

favor: The phrase is now that in order to qualify, the commentary on a candidate's voting record can appear just by itself. They do not have to have another candidate. And it is all right, so long as it falls short of expressing unmistakable and unambiguous support for or opposition to that candidate.

And I emphasize that, because in our earlier debate on the amendment offered by the gentleman from California (Mr. DOOLITTLE), our colleague and friend, the question arose as to whether a voter advocacy group could say here is the position of candidates and we happen to agree with this position. And whether under the unamended version of Shays-Meehan that would have been acceptable was the point that was contested.

I do not believe that it is in doubt anymore if this amendment is accepted. That if it purely communicates accurate information as to the position of a candidate and falls short of saying "and for this reason vote for the person" or "for this reason we overwhelmingly support," in other words, if it falls short of unmistakable and unambiguous support, then it is indeed what it purports to be, a voter guide.

Mr. Chairman, I also note that the amendment offered by the gentlewoman from Washington is preferable to the one offered by our colleague from California in that it preserves the prohibition on coordination. If the organization in question has coordinated the entire voter guide with a plan to assist a candidate, then it is not a voter guide. It is a sham. The gentlewoman preserves that.

Lastly, she repeats the so-called magic words test, which is the starting point, but for many of us it is not sufficient to handle the area of potential abuse.

So with those observations, I am pleased to add my voice to those of the unanimous membership who is speaking on this bill in favor of the amendment offered by the gentlewoman from Washington.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, first of all I want to say that this is an issue that I struggled with in our bill. I compliment the gentlewoman. I think this is a great improvement on existing law, because it clearly separates what is express advocacy.

Express advocacy under this definition is any time one gets out and says this is the record of a candidate and this record is evil, do not vote for this person. Or this is the record of an angel, please vote for this person. That is express advocacy. That will trigger that the people who publish such things will have to disclose where their money came from. It would have to be hard money.

That is the kind of thing that we have been saying that we need to do. If we just say this is a voter guide, we do

not agree with it. But you cannot say therefore vote against this person. That would be an example, because one does not advocate a position, as the gentleman from California (Mr. CAMPBELL) said in the gentlewoman's words, of unmistakable or unambiguous support for or in opposition to one or more candidates. So you clearly have drawn a line between what has been the problem, which is these kind of hit pieces that have come out that the candidate knows nothing about, even the opposition knows nothing about because they are independent of either, and have been expressing sort of evil actions based on a record. I think that you are commended because this makes a clear distinction.

Mr. SHAYS. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN pro tempore. The gentleman from Connecticut has one minute remaining.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

I would just quickly say that the gentlewoman from Washington (Mrs. LINDA SMITH), and using the word "gentle" is sometimes a misnomer because she is extraordinarily strong, again has made a wonderful contribution to this process and has been a leader in campaign finance reform throughout the country. I thank her again for her contribution and would again yield my time to her to allow her to close.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from Connecticut for his comments.

This particular area of campaign finance reform probably has had more objections, more confusion, than anything I have seen in my nearly 4 years in Congress. I do not think that this agreement or this amendment is going to make everyone happy but those that used to say we cannot even advocate our position of what we think is right in the voter guide, to them this is taking care of it. To those that do not want people to have any speech about what they think is a good position from their perspective, a group, to them they are not going to necessarily like it either.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentlewoman from Washington (Mrs. LINDA SMITH), to the amendment in the nature of a substitute No. 13 offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore (Mr. CALVERT). Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentle-

woman from Washington will be postponed.

Mr. DOOLITTLE. Mr. Chairman, during the course of debate on campaign reform, I have repeatedly voiced concern that the Shays-Meehan legislation, if enacted would threaten citizen participation in our democratic system.

Numerous provisions in Shays-Meehan restrict the right of the people to express their opinions about elected officials and issues through unprecedented limitations on text accompanying issue group voting records and restraints on citizen commentary prior to an election.

Why would any group of citizens distribute a voting guide or scorecard on a candidate when the Federal Election Commission (FEC) would be empowered to decide, after the distribution of the scorecard, whether it was written in an "educational" manner?

Why would a citizen's activist organization issue a "voter alert" to its supporters warning them to an upcoming vote in Congress, when they could be potentially fined for violating the burdensome "coordination" section of the bill?

Why would a group of citizens concerned about an issue like partial birth abortion or affirmative action run a television advertisement to try to influence the way their Member of Congress votes, when they could be fined for violating new free speech restrictions that are contained in the bill?

The Shays-Meehan bill contains a provision that prohibits non-citizens from contributing to campaigns. When you combine that provision with the amendment offered by Representative PICKERING, I believe political contributions by minorities would become suspect.

As a stand alone, the Shays-Meehan bill is patently unconstitutional on its face. It violates the First Amendment rights of all Americans. But it would be a mistake to compound those constitutional errors by somehow making suspect political contributions by Americans with non-western names. With these two amendments adopted, the threat to minority participation in our election process would compound the threat to freedom by the bill.

Mr. SHAYS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CALVERT) having assumed the chair, Mr. BARR of Georgia, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

CORRECTION OF CONGRESSIONAL RECORD OF JULY 16, 1998, PAGES 5719, 5720 AND 5721, DURING DEBATE ON H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey:

Add at the end of the bill:

Notwithstanding any provision of this Act, no funds in this Act may be used to require any contract to include a term for coverage of abortifacients.

Mr. OBEY. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) reserves a point of order.

Mr. SMITH of New Jersey. Mr. Chairman, due to the lateness of the hour, I do not intend on taking the full 5 minutes.

Let me make it very clear that part of the problem with the Lowey amendment was that it did not define contraception. Many of us have been concerned that the pro-abortion lobby and the pro-abortion organizations over the years have tried to fudge the line of demarcation between fertilization post- and pre-fertilization. Many of the chemicals, many of the devices that are now employed that are permitted under the Federal Employees Health Benefits Program do indeed result in many abortions, newly created human lives that are not permitted to implant in their mother's womb.

In a nutshell, my amendment is designed to clarify that if we are indeed going to force all of the Federal providers of medical care, the HMOs and all the providers as a condition of receiving reimbursement for all of their prescriptions, whether it be for penicillin or any other drug, that they have, to provide "a provision for contraceptive coverage", let us at least make it clear that the gentlelady's language excludes abortion-inducing chemicals. That is what my amendment very simply seeks to do.

Earlier in the day we pointed out during the debate, that while RU-486 isn't legal and, hopefully, never will be there are officials of Planned Parenthood who are already talking about it as a morning after pill. RU-486 is a baby pesticide and destroys life, the newly created life, somewhere along the line up to the 7th week. This is a Federal funding of early abortion but many Members of Congress remain uninformed of that fact. I say with regret, that some abortifacients like IUDs can be provided by the health care providers under the Federal Employees Health Benefits Program. The question is should they be forced to. This says no one is going to be forced to do it. It is a conscience type amendment. Still the plain language of Mrs. LOWEY's amendment only stipulates "a provision for contraceptive coverage"—a much, much, weaker version than the amendment she offered in her Appropriations Committee. Clearly, under her amendment, if a plan merely provided condoms or birth control pills, that would satisfy the obligation created by the amendment.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, can the gentleman clarify for me and for others, when he says to include "a term for coverage," what does that phrase mean?

Mr. SMITH of New Jersey. I thank the gentleman for asking the question. It says very simply that a health care plan would not have to include those devices and chemicals that may have the effect of an abortifacient. Under my amendment it will not be mandatory. It will not be forced upon the HMOs and upon the health care providers even though the language of Mrs. LOWEY's amendment require only "a provision for contraceptive coverage" to satisfy the requirement.

Mr. HOYER. Am I correct then that the amendment means, "a term for coverage" would mean the term that refers to the abortifacients?

Mr. SMITH of New Jersey. If I understand the gentleman's question that is correct.

Mr. HOYER. I thank the gentleman for his clarification.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. OBEY) insist on his point of order?

Mr. OBEY. Mr. Chairman, I withdraw the point of order.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word, and I rise to engage the gentleman from New Jersey in a colloquy.

I would like to ask the gentleman to define further his amendment. Based upon the information that we have, the FDA has approved five methods of contraception. This is the established definition of contraception. It has nothing to do with RU-486 although, unfortunately, there were some letters sent out saying it did. RU-486 is not included among the five methods of contraception. It has nothing to do with abortion. There have been debates that have been going on among us, in the country, about when does life begin.

This takes some serious discussion, and I am sure that we can have some serious debates about this issue, but today what we are talking about very simply is the five established methods of contraception that have been improved by the FDA, nothing to do with abortion, nothing to do with RU-486.

Mr. SMITH of New Jersey. If the gentlewoman would yield, let me just ask the gentlewoman, because this will help me in responding, her definition of contraception. Is it before fertilization occurs or is it before implantation in the uterus?

Mrs. LOWEY. I am sorry. Will the gentleman repeat?

Mr. SMITH of New Jersey. Part of the problem we have with the gentlewoman's first amendment, as well as the amendment that was offered and just passed, is a definitional one. How do you define contraception? How do you define pregnancy?

For some, it is implantation. For some, it is fertilization.

Mrs. LOWEY. Reclaiming my time.

Mr. SMITH of New Jersey. Contraception by definition should mean be-

fore a new life has come into being. There are many who want to blur that line and say that chemicals affect the implementation or even after that.

Mrs. LOWEY. If I may reclaim my time, could the gentleman explain whether this includes the pill?

Mr. SMITH of New Jersey. This will have to be determined. There is a body of evidence suggesting that IUDs, for example, may have the impact, and many women are unaware of this, may have the impact of preventing implantation.

What my amendment says, that is still permissible under Federal Employees Health Benefit Program but not mandated.

Mrs. LOWEY. Reclaiming my time, if I might ask the gentleman, I believe in response to my question as to whether the pill would be included, since the pill is one of the five methods of approving contraception from the FDA, you seem to be questioning this and I would ask the gentleman, if you are not sure whether the pill is an established method of contraception, what would the plans determine?

Mr. SMITH of New Jersey. Let me just respond that there are several schools of thought as to what the operation is as to what actually occurs.

Mrs. LOWEY. Reclaiming my time, would the gentleman consider the IUD a form of contraception? This is and approved method of contraception. Or would you consider the IUD as abortifacient?

Mr. SMITH of New Jersey. Let me make it very clear there has to be a determination made, and maybe it is about time, with all of the resources at our disposal, we really came to a firm conclusion as to how some of these chemicals and how the IUD actually works, because, again, even Planned Parenthood and others will say on their web page that one of the consequences of the IUD may indeed be preventative of implantation.

Mrs. LOWEY. Reclaiming my time, does the gentleman include the diaphragm as a form of contraception?

Mr. SMITH of New Jersey. No. As far as I know, that has never been an abortifacient.

Mrs. LOWEY. It seems to me the gentleman has questions about the pill, questions about the diaphragm, questions about the IUD, and I assume the gentleman has questions about Depo-Provera and Norplant.

Let me say this, there are five established methods of contraception. If the gentleman supports the amendment to not cover abortion, then you are saying that contraception cannot be covered; no method of contraception can be covered.

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Mr. SMITH of New Jersey. Not at all. Right now the HMOs, and all of the health care providers under the Federal Employees Health Benefits program, if they choose, can provide any of those methods that you mentioned, from

IUDs to Depo-Provera. What your amendment, or what the thrust of your original amendment was to force them to do it.

Mrs. LOWEY. Reclaiming my time, I just want to make it clear to my colleague that the gentleman from New Jersey, it appears to me from your statement, is trying to make every method of contraception an abortifacient; is that correct?

Mr. SMITH of New Jersey. Not at all, and that is putting words in my mouth, and I think that is unfortunate.

The CHAIRMAN. The time of the gentleman from New York (Mrs. LOWEY) has expired.

(By unanimous consent, Mrs. LOWEY was allowed to proceed for 2 additional minutes.)

Mrs. LOWEY. Mr. Chairman, if I can make it clear, I think it is very important, my colleagues, that we realize what the gentleman is attempting to achieve with this amendment. He is stating that there is no form of contraception that may not be considered an abortifacient and, therefore, the American women have to understand—

Mr. SMITH of New Jersey. If the gentleman will yield, I did not say that at all.

Mrs. LOWEY. No, I will not yield. I will not yield. That the American people who are listening to this debate have to understand that this Congress wants to tell women that all forms of contraception are abortifacients and they cannot be considered.

I would like to make that point again. The majority of American women do support the use of contraceptives. These are very personal decisions, we understand that, and each person has to make it for themselves. But the majority of American women understands that.

Now, it seems to me from this discussion, that the gentleman from New Jersey is saying to every woman who may take a birth control pill or use another one of the five accepted methods of contraception that they are abortionists.

Mr. SMITH of New Jersey. Not at all.

Mrs. LOWEY. I think it is important to clarify what we are talking about because the FDA has approved five methods of contraception.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in support of the amendment of the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New Jersey to explain his amendment and to answer any questions he may have.

Mr. SMITH of New Jersey. Mr. Chairman, I want to make it clear to my colleagues that birth control pills and diaphragms are not abortifacients. IUDs and post-coital pills have the capability of that. That is where there has been very little conversation, espe-

cially with women, as to what might be happening when they think they are preventing fertilization when, indeed, implantation is what is being prevented.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I understand that there is confusion about this issue, and if I may, from my experience, please lend some of that to our body, one; and, number two, also relay that I had a conversation with the gentleman from New York, and I do understand what her intention is and I do understand the intention of the gentleman from New Jersey (Mr. SMITH). She has an honorable request. She won that in her committee, and it should be honored in that way.

But let me clarify for this body that, in fact, the diaphragm is not an abortifacient; that oral contraceptives are not an abortifacient; that morning-after pills, in fact, are; that IUDs are, in fact, abortifacients.

Now, there is not a medical question about how they work, and there is not a medical question about how oral contraceptives work. Their intention is to prevent ovulation or to prevent penetration of a sperm. That is not an abortifacient. And there is no question in the medical community about how they work.

So I would ask this body that if, in fact, we feel we want to make a decision based on what the request of gentleman from New York really is, that we supply oral contraceptives to women in this country, that we accept the Smith amendment to that, and we can qualify and solve this problem and this will go through. If, in fact, not, then we will see we will have an extended debate on whether or not the bill will make it.

An honorable amendment was brought forth in the committee. An honorable amendment to the gentleman's amendment is now offered. The clarity cannot be any clearer than what I have stated. The Smith amendment does not limit oral contraceptives, it only limits those things that are considered abortifacients.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose this amendment, and I think that Members have to be very sensitive to what my colleague from New Jersey is attempting to do here today.

Is there no limit to my colleague's willingness to impose his concept of when life begins on others? Conception is a process. Fertilization of the egg is part of that process. But if that fertilized egg does not get implanted, it does not grow. And so on throughout the course of pregnancy.

For those who do not believe that life begins upon fertilization, but believes, in fact, that that fertilized egg has to be implanted, the gentleman is impos-

ing his judgment as to when life begins on that person and, in so doing, denying them what might be the safest means of contraception available to them.

Some women cannot take the pill. It is too disruptive to them. Some women depend on intrauterine devices and other such contraceptives. When we get to the point where we have the courage to do more research in contraception, we will have many other options to offer women so that they can have safe contraception.

For us to make the decision that that woman must choose a means of contraception that reflects any one individual's determination as to when in that process of conception life actually begins is a level of intrusion into conscience, into independence, into freedom that, frankly, I have never witnessed. Even the issue of being for or against abortion is a different issue than we debate here tonight. We have never, ever intruded to this depth.

When I talk to my friends who are obstetricians, because all my colleagues know my husband is a retired obstetrician, how the pills work is not simple. In some women they have one effect, and they may have first effects and secondary effects. They prevent ovulation in general but not absolutely. And if there is a fertilization while on the pill, the pill prevents implantation.

So this is a complex process. And for us to imagine here tonight that it is either right or proper or possible for the gentleman to impose his determination on others at this level is extraordinary. As a Republican who believes that government should stay out of our lives, I oppose this amendment with everything in me. And I would ask my colleagues, those who are pro life—and I honor that position. And I would say that the pro-life members of our Nation have changed the issue of abortion over these years. People take it far more seriously. It is not as casual. They have made an enormous difference for the good in our Nation. But that does not make it right for them to step, then, into this level and try to make definitions that, frankly, are not nearly so simple as my friend and respected colleague, the gentleman from Oklahoma (Mr. COBURN), implies.

The lines are not clear. They are not simple. I would ask my colleague to respect that we are a Nation founded on the belief that we should have freedom of conscience and freedom of religion, and this amendment deeply, deeply compromises those liberties.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARR of Georgia). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.