choice and changed his mind about that  
1253 just as other people have, and became strongly pro-life.

1254       But I do not think there is any indication at all that  
1255 had Ronald Reagan been around the times of Frederick  
1256 Douglass that he would have been a supporter of slavery.

1257       Mr. Johnson. Would the gentleman yield?

1258 Mr. Chabot. I would be happy to yield to the gentleman.

1259 Mr. Johnson. In 1980, candidate Ronald Reagan announced  
1260 his candidacy for the president of the United States in  
1261 Philadelphia.

1262 Mr. Chabot. Reclaiming my time. I know exactly what  
1263 you are going to say.

1264 Chairman Smith. The gentleman from Ohio has the time?

1265 Mr. Chabot. Yeah, just reclaiming my time. This old  
1266 canard about Ronald Reagan having announced his campaign  
1267 because it was a Klan area, I mean, that is a scurrilous hit  
1268 on --

1269 Mr. Johnson. But that is what he --

1270 Mr. Chabot. Excuse me, I did not yield at this time.

1271 Mr. Johnson. Would the gentleman yield?

1272 Mr. Chabot. I will in a second. But it is just a  
1273 scurrilous thing to say about Ronald Reagan.

1274 Mr. Johnson. Would the gentleman yield?

1275 Mr. Chabot. He does not deserve it. He would have just  
1276 been 101 years old just recently, and I just do not think it  
1277 is appropriate for you to be essentially --

1278 Mr. Johnson. Would the gentleman --

1279 Mr. Chabot. -- indicating that Ronald Reagan would have  
1280 been against the ideas of Frederick Douglass --

1281 Mr. Johnson. Would the gentleman yield?

1282 Mr. Chabot. -- and would have been a supporter of  
1283 slavery.

1284 Mr. Johnson. Would the gentleman yield?

1285 Mr. Chabot. That is way below the belt, especially --

1286 Mr. Johnson. Would the gentleman yield?

1287 Mr. Chabot. I said I would in a minute, okay?

1288 Chairman Smith. Will the gentleman not interrupt the  
1289 gentleman from Ohio?

1290 Mr. Chabot. I am going to yield in just a second, okay?

1291 Chairman Smith. He controls the time.

1292 Mr. Chabot. And I was going to be relatively brief, but  
1293 I did not realize you were going to drag up the Klan and try  
1294 to wrap that around Ronald Reagan's neck. That is below the  
1295 dignity of something that ought to be talked in a committee  
1296 that is as important as the one that we are here today.

1297 Mr. Johnson. Would the gentleman yield?

1298 Mr. Chabot. Basically the legislation we are talking  
1299 about here, and it always does bring up emotions on both

1300 sides because we are talking about this side protecting  
1301 innocent, unborn children. And I know folks on the other  
1302 side tend to be pro-choice, and the folks on this side tend  
1303 to be pro-life, and it does get emotional. But there is no  
1304 reason to bring Ronald Reagan into this and try to, you  
1305 know, tie him into the Klan. I mean, that is just absurd.  
1306 And trying to say he would have been for slavery, just not  
1307 true. I will yield.

1308 Mr. Johnson. Would the gentleman please yield?

1309 Mr. Chabot. I will yield. I will yield.

1310 Mr. Johnson. Yeah, I said he probably would have  
1311 opposed Frederick Douglass, and I believe that that is based  
1312 on evidence.

1313 Mr. Chabot. Well, reclaiming my time.

1314 Mr. Johnson. The use of the southern strategy.

1315 Mr. Chabot. Reclaiming my time.

1316 Mr. Johnson. Second --

1317 Chairman Smith. The gentleman from Ohio has the time?

1318 Mr. Chabot. I mean, if you look at a previous  
1319 Republican president, Abraham Lincoln, he was the one  
1320 obviously that actually signed the Emancipation

1321 Proclamation, and was much more, if you want to look at  
1322 Ronald Reagan, I think he would have liked to have modeled  
1323 what he stood for around Abraham Lincoln, and the ideas  
1324 of --

1325 Mr. Watt. Mr. Chabot, would you yield?

1326 Mr. Chabot. -- Frederick Douglass --

1327 Mr. Watt. Would you yield, Mr. Chabot?

1328 Mr. Chabot. -- than the Klan.

1329 Mr. Watt. Would you yield?

1330 Mr. Chabot. I would be happy to yield either to the  
1331 gentleman from North Carolina or the gentleman from Georgia.

1332 Mr. Watt. I thank the gentleman for yielding to me  
1333 because I think your reaction to Mr. Johnson's statements  
1334 are exactly the same reactions that we had to Mr. Franks  
1335 putting the names that he did on the bill.

1336 So, I think it illustrates the exact concerns that we  
1337 were expressing, and I am happy to know that, I think that  
1338 point has been made, in other words. And when you take  
1339 people who are deceased, Ronald Reagan, Susan B. Anthony,  
1340 Frederick Douglass, and you try to attribute motives to them  
1341 in today's time, there is a lot of speculation going on.

1342 Mr. Chabot. And, just, I understand.

1343 Mr. Watt. But it is offensive, and that is why we  
1344 reacted the way we did originally.

1345 Mr. Chabot. Thank you. I understand. And just  
1346 reclaiming my time, and, again, obviously when you are  
1347 talking about slavery, a despicable institution, both sides  
1348 would agree. And I understand, you know, the strong  
1349 feelings on both sides about that issue. And many of the  
1350 folks, especially on this side, feel just as strongly about  
1351 abortion in this country, because we think those little  
1352 innocent unborn babies also deserve to be protected and  
1353 deserve the right to life. And obviously we feel strongly  
1354 about that.

1355 My time is out. I will yield back.

1356 Chairman Smith. The gentleman's time has expired.

1357 The gentleman from Arizona is recognized to offer an  
1358 amendment?

1359 Ms. Waters. Mr. Chairman?

1360 Mr. Franks. Mr. Chairman, I have an amendment at the  
1361 desk.

1362 Ms. Waters. Mr. Chairman?

1363 Chairman Smith. If the gentleman would withhold --

1364 Ms. Waters. We have members with unanimous consent  
1365 requests.

1366 Chairman Smith. We are going to have a number of  
1367 amendments, and could I encourage the members to take time  
1368 on those amendments to make whatever comments they want to?

1369 Ms. Waters. Well, yes, and I respect that, Mr.  
1370 Chairman, if I may. But we are feeling this now. And this  
1371 is a moment and a time when we have been --

1372 Chairman Smith. Is the gentlewoman --

1373 Ms. Waters. -- undermined, where we have been  
1374 disrespected in such a manner that it causes us to want to  
1375 engage on this issue. So, with all due respect for wanting  
1376 to move the debate, and I have an appreciation for that. I  
1377 think it would behoove us to talk about this some more. Let  
1378 us not try and gloss over this. This is extremely serious,  
1379 extremely important, and I would beg your indulgence.

1380 Chairman Smith. As I said, there will be ample  
1381 opportunity for members to make any number of comments  
1382 because of the number of amendments that we intend to take  
1383 up.

1384           Could I ask the gentlewoman to make a comment in just a  
1385 minute, and let us at least have this amendment considered?

1386           Ms. Waters. Yes, but do not expect me to --

1387           Chairman Smith. We do not.

1388           Ms. Waters. Do not expect me to apologize or to talk  
1389 about civility at that point, all right?

1390           Chairman Smith. Fair enough.

1391           The clerk will report the gentleman from Arizona's  
1392 amendment?

1393           Ms. Kish. Amendment to H.R. 3541, offered by Mr. Franks  
1394 of Arizona.

1395           Chairman Smith. Without objection, the amendment will  
1396 be considered as read.

1397           [The amendment of Mr. Franks follows:]

1398

1399 Chairman Smith. And the gentleman from Arizona is  
1400 recognized to explain the amendment?

1401 Mr. Franks. Mr. Chairman, this amendment responds to  
1402 the concerns raised about the position of ASRM in the  
1403 findings of the bill regarding the position of the American  
1404 medical community.

1405 The original language of the bill is exactly accurate,  
1406 Mr. Chairman, but we are willing to amend the language with  
1407 this more lengthy and explicit explanation of the position  
1408 of ASRM, and the ACOG, and the APLOG, the statements of a  
1409 working paper by the President's Council on Bioethics.

1410 And I am going to read just a portion of the text  
1411 proposed in the amendment for maximum clarity. I will not  
1412 read it all, but people are certainly welcome to read it,  
1413 because all it really does it just lay out the entire  
1414 commentary from these groups.

1415 "The American medical community opposes sex selection.  
1416 The American College of Obstetricians and Gynecologists,  
1417 commonly known as ACOG, stated in its 2007 Ethics Committee  
1418 opinion, Number 360, that sex selection is inappropriate  
1419 because it "ultimately supports sexist practices." The ASRM

1420 2004 Ethics Committee opinion on sex selection notes that  
1421 central to the controversy of sex selection is the potential  
1422 for "inherent gender discrimination" and the "risk of  
1423 psychological harm to sex selected offspring by placing on  
1424 them expectations that are unreasonable," and "the  
1425 reinforcement of gender bias in society as a whole."

1426 Mr. Chairman, I am going to stop there, but I would  
1427 encourage everyone to read the entire amendment because this  
1428 lays out in explicit detail exactly what ARSM's position on  
1429 this bill and upon the issue itself of sex selection is.  
1430 And I would urge the adoption.

1431 Chairman Smith. The gentleman yields back his time.

1432 Are there members who wish to be recognized in support  
1433 or opposition of this amendment? The gentlewoman from  
1434 California, Ms. Waters?

1435 Ms. Waters. Yes, Mr. Chairman. I rise in opposition,  
1436 but I would like to engage the author, Mr. Franks, if he  
1437 would enter into a colloquy with me on this bill because I  
1438 need some information about this information.

1439 Mr. Franks. Certainly. I will do my best.

1440 Ms. Waters. Nowhere in this amendment does it define

1441 for us the extent of this problem. I have been trying to  
1442 figure out the origin of your legislation, and additionally  
1443 this amendment, and what documentation you have for sex  
1444 selection and abortion. And I have not been able to find  
1445 anywhere any statistics that causes you to bring this bill  
1446 and this amendment before us.

1447 If you have such information, could you share that with  
1448 us? I yield to the gentleman.

1449 Mr. Franks. Well, thank you. Yes, the University of  
1450 Texas has a study that shows that thousands of unborn girls  
1451 in this country have been aborted because they are little  
1452 girls. And we would be glad to add that, the findings to  
1453 this amendment if it would be of any help to you.

1454 Ms. Waters. What year was this research done?

1455 Mr. Franks. This would be 2009.

1456 Ms. Waters. And this is the Department of the  
1457 University of Texas?

1458 Mr. Franks. This would be the Department of Economics  
1459 at the University of Texas.

1460 Ms. Waters. And this was not one individual who happens  
1461 to be employed there who did this study rather than the

1462 university itself?

1463 Mr. Franks. The name of the person that was in charge  
1464 of the study was Jason Abrevaya. I hope I said that right.  
1465 But I would be glad to give you the entire study. And  
1466 there, of course --

1467 Ms. Waters. Well, no, if you do not mind, I would like  
1468 to know whether or not the individual did this study as an  
1469 individual, or did he do it under the auspices of the  
1470 university?

1471 Mr. Franks. We will try to get that information for  
1472 you.

1473 Ms. Waters. It is very important because I do not want  
1474 to be misled and have this committee believe that this is  
1475 some legitimate study that was authorized and supported by  
1476 the university.

1477 Mr. Franks. There are also studies done under UC  
1478 Berkeley, that conservative bastion, in California, and the  
1479 University of Columbia that also support the findings of the  
1480 bill.

1481 Ms. Waters. Well, since your information and background  
1482 and understanding of Frederick Douglass left a lot to be

1483 desired, I cannot take for granted that what you are saying  
1484 without documentation, and whether or not you can represent  
1485 that these are individuals as opposed to the universities is  
1486 good information. So, I hope that prior to the close of  
1487 this committee, you will present us with some facts and some  
1488 documentation. And I yield back.

1489 Mr. Johnson. And would the gentlewoman yield?

1490 Mr. Franks. Staff tells me that they will be glad to  
1491 get that information.

1492 Ms. Waters. I will yield to the gentleman from Atlanta.

1493 Mr. Johnson. Mr. Franks, I would also like to engage in  
1494 a short colloquy with you with respect to the studies at  
1495 Columbia, Berkeley, and University of Texas, and subject to  
1496 the admonitions that have already been made by my colleague,  
1497 Ms. Waters, from California.

1498 Assuming that those were university studies, did any of  
1499 them link opposition to abortion specifically to their sex  
1500 selection findings? In other words, did they conclude that  
1501 sex selection practices were tantamount to an abortion  
1502 restriction, or that a restriction on abortion was needed?  
1503 Was that the conclusion of any of those studies?

1504 Mr. Franks. Mr. Johnson, I am having a little trouble  
1505 divining the actual question. But I will say that the  
1506 conclusions of these studies were very clear in that it  
1507 showed that sex selection abortions do take place --

1508 Mr. Johnson. But it did not --

1509 Mr. Franks. -- in this country, and it highlights the  
1510 reason for the bill in the first place.

1511 Mr. Johnson. So, sex selection is the reason for  
1512 abortion, you are saying, was the purpose of the studies?

1513 Mr. Franks. The studies showed that there were  
1514 individuals, families that were aborting little girls  
1515 because of a son preference, and that there was no way to  
1516 avoid that statistically, and that this bill would make that  
1517 practice illegal.

1518 Mr. Gallegly. [Presiding] The time of the gentleman  
1519 has expired.

1520 Ms. Waters. Reclaiming my time. Reclaiming my time.  
1521 If there is such a study, it is not about what anything that  
1522 happens in the United States, and you need to clarify that.  
1523 If there was such a study, it is about studies relative to  
1524 foreign countries.

1525 I yield back the balance of my time.

1526 Mr. Gallegly. The time of the gentlelady has expired.

1527 Mr. Franks. Mr. Chairman, to respond, there are many

1528 foreign countries, you are right. But these studies all

1529 talked about what happens in the United States of America,

1530 our country.

1531 Ms. Jackson Lee. Mr. Chairman, strike the last word.

1532 Mr. Gallegly. Okay. The gentleman from Tennessee, Mr.

1533 Cohen?

1534 Mr. Cohen. Thank you, sir. Mr. Franks, would you yield

1535 for a second?

1536 Ms. Jackson Lee. How do you get the gentleman from

1537 Tennessee?

1538 Mr. Gallegly. Yes, sir.

1539 Mr. Cohen. This paper --

1540 Mr. Gallegly. Would the gentleman cease. I am sorry?

1541 Ms. Jackson Lee. I was just saying how do you get the

1542 gentleman from Tennessee?

1543 Mr. Gallegly. Because he had had his hand up. And now,

1544 if you would like for me to -- would you yield to the

1545 gentlelady for five minutes, and then we will go to the

1546 other side, and then back to you, Mr. Cohen?

1547 Mr. Cohen. Sure. I yield.

1548 Ms. Jackson Lee. I thank the gentleman from Tennessee.

1549 I will just have to get more visible eye contact. I thank

1550 you, Mr. Chairman, and thank the gentleman from Tennessee.

1551 I have an amendment coming up after Mr. Franks'

1552 amendment, and I wanted to propose, I do want, Mr. Franks,

1553 if I could, I do want to secure the report from the

1554 University of Texas, because I think that is vital in

1555 understanding the genesis of this work.

1556 It would have been helpful, and I know this comes under

1557 the Constitution Subcommittee, I believe. Is this not

1558 correct?

1559 Mr. Franks. Yes. We did, in fact, hear this bill in

1560 the Constitution Committee and presented that data at that

1561 time.

1562 Ms. Jackson Lee. Right. And so, for the full

1563 committee, we are sort of lacking in that information. And

1564 I am not sure how quickly this legislation has moved.

1565 I might say that I know that I am looking forward to

1566 several pieces of legislation that a number of us on this

1567 side of the aisle have introduced, would like to see it  
1568 going forward.

1569 But I think the reason why I am disturbed is because the  
1570 bill seems to be hanging on, not ignoring your personal and  
1571 deeply abiding faith and commitment to the issue, on a  
1572 thread of information. It does not seem to be a widely  
1573 known proposition that this is a domestic-based initiative  
1574 to see that there is sex selection among those who have made  
1575 a determination through whatever tragedy it is, to have a  
1576 pregnancy termination. It seems like you are mixing apples  
1577 and oranges.

1578 Part of this may be dealing with different isolated  
1579 pockets of the United States where someone thinks that they  
1580 are building their family on this premise. But this is not  
1581 related to how you have it characterized, which is that  
1582 individuals who have found themselves in difficulty, and  
1583 because of the law allows them choice, allows them to make a  
1584 determination to terminate their pregnancy, that they are  
1585 going in and seeking to know the sex, and saying, yeah, it  
1586 is a girl, go for it. I do not think we have that basis.

1587 And even as you claim that you have clarified, the

1588 American College of Obstetricians and Gynecologists, and  
1589 their ethics report of 2007. And when we are speaking in  
1590 these times, 2007 is five years ago. Again, dated 2004 is  
1591 more than eight years ago. So, I am a little concerned  
1592 about this reference that no person from the American  
1593 medical community is here to explain what this opening  
1594 statement says, the American medical community opposes sex  
1595 selection. And I am sure they do, but to say it in the  
1596 context of a bill that suggests that we are doing sex  
1597 selection in abortions.

1598 That is the dilemma that many of us have about the bill  
1599 and about your clarifying amendment. It does not clarify it  
1600 because it does not give any sense of truth to using these  
1601 major entities to believe that when they speak, that they  
1602 are not making generic statements. They are not speaking to  
1603 the question of women having to choose in difficult times,  
1604 making very personal and difficult choices. So, it is --

1605 Mr. Franks. Would the gentlelady yield?

1606 Ms. Jackson Lee. I would be happy to yield in just a  
1607 moment.

1608 This amendment takes language seemingly out of context.

1609 It is dot, dot, dot. The risk of psychological harm to sex  
1610 selected offspring by placing on them expectations that are  
1611 too high. Who is going to disagree with a generic statement  
1612 like that? Where did it come from? What was it in the  
1613 context of? And reinforcement of gender bias in society as  
1614 a whole? I do not think there is one member of Congress on  
1615 this side of the aisle who does not have strong credentials  
1616 on fighting for gender equality every single day of their  
1617 life.

1618 I do not understand why we are in the midst of this  
1619 language as if there is an indictment of all members of  
1620 Congress or the whole society, adhering to embryo sex  
1621 selection. And then you go on to say, and in quotes, I  
1622 assume this is quoting from somewhere, "and reinforcement of  
1623 gender bias in society as a whole."

1624 We have just passed pay parity, and I think everyone  
1625 here voted for it. We have seen women run for president of  
1626 the United States, happily so. It has been party equality.  
1627 We had a woman run for president in the United States in the  
1628 Republican. Unfortunately was rejected by massive numbers  
1629 of Republicans unfortunately, but we appreciate her offering

1630 herself. And we have an individual running for president as  
1631 a woman during 2008, who everyone remarkably noted that she  
1632 ran an extensive campaign, and she ran it with the respect  
1633 of voters from all sexes.

1634 So, I am unsure of the language itself, Mr. Franks. If  
1635 I have an additional, I would be happy to yield.

1636 Mr. Gallegly. The time of the gentlelady has expired.

1637 Ms. Jackson Lee. If you give me an additional minute, I  
1638 would be happy to yield to Mr. Franks. But I conclude by  
1639 saying that I am troubled by this language in and of itself,  
1640 its attribution, and I would like the full report of the  
1641 University of Texas. I oppose the amendment.

1642 Mr. Gallegly. The time of the gentlelady has expired.

1643 Mr. Lungren. Mr. Chairman?

1644 Mr. Gallegly. Mr. Lungren?

1645 Mr. Lungren. Thank you very much. I just might say  
1646 incidentally, a condition precedent to income parity is life  
1647 parity. It is kind of tough to have income if you have been  
1648 selectively determined to be the subject of abortion because  
1649 of your sex.

1650 The fact of the matter is, the United States is one of

1651 the few developed countries that permits sex selection  
1652 abortion on demand. I think, if I am not mistaken, that  
1653 most of the European Union countries specifically have  
1654 complete bans or restrictions on sex selection.

1655 We in the United States Congress have condemned sex  
1656 selection abortions in China by way of congressional  
1657 resolution. In 2007, the United States government  
1658 spearheaded a resolution in the United Nations calling on  
1659 all member states to condemn or discourage sex selection  
1660 abortion.

1661 And I hope the gentleman from Arizona will make this  
1662 available to those who preceded me in speech, in that there  
1663 are reports, newly released studies from the University of  
1664 California at Berkeley, UC San Francisco, the University of  
1665 Texas, the University of Connecticut, and Columbia  
1666 University's Department of Economics. Now, if anybody does  
1667 not believe that sex selection abortions are taking place,  
1668 frankly they live in a parallel universe. The data is  
1669 incontrovertible.

1670 Now, if you want to see what the ultimate conclusion of  
1671 that is, look to China. China, because of a one-child

1672 policy, has probably exacerbated the unfortunate cultural  
1673 inclination to select men over women, or boys over girls.  
1674 And what has happened now is in China, you have perhaps the  
1675 greatest example of a disparity between males and females we  
1676 have ever seen in modern times.

1677       That brings up a whole set of questions. When you have,  
1678 I believe the numbers are, like, 20 million in terms of the  
1679 disparity of men within the age of those who would normally  
1680 start families versus women, what does that do to a society?  
1681 What does that do to the militaristic bent of that society?  
1682 What does it do to that society as it deals with countries  
1683 outside of it?

1684       And what does it ultimately say to women, if at the time  
1685 of birth, a decision is made, or just prior to birth, that a  
1686 male is far worthier than a female, such that you will  
1687 destroy the female, only because she is a female. What does  
1688 that say ultimately about not income parity, but what about  
1689 the parity of worth, the value of the individual, the value  
1690 of a woman as equal to the value of a man, the value of a  
1691 child, whether male or female?

1692       As a father of two girls and one boy, and more girl

1693 grandchildren than boy grandchildren, I would resent any  
1694 suggestion that those girls are any less worthy than the  
1695 boys in my family.

1696       And you may argue about whether or not this is the  
1697 appropriate vehicle; that is, do you want to have civil and  
1698 criminal penalties with respect to these acts? But to  
1699 suggest that the underlying facts are not true is, I would  
1700 not say appalling, but is mind bending. The facts are out  
1701 there. If you do not believe this is the case, how do you  
1702 explain what happens in other countries outside of the  
1703 United States? How do you explain we, the United States,  
1704 through our government, condemning those countries that  
1705 allow for sex selection by abortion?

1706       Disagree with the bill in terms of the manner in which  
1707 it is enforced. But to suggest somehow that the underlying  
1708 facts, and then to question, you know, your reference to the  
1709 American College of Obstetrics when you are quoting directly  
1710 from their findings, is extraordinary.

1711       I can understand why some people believe that this is  
1712 not the proper remedy to a problem. But I find it very  
1713 difficult for people not to believe or understand or respect

1714 that this is a problem. The suggestion is that son, S-O-N,  
1715 based sexual ratios in the United States census would give  
1716 you an idea of what might be occurring here. It is not just  
1717 this country; it is happening in other countries. I happen  
1718 to think that is a tragedy. I happen to think it is the  
1719 ultimate insult to women. If a culture accepts this, then  
1720 you should be surprised if a culture does not then put women  
1721 in a lesser position than men.

1722 It starts at the very beginning, that is at life. And I  
1723 just hoped the debate would be focused on whether this is  
1724 the appropriate vehicle for addressing this problem as  
1725 opposed to questioning whether this problem exists at all.

1726 And with that, I yield.

1727 Mr. Johnson. Will the gentleman yield?

1728 Chairman Smith. [Presiding] The gentleman's time has  
1729 expired.

1730 The gentleman from Tennessee, Mr. Cohen, is recognized,  
1731 then comes the gentleman from Illinois, I think?

1732 Mr. Cohen. Thank you, Mr. Chairman. Will Mr. Franks  
1733 yield?

1734 Mr. Franks. Yes, sir.

1735           Mr. Cohen. In the findings here, it says that the  
1736 American College of Obstetricians and Gynecologists say that  
1737 sex selection is inappropriate because it "ultimately  
1738 supports sexist practices." Is that the reason why you  
1739 brought this bill?

1740           Mr. Franks. Mr. Chairman, Mr. Cohen, I hoped that we  
1741 could find some common ground, even on a committee like this  
1742 where we are so polarized, that even though it has been  
1743 difficult over the years to discuss protecting the unborn,  
1744 as opposed to protecting, you know, the freedom of a mother  
1745 to do as she chooses.

1746           I understand that there are two very powerful rights  
1747 there, but protecting the unborn is a more fundamental right  
1748 because it is actually the life of the child. And I know  
1749 that we are going to argue about that, but at least it seems  
1750 to me, you know, if you think I have a bigger agenda, you  
1751 are right. I want to see all unborn children protected  
1752 regardless of their race or their sex. I do. And I want to  
1753 see somehow us to be able to find a better way to help  
1754 mothers in crisis pregnancies than killing their children  
1755 for them. Those are --

1756 Mr. Cohen. But the basis of this is --

1757 Mr. Franks. But this bill --

1758 Mr. Cohen. I reclaim my time.

1759 Mr. Franks. -- this bill is try to make some kind of

1760 a --

1761 Mr. Cohen. I am reclaiming my time, sir.

1762 Mr. Franks. Okay.

1763 Mr. Cohen. So, the bottom line is the fact that this is

1764 a sexist practice is not why you brought the bill. You

1765 brought the bill to outlaw abortion. That is what you just

1766 said.

1767 Mr. Franks. I brought the bill to find some common

1768 ground between very disparate --

1769 Mr. Cohen. Okay. I am looking for common ground, too.

1770 What other sexist practices are you against that we can

1771 agree to work against?

1772 Mr. Franks. I hope I am against anything that would

1773 deny women equal rights under the Constitution.

1774 Mr. Cohen. Can you name me a few of the sexist

1775 practices that you are against?

1776 Mr. Franks. I am against any kind of -- if a woman does

1777 equal pay for equal work, she should get paid an equal  
1778 amount of money.

1779 Mr. Cohen. Lilly Ledbetter law?

1780 Mr. Franks. No, I was not in favor of that because that  
1781 did not do that.

1782 Mr. Cohen. And the equal pay for women law?

1783 Mr. Franks. I do not know what the equal pay for women  
1784 law, but I support equal pay for equal work regardless of  
1785 sex.

1786 Mr. Cohen. I yield to the gentleman from Michigan.

1787 Mr. Conyers. I thank the gentleman for yielding. And I  
1788 would like permission to introduce into the record two  
1789 documents that point out that Chairman Franks may have  
1790 selectively quoted material that does not give the correct  
1791 representation. One is from the American Society for  
1792 Reproductive Medicine, who sent me a letter to point out the  
1793 error. And the other is from the American College of  
1794 Obstetricians and Gynecologists. And I would like  
1795 permission to insert these documents in the record without  
1796 objection.

1797 Chairman Smith. Without objection, the chairman will do

1798 that.

1799 Mr. Franks. Mr. Chairman, would the gentleman yield?

1800 Mr. Cohen. Yes, I am reclaiming my time. Mr. Franks,

1801 let me ask you a question here.

1802 Chairman Smith. Just a minute. The ranking member has

1803 asked for something to be put in the record. Without

1804 objection, it will be --

1805 [The information follows:]

1806

1807 Mr. Cohen. I will rule for you.

1808 [Laughter.]

1809 Chairman Smith. The gentleman from Tennessee?

1810 Mr. Cohen. Thank you, Mr. Chairman.

1811 Mr. Franks. Would the gentleman yield to the point of  
1812 the --

1813 Mr. Cohen. Let me yield to ask you a question. What if  
1814 a woman says at some point, I guess she would have to say to  
1815 her obstetrician, oh, my gosh, I am having a male, and I do  
1816 not want to have a male. And the obstetrician says, you  
1817 cannot do that and have an abortion because it is illegal.  
1818 And what if she went to her husband and he said, you know,  
1819 we cannot do that, and he says, we cannot have a child  
1820 because we cannot afford it, and we do not have plans for a  
1821 child, and we just cannot do that. And if she went back, I  
1822 want to have an abortion, and she says why. Well, we talked  
1823 about it, we cannot afford it.

1824 Are you irrevocably determined by your first statement,  
1825 or is it best two out of three?

1826 Mr. Franks. Well, first of all, just to make it, to  
1827 kind of get back to earth here, this bill says that you

1828 cannot discriminate against an unborn child by subjecting  
1829 him to an abortion based on their sex or race. That is what  
1830 the bill does.

1831 Mr. Cohen. Yeah, but your findings --

1832 Mr. Franks. And a doctor, unless he knows --

1833 Mr. Cohen. Sir, your findings you handed out by the  
1834 American College of Gynecologists refers to fetuses, not  
1835 children. And we are talking about fetuses here.

1836 Mr. Franks. You know, I have heard the left call  
1837 abortion retroactive contraception. They perpetrate  
1838 monotonic polysyllabic obfuscation semantic gymnastics and  
1839 verbal elocution because they want to hide what really  
1840 happens here. Fetus is Latin for young one, and it means  
1841 unborn child.

1842 So, the bottom line is, that is the big problem, but the  
1843 secret to the universe here in this case is in the true  
1844 naming of what is actually happening. We always want to  
1845 hide the real issue.

1846 But to deal with Mr. Conyers' statement, I just want to  
1847 know because he was --

1848 Mr. Cohen. I claim back my time.

1849 Mr. Franks. Okay.

1850 Mr. Cohen. I just find all of this to be, and so much  
1851 of what we have been discussing, with the Komen Foundation  
1852 and all this, it is just shocking that in 40 years a woman's  
1853 right and a man's right to participate in that choice is  
1854 still under attack here in this United States Congress. And  
1855 when jobs are the issue that the American public cares  
1856 about, and jobs is the main issue, we are here talking about  
1857 taking away a parent's right to determine when they have  
1858 children or when they take a child to term.

1859 And this should be about jobs, and that is what we  
1860 should be dealing with. And I yield back the balance of my  
1861 time.

1862 Chairman Smith. The gentleman yields back his time. Is  
1863 there another member who wishes to be heard?

1864 Over here, the gentleman from Illinois, Mr. Quigley, is  
1865 recognized?

1866 Mr. Quigley. Thank you, Mr. Chairman. In an attempt to  
1867 bring us back together, let me then try to paraphrase what  
1868 Mr. Lungren said. And without inaccurately paraphrasing  
1869 what he said, something about you can question whether this

1870 bill accomplishes what it seeks to do, but not whether or  
1871 not sex selective abortion takes place. I believe that is  
1872 fairly accurate.

1873       So, let me just do that for a second here to remind  
1874 ourselves of that reality, because the experience of dozens  
1875 of nations and health care experts around the world says  
1876 this does not work. Banning sex selection abortion has  
1877 already been tried in dozens of countries across the world.  
1878 And what expert agencies, such as the World Health  
1879 Organization, which operate in these countries, has found is  
1880 that rather than preventing such abortions, the ban simply  
1881 results in, "greater demand for clandestine procedures which  
1882 fall outside regulations, protocols, monitoring, and basic  
1883 safety." In other words, rather than preventing abortions,  
1884 such restrictions serve only to drive them underground,  
1885 making them less safe. Our own history shows up the point  
1886 as well.

1887       In addition, criminalization of sex selection abortions  
1888 would force physicians to question women about the reasons  
1889 for seeking an abortion. Well, I do not know how else they do  
1890 it. And it would simply would likely compel physicians to

1891 target certain groups of women from cultural groups where  
1892 sex selection is more prevalent. To avoid liability,  
1893 physicians may even cease providing such care to entire  
1894 groups of women simply because of their race and the  
1895 preconceived notions expressed even here today. This bill  
1896 would promote the very racial discrimination it purports to  
1897 combat.

1898 Finally, targeting such motivations in practice would be  
1899 nearly impossible. According to analysis -- we are all  
1900 quoting different organizations; well, I will try the World  
1901 Health Organization on and see how you feel about that. But  
1902 according to World Health Organization, four other UN  
1903 agencies "prosecuting offenders is practically impossible."  
1904 "Proving that a particular abortion was sex selective is  
1905 equally different."

1906 However, these experts of international organizations do  
1907 offer a viable solution to address this issue: address the  
1908 root cause of sex selection, which is son preference. Sadly  
1909 sex selection is driven by a cultural preference for male  
1910 sons, and will only be ended when we commit to addressing  
1911 its cultural roots.

1912           The United Nations has stated that the most effective  
1913 way to address son preference is by fighting the root,  
1914 economic, social, and cultural causes of sexual inequality.  
1915 There are things that we can do right here in this Congress  
1916 toward that end.

1917           With all due respect, this bill does not do it. And it  
1918 makes it even more difficult --

1919           Mr. Franks. Would the gentleman yield?

1920           Mr. Quigley. -- to address. Of course.

1921           Mr. Franks. Would the gentleman yield? I would say to  
1922 you, that argument could probably be made about any of the  
1923 maladies in our society. I mean, we could say that we do  
1924 not want to outlaw stealing, and what we need to do is to  
1925 get behind the root issue and find out why people steal.  
1926 And I understand that you can make that about anything, but  
1927 we still have laws against these things.

1928           For instance, you mentioned earlier that the doctor  
1929 would somehow have to ask questions. This bill does not  
1930 require the doctor to ask any questions whatsoever. He has  
1931 to know ahead of time. If he does not know, he has to  
1932 knowingly do this or he is not in any way implicated. Just

1933 like a pharmacist or a doctor, and you go ask him to  
1934 prescribe medicine for you, he does not say, well, are you  
1935 going to give this to your husband and collect on the  
1936 insurance? But if he knows that you are doing that, then he  
1937 is implicated.

1938 But I just want to make it very clear that you can make  
1939 the arguments about things like this that somehow we need to  
1940 get to the root cause, and I agree with you. But in the  
1941 meantime, the law should protect the innocent.

1942 Mr. Quigley. How would the physician know? In a real  
1943 world situation, give me some examples of how this physician  
1944 would know that a couple or an individual woman has made  
1945 this decision?

1946 Mr. Franks. You asked the right question. A person  
1947 would have to tell them. The physician has no  
1948 responsibility under this bill to ask.

1949 Mr. Quigley. So, knowing that this law is out there,  
1950 what woman who wants to do this in the first place would  
1951 tell her, would tell their physician?

1952 Mr. Franks. I think you make a good point. And it kind  
1953 of goes along like this. I mean, you know, just because

1954 there were no murders in the Northwest Territory does not  
1955 mean you do not have a statute on the books.

1956 The bottom line is, if you think that this never occurs,  
1957 then this bill should not be any concern to you whatsoever.

1958 Mr. Quigley. But showing how far we are apart, a  
1959 woman's decision whether or not to go forward with having an  
1960 abortion, really should not be compared to a person's  
1961 decision to murder somebody. And it really should not be  
1962 compared to deciding whether or not to steal from somebody.  
1963 Again, it just, with all due respect, it shows just how far  
1964 apart we are.

1965 Mr. Lungren. Would the gentleman yield?

1966 Mr. Quigley. Certainly.

1967 Mr. Lungren. There was some discussion about different  
1968 studies. One of the studies that is supported by the  
1969 University of California San Francisco Joint Medical Program  
1970 Research Fund, the Berkeley Human Rights Fellowship, and the  
1971 UC SF Pathways to Careers in Clinical and Transitional  
1972 Research Fellowship, concluded that the pressure to bear  
1973 sons leads some immigrant Indian women to sex selection and  
1974 abortions. And they were talking about the cultural

1975 pressures on women to do this.

1976 And I guess what I would say to the gentleman is my  
1977 quandary is how do you have then counter pressures in the  
1978 culture, counter influences in the culture, that would  
1979 assist the women in resisting these cultural pressures that  
1980 they are feeling? And, again, this is a study done by the  
1981 University of California at San Francisco.

1982 Chairman Smith. The gentleman's time has expired.

1983 The gentleman, without objection, is yielded an  
1984 additional minute.

1985 Let me say that if we can vote on this amendment before  
1986 we go to this series of votes, which has already begun, we  
1987 will not come back after this series of votes. If we do not  
1988 vote on this amendment, we will return after this series of  
1989 votes.

1990 Mr. Quigley. Given that, Mr. Chairman, I relinquish my  
1991 remaining time.

1992 [Laughter.]

1993 Chairman Smith. I thank the gentleman from Illinois.

1994 The question is on the amendment.

1995 All in favor of Mr. Franks' amendment, say aye?

1996 [A chorus of ayes.]

1997 Chairman Smith. All opposed, say nay?

1998 [A chorus of noes.]

1999 Chairman Smith. In the opinion of the chair, the ayes  
2000 have it, and the amendment is agreed to.

2001 The committee will stand in recess until further notice  
2002 of when this markup is going to resume. I am not sure yet  
2003 whether we will resume tomorrow, but we will not resume any  
2004 more today.

2005 So, we stand in recess.

2006 [Whereupon, at 3:38 p.m., the committee was adjourned.]