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Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

A contemporary rendering of the 23d Psalm provides a prayerful confession of faith as we begin this day:

The Lord is my strength, I shall not panic;
He helps me relax and rest in quiet trust.
He reminds me that I belong to Him and restores my serenity;
He leads me in my decisions and gives me calmness of mind.
His presence is peace.
Even though I walk through the valley of the fear of failure,
I will not worry, for He will be with me.
His truth, grace, and loving kindness will stabilize me.
He prepares release and renewal in the midst of my stress.
He anoints my mind with wisdom;
My cup overflows with fresh energy.
Surely goodness and mercy will be communicated through me,
For I shall walk in the strength of my Lord, and dwell in His presence forever.
Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, this morning leader time has been reserved.

The Senate will meet in executive session to begin 3 hours of debate on the nomination of Dr. Foster.

At 12 noon, or right around 12 noon, there will be a cloture vote on the Fos-

ter nomination. If cloture is not invoked the Senate will resume consideration of S. 440, the highway bill.

I just suggest that Members can expect votes. We hope to complete action on the highway bill today. I understand there are only one or two major amendments and many others are in the process of being worked out, or may not be offered.

EXECUTIVE SESSION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senate will now go into executive session to proceed to the consideration of the nomination of Dr. Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service, on which there shall be 3 hours of debate.

Mr. DOLE. Mr. President, the time will be under the direction of the chairman of the committee, Senator KASSEBAUM, and the ranking Democrat member, Senator KENNEDY.

I just want the RECORD to reflect before the debate starts that this nomination came on the calendar on May 26. That was followed by a recess. It was June 5 when we came back. This Senator and Dr. Foster tried to get together in 1 week. He was not available. The next week I was not available. But the RECORD should reflect that it has only been really since June 5 to June 21.

So there has not been any delay as far as bringing the nomination to the floor. There was a lot of research and investigation done prior to the hearing. But I listened to some comments last night on television. I had the impression that many in the media thought

this had been pending on the Senate floor for months and months, which is not the case. It is barely a little over 2 weeks.

NOMINATION OF HENRY W. FOSTER, JR., TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The nomination of Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

PRIVILEGE OF THE FLOOR

Mrs. KASSEBAUM. Mr. President, first I would like to ask unanimous consent that Dr. Jim Wade, a Robert Woods Johnson Fellow of the staff of the Committee on Labor and Human Resources, be allowed the privileges of the floor during the consideration of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, the Senate is now considering the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States. At noon today, the Senate will vote on the motion to invoke cloture, which would limit debate on this nomination.

Mr. President, I oppose this nomination, for reasons that I will briefly explain, but I will vote for cloture so that

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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the Senate can make a clear-cut decision on Dr. Foster's nomination. While I respect the right of any Senator to engage in extended debate on any issue, I have long believed that nominations should be dealt with in a direct fashion. My practice has been to oppose filibusters on nominations and I will oppose one on this nominee, even though I do not support Dr. Foster's confirmation.

This nomination has been embroiled in controversy from the outset due to the fact that, as an obstetrician-gynecologist, Dr. Foster has performed abortions. That fact has become a battle cry for those on both sides of the abortion issue.

When the Committee on Labor and Human Resources considered this nomination, I said that Dr. Foster deserved to be judged on his whole record, not on a single issue. I have weighed the full record and concluded that I cannot support Dr. Foster's nomination.

Given the troubled term of Dr. Joycelyn Elders, it was clear to me, and it should have been clear to the administration, that the next Surgeon General needed to be someone who immediately could reestablish the credibility and nonpolitical authority of this office.

But political it has become, and many Americans, including me, wonder why we need a Surgeon General if he or she is going to be caught up in pointless rhetorical controversies that do nothing to address the critical health issues facing our Nation.

The Surgeon General's main role is to speak to the entire Nation on health issues in ways that both enlighten and challenge us. I believe that Dr. Foster cannot effectively perform that role, largely because his own credibility and authority was undermined at the very start of the nomination process.

Despite his many strengths, I believe Dr. Foster is the wrong person to step into this badly damaged office at this time.

On top of this overarching concern, I have serious reservations about this nomination when it is weighted solely on Dr. Foster's own merits, particularly his willingness to provide strong leadership on difficult issues.

My concern about Dr. Foster's leadership goes to the heart of this nomination—his supervision and direction of the I Have a Future Program, which the administration and Dr. Foster himself have made the centerpiece of his nomination.

In his opening statement to the committee, Dr. Foster talked about the success of this program and his desire to lead a national crusade to deal with the critical problem of teenage pregnancy in this country.

The I Have a Future Program is not without merit and undoubtedly has changed the lives of some young people for the better. Dr. Foster should be commended for his efforts in working to create a worthwhile program. There is no question in my mind that Dr. Fos-

ter has a sincere, genuine concern for young people and is deeply committed to helping them.

However, the record also is clear that the I Have a Future Program has never shown significant success in reducing teenage pregnancy. In fact, evaluations produced in 1992 and in 1994 raise serious questions about whether this program has had unintended consequences by increasing sexual activity among its participants.

If anything, the I Have a Future Program demonstrates the extreme difficulty, the extraordinary resources, and the potential risks involved in efforts to deal with teen pregnancy. Far from being a model for a national crusade, it is instead a warning sign to us all to proceed with caution on this matter.

In both his testimony to the committee and in response to written followup questions, Dr. Foster has been unwilling to come to grips with the difficult, fundamental questions raised in evaluations of this program. I am troubled by this unwillingness. A Surgeon General must have not only a good heart, which Dr. Foster certainly has, but the ability to ask hard questions and demand solid answers rooted in fact and in science.

Mr. President, are we asking too much of the Surgeon General of the United States? If, indeed, this is a position of importance to us in this country, I think not. We need the strongest possible leadership for our Nation's public health concerns. And I do not believe Dr. Foster is that nominee. Therefore, I will vote against his confirmation.

I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Mr. KENNEDY. Mr. President, I welcome the opportunity for the Senate to have a chance to express itself on the nomination of Dr. Foster.

There was some comment earlier about the fact that Dr. Foster has been on the calendar for a very limited period of time and a question why there should have been so much concern about the consideration of Dr. Foster.

The principal reason for that is because leaders in the Senate indicated they were going to use their power, such as that of the majority leader, to not even consider the nomination that had been reported out of the Labor and Human Resources Committee, and there are others who indicated that they were going to use the rules of the committee in order to raise a higher barrier, higher hurdle, for the nominee to go over in order to be approved for the position of Surgeon General.

So there has been a great deal of concern, and I think that the overwhelming majority of the American people, certainly those who watched the consideration in the hearings for the time that Dr. Foster testified, had to feel that the issue of fairness was in play here; that Dr. Foster had been nominated by this President, really an

outstanding nominee, one that has demonstrated his qualifications well, reported out of the committee, and that the Senate in its own way ought to have the opportunity to express itself.

Quite frankly, the fact that we are going to vote for cloture in order to be able to get to the nomination I do not think is the way we ought to be considering the nomination. I do not think it is fair to Dr. Foster, and it is not fair to the American people, who want to have an outstanding doctor as the Surgeon General.

It continues to be my position, and I think for most persons, that this is not the fair way to treat this nomination. It is not the fair way to treat an individual who has gone through the process with great dignity, great patience, great grace, great strength, and demonstrated a knowledge and an ability and a strong commitment to do the job of Surgeon General.

I think those who have pointed out there are other forces at work here are correct. This really is an issue that involves, I believe, a woman's right to choose, and the issue of privacy, the question of the doctor who is going to be Surgeon General is going to face a litmus test on the issue of abortion before being able to be confirmed. When all is said and done, Mr. President, that is really the issue that is out there. Dr. Foster is entitled to a vote. He is entitled to a vote up and down, and the American people are entitled to a Surgeon General who understands and respects the right of privacy, the constitutional right of a woman's right to choose.

Now, I listened carefully during the course of the hearings. There are those who have talked about this, and we will have a chance during the course of this debate this morning to hear many of our colleagues who want to speak on it, as we should hear from them. But nonetheless, when the bottom line is drawn, that is the underlying issue. We will hear about the Tuskegee study. We will hear about sterilization. We will talk about the number of abortions. We will talk about the I Have a Future Program, but you cannot get away from the fact that this extraordinary individual for 38 years has devoted himself to the well-being of needy people in our society.

How many other doctors would leave the hallowed halls of great institutions and go down and serve in the most underserved part of America, the poorest area of America. This is a baby doctor, delivering 10,000 babies over the course of time. I do not even recognize the nominee from the descriptions that many of our colleagues who are opposed to Dr. Foster would use.

How many would spend their time not only delivering babies in some of the most difficult circumstances and then devote their lives to training young people?

We will hear what was the effect of the I Have a Future Program. It was good enough for President George Bush

to give it an award—good enough for that. Where were those voices then who are complaining about this program now? They were silent. Why? Because President Bush identified this as a program trying to make a difference.

We will hear that program flyspecked on the floor of the Senate, but what you will not hear are those young voices. You will not see the eyes of those young people on the floor of the Senate. You will not be able to shake their hands, as many of us have done, and hear them say, "Dr. Foster made a major difference in my life. He has given me real hope. I am staying in school. I am going on in school. I am abstaining."

We will hear, "Well, did the information really emphasize abstinence? When was it printed?"

You are missing the point. How many other doctors have really attempted to lead the country to try to do something about the problems of teenage pregnancy? How many others have tried to keep our young people in school, as Dr. Foster has done? And how many have been a source of inspiration, as he has?

I daresay, Mr. President, when you look at his commitment, when you look at his dedication, he could have taken that medical diploma and been on easy street today. He did not have to go through this process. He could have a good, solid income and be living in the best areas and communities of any city in this country. But he dedicated himself to the people who are left behind in our society, those without. And he was recognized by the Institute of Medicine as a leader of his field. Does anybody understand how you get selected by the Institute of Medicine, one of the most prestigious and important academic achievements? Because of his record, because of his commitment. He has served on ethical panels in his own State. He has assumed every kind of position of leadership and distinction because of extraordinary service. And he has been recognized by some of the most important charitable organizations because of that leadership.

The Carnegie Foundation, that does so much work in terms of poor children, recognized his program. They reviewed it. He asked for help and assistance, technical help and assistance. And when he asked for technical help and assistance, those who are opposed to him say, "Take that letter. Look, he really didn't know what he was doing because he asked for technical help and assistance." It is the most convoluted rationale for opposition to this nominee.

Mr. President, this nominee by training, tradition, concern and conviction is a man who can serve this country, is a man who has been dedicated to youth, is a man who has been an outstanding researcher in sickle-cell anemia and infant mortality and perinatal kinds of diseases. He is a man who can serve as Surgeon General with distinction, and I hope he will be approved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield to the Senator from Maryland 5 minutes.

Ms. MIKULSKI. Good morning, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise this morning to lend my voice and my vote to the nomination of Dr. Henry Foster to be Surgeon General of the United States of America.

This morning I will be pleased to vote for Dr. Henry Foster to be the Surgeon General of the United States. Why? When I look at Dr. Foster, I see a man who meets my criteria for the Surgeon General of the United States. He has competence. He has character. He has commitment. He brings bedrock values and the right professional credentials to the office of the Surgeon General.

He is truly a leader, a man who leads by example. He leads by example in the way he has lived his life, both personally and professionally. Dr. Foster has dedicated his life to improving people's health, particularly the health of women and children, and most often the health of those who are without health care, those who have been left out, those who have been pushed aside, those who have been down and out.

When Dr. Foster returned from the U.S. military, he could have gone to a lucrative practice somewhere in the North and would have gone on to make a great medical contribution and, I am sure, would have made a lot more financial profit for his family. But he chose to go to the South. And to the South he went. And he reached out his very able hand to those in a segregated health care system that needed a doctor and needed a medical helping hand.

That is who Dr. Foster is. He is a qualified professional bringing competence as a clinician, a medical administrator, and a scholar in residence now. For 38 years, he has been a respected member of his own medical community. He has been a medical professor and then even a dean of a medical school. He will bring great knowledge and expertise to the Surgeon General post. I believe he will serve with distinction.

In the debate, we will hear things about the Tuskegee study, the famous study done on the issue of syphilis in which African-American men did not know that they were being experimented on in his own country. You will also hear about how Dr. Foster participated in a study on hysterectomies and how some of the people involved were mentally retarded.

But let me tell you about that. There is much going to be said, what did Dr. Foster know and what did Dr. Foster do?

In that area of the Tuskegee study, Dr. Foster told the committee that he knew nothing about that Tuskegee study until years later. Now, that will be disputed here this morning. I will

tell you, as a member of something called the National Medical Society—because the AMA would not let African-American doctors in—his own peers, if they knew that he knew about the Tuskegee study, he would have been shunned and ostracized in his own community. They would not have made him the dean of the medical school at one of the most distinguished, historically black colleges in the United States of America.

Then they will talk about the fact that in a study that he did—not hysterectomies that he performed—mentally retarded girls were involved. There will be the issue of parental consent. Dr. Foster will tell you there was parental involvement. Now, are we going to dispute that? Well, his peers in Nashville did not dispute it.

Then the medical society, when they finally admitted African-Americans after all those years, they made him the head of the bioethical committee.

So who should judge who Dr. Foster is? Is it the U.S. Senate, who has only gotten to know him or the people who have known him for 38 years in his own medical profession?

I say, let us go back home and talk to the people who knew Henry Foster, and they will tell you how he stands.

Now, Dr. Foster's character. Dr. Foster served as a captain in the U.S. Air Force. He brought character and competence, as I said, to that job. When he served willingly in the military, his character and competence were never questioned. So why should we question it now? He willingly served in the U.S. military. America wanted him then. And I say America wants him now. They want him to be the Surgeon General.

The Surgeon General's office is organized on a military model—"Surgeon General." And I believe that he will lead a campaign, a campaign against teenage pregnancy, a campaign against infectious disease. The Surgeon General will show that the triad for health care in the United States is prevention, primary care, and personal responsibility. And that is the kind of campaign Dr. Foster will lead.

But while he is a great clinician, he brings old-fashioned values. As a community leader in Nashville he did voluntary work in his own community, serving on boards, including the March of Dimes, to lead the fight against birth defects. We have all heard a lot about how he has been a driving force behind the teenage pregnancy program, I Have a Future. He won a point of light for that. I hope he will be more than a point of light for the United States of America. I Have a Future stresses to the teens the importance of abstinence.

Mr. President, I ask for 2 additional minutes.

Mr. KENNEDY. Two minutes.

Ms. MIKULSKI. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, so ordered.

Ms. MIKULSKI. I Have a Future stresses to teens the importance of abstinence and self-esteem and teaches teens to say "no" to teenage pregnancy, and "yes" to abstinence, personal education and jobs. We see under that program fewer teens getting pregnant and more young people going to college.

Dr. Foster has dedicated his life to giving people chances, giving women the chances to have healthy babies, giving babies the chance to have healthy childhoods, and giving the teens a chance to have a successful future.

I say let us give Henry Foster a chance. Let us give him a chance. He is both a man of the mind and a man of the heart. He is a man of the medical community and is involved in his own community and the kind of leader and distinguished public servant our country needs. I look forward to his tenure as the next Surgeon General. I hope we will not deny him his day in the U.S. Senate by hiding behind a parliamentary maneuver.

Mr. President, I yield such time as I might have left.

Mr. KENNEDY. Mr. President?

I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Massachusetts. Mr. President, in my view, as a matter of basic fairness, Dr. Henry Foster is entitled to his day in court. He is entitled to a vote on the merits without having a filibuster foreclose an up or down vote.

The real challenge in this matter is whether Dr. Foster is disqualified from being Surgeon General of the United States because he has performed abortions, a medical procedure lawful under the Constitution of the United States. This should not be a matter which is debated on the floor of the U.S. Senate with respect to Dr. Foster's confirmation. But that happens to be the fact of the matter. All of the other issues are red herrings. Dr. Foster acquitted himself brilliantly in his testimony before the committee. I met with Dr. Foster extensively, examined his record, and there is no question but on the merits he is well qualified to be Surgeon General of the United States.

But the sole issue which confronts his confirmation today is that he has performed abortions, a medical procedure lawful under the Constitution of the United States. We have to remember, Mr. President, that it is not *Roe* versus *Wade*, the Justice Blackmun opinion of 1973, which governs here today but it is the decision of the Supreme Court of the United States in *Casey* versus *Planned Parenthood*, written by three Justices appointed by Republican Presidents. And the matter ought not to be a partisan issue here. I suggest, Mr. President, that it is a very bad precedent if there is to be a filibuster based on ideology.

Judge Thomas, when he was up for confirmation for the Supreme Court of the United States—now Justice Thomas—would have been foreclosed from confirmation had the same procedure, the same tactic been employed in reverse. Judge Thomas was confirmed to be Justice Thomas by a vote of 52 to 48. Had there been an ideological battle, Justice Thomas would not have received 60 votes, and he would not have been confirmed. I suggest that this is a very, very bad precedent, if we are going to start fighting ideology on the floor of the U.S. Senate when it comes to the confirmation of someone who is before this body.

Now, Mr. President, we know that in last November's election, there was a sea change by the American people. And we now have a new look in the Congress of the United States. But I think it is important for Senators on both sides of the aisle to focus on the fact that there was nothing in the Contract With America on a woman's right to choose. There was nothing in the Contract With America on the subject of abortion. There was nothing in the Contract With America that is legitimately raised here in the consideration of the nomination of Dr. Henry Foster.

And I suggest, Mr. President, that if this body is going to become embroiled on this constitutional issue, a woman's right to choose, a medical procedure sanctioned by the Supreme Court of the United States, we are not going to be able to attend to our core responsibilities.

What the 104th Congress was elected to do is to reduce the size of Government, to cut spending, to balance the budget, to lower taxes, to have effective crime control, and have strong national defense. It is true that this issue has come to the floor under a limited time agreement. But when this body takes up the question of abortions on military bases, we will be discussing that for days, weeks, or perhaps months. This is not the kind of issue that ought to embroil the Congress of the United States, the Senate of the United States. The constitutional law has been established in the building across the green by the Supreme Court of the United States and the opinion written by three Justices appointed by Republican Presidents. We ought not allow this ideological issue to obscure the underlying question as to whether Henry Foster is qualified to be Surgeon General of the United States.

If we become embroiled in these matters, we will not be doing the job that we were sent to do in the 104th Congress. I urge my colleagues to set aside ideology, to recognize the constitutional right of a woman to choose and not to disqualify this nominee because he is carrying out a medical procedure which is authorized under the Constitution. Cloture ought to be invoked, and this man ought to have his day in court, ought to have his day in the Senate on the merits, and if that is done, I believe he will be confirmed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, what is the time that is remaining?

The PRESIDING OFFICER. The time remaining on your side is 71 minutes and 84 minutes 31 seconds on the other side.

Mr. KENNEDY. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, I thank my friend and colleague from Massachusetts and rise in strong support of the nomination of Dr. Henry Foster to be Surgeon General. While I am delighted that the day of debate has finally arrived, I must say how unfortunate I find it that Dr. Foster's nomination may be resolved—not by the will of the majority—but by the minority rule permitted under the Senate's cloture rule, which was invoked here even before there was any debate.

I have long believed that every President deserves great deference in the choice of nominees, provided that the individual is qualified for the position for which he or she has been nominated. And because of that belief, I have—over the years—cast votes for nominees for whom I had little enthusiasm. This is not the case today. Today I can enthusiastically cast my vote for Dr. Foster, after having met him, talked with him, and listened to him carefully during 2 full days of testimony before the Senate Labor and Human Resources Committee.

I believe that Dr. Foster is a man of substance, who has worked very hard all his life to achieve an unselfish kind of success. Dr. Foster was raised in the rural South at a time of intense segregation, enduring those indignities with the kind of dignity, intelligence, and vision that enabled him both to see that he could achieve something important in his life—and to do it. He speaks eloquently of his father's teachings of the value of education and hard work, and he has clearly incorporated those values into everything he has done throughout his life.

Dr. Foster's credentials alone render him a qualified candidate for Surgeon General. A practicing obstetrician-gynecologist for 38 years, he is also a medical educator who has devoted much of his professional life to reducing infant mortality and preventing teen pregnancy. He has served as both dean of the school of medicine and acting president of Meharry Medical College, and has been the recipient of many awards and honors—too numerous to mention here—ranging from induction into the Institute of Medicine to receiving a Thousand Points of Light Award from President Bush for his *I Have a Future* Program that promotes self-esteem and positive choices among at-risk teens.

But it is true that qualifications alone may not be sufficient for a person to hold a position of leadership and

trust in our Government. Especially with a position attracting as much attention as Surgeon General, it is important that the person appointed be an example of the best that our country has to offer.

Mr. President, from what I have learned about Dr. Foster, I believe that he is such a person. In addition to excellent academic and leadership qualifications, Dr. Foster has traveled an admirable path, in the early years forfeiting a life of wealth in a more comfortable setting to return to his roots—this time to poor, rural Alabama—to help an underserved population that needed his care. Since then, Dr. Foster has helped train the minds and influence the careers of hundreds of Meharry Medical College students, many of whom have followed in his footsteps.

While Dr. Foster's life and career have not been without their controversial moments, there are few, if any, individuals of prominence and principle in this country who have not experienced such moments in life. I have reviewed carefully the information available to me about those times in Dr. Foster's life and have asked him about others. I am satisfied that Dr. Foster has told the truth about the discrepancies that arose shortly after his nomination was announced, and I believe that his actions can be explained in the context of the times and the nature of his work.

I have been most impressed by the strong support Dr. Foster has received from the medical community, from public health and social service advocates, and from individuals in my State and around the country—including several Rhode Islanders who have contacted me to say that they personally know and admire Dr. Foster. I hope that the U.S. Senate will look fairly at the man himself and consider carefully his story, his dreams, his vision for the country, and his qualifications. I feel confident that if we do that, we will confirm the nomination of a person of compassion, humor, and dedication, whom I believe deserves the chance to serve his Nation as the next Surgeon General.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank my colleague and the chairman of the committee. Let me say briefly, Mr. President, that first of all, I strongly support this nomination. I believe Dr. Henry Foster is not only deserving of a Senate vote but also deserving of an affirmative vote, confirming him as Surgeon General of the United States. And it should be done so with a note of celebration.

It is, I think, a low moment for the U.S. Senate that we are going to be engaged in a couple of cloture votes on this nomination. This is an individual

who has served his country, his community with great distinction over four decades. It saddens me deeply that we are going to be engaged in a procedural approach to deny this individual a straight up-or-down vote on his nomination, that you have to produce now 60 votes in order to be confirmed as Surgeon General of the United States, for an individual who, as everyone now knows, has been recognized by his Governor, by a former President of the United States of the majority party for his contribution.

As I said, we should be celebrating his life and his contribution, rather than making him the subject of ridicule. I am just deeply saddened that it has come to this, that we are engaged in procedural maneuverings.

Let me put it bluntly, this is not about Dr. Foster. We are engaged in Presidential politics. That is what this is about. This is not a question of whether or not Dr. Foster deserves to be confirmed as the Surgeon General of the United States. This is a game of one-upmanship, in my view, and that is what it comes down to. Frankly, he is being used as a pawn in this process to advance the particular political agenda of candidates for an office that will not be decided for 18 months in this country. Anyone who suggests otherwise, I think, has not been around here in the last number of weeks.

This is a highly qualified individual, Mr. President. No one denies the fact the White House did not handle this terribly well, but it is not the White House that is up for confirmation this morning. It is Dr. Henry Foster. Be angry at the White House if you want, suggest they might handle the process in a more efficient manner, but do not make Dr. Foster the victim of that criticism, however legitimate it may be.

This is an individual, as I mentioned, who gave four decades of his life to helping others and could have easily just retired, enjoyed the comforts that his profession might offer him through whatever financial remuneration he might receive, rather than stepping forward and to accept the position of Surgeon General of the United States.

The President has identified a very critical and important issue, and that is teen pregnancy. Dr. Foster has run a program in Tennessee called I Have a Future. That program has its difficulties. Our distinguished chairperson of the Labor Committee has identified some areas where she thinks the success of the program has not been as strong as it could be. That may very well be the case. I am not even going to argue about that. The point is, and I say it with all due respect, at least he is trying, he is trying to do something about it.

Programs have been tried and failed across this country, but people step up and try to do something about a plague in our Nation—and that is kids having kids. Every American citizen in this country knows what a serious problem

it is. Here is a doctor in Tennessee who, on his own initiative, went out and said, "I think I will roll up my sleeves and try and do something about it." And so he tries, and he has great success, I point out. An overwhelming majority of these kids have completed high school, many have gone on to college, trying to get their lives straightened out setting an example of how you can achieve success, deferring the gratification that too many youngsters in this country do not understand or appreciate the benefits of avoiding.

So this individual does that, is involved in a variety of community activities over the years, and receives one of President Bush's points of light. Lamar Alexander asks him to head up an infant mortality program in the State. And then an American President says, "Would you serve as a Surgeon General and come up here and see if we cannot come up with a national program to deal with this issue?" Here is a man who was the first African-American to be in medical school in Arkansas years ago, who struggled against all of the problems associated with being an African-American through the 1940's and 1950's and 1960's, who served his country in uniform. He comes through this process and all of a sudden he goes through this wringing, wrenching process because he happens to be an obstetrician-gynecologist, one of 35,000 of them in the country, who has performed abortions, a legal procedure.

Obviously, there are those who disagree with abortion. Are we saying here this morning that anybody out there who is an obstetrician-gynecologist better never come forward and try to seek a position in the Federal Government, particularly a confirmable position; do not even think about it?

I heard the other day from people when I asked them whether or not they would be willing to step forward and seek a position. I talked to young people and said, "Would you ever think about serving your Government if asked to serve?" They laughed. There was uproarious laughter when I suggested it. Two got up and said, "What did Dr. Foster go through? Do you think I would ever be willing to go through that process?"

We better think twice about what we are doing when we drag people like this through the mud and deny them an opportunity to serve. No sound-thinking person having witnessed what this man has gone through would step forward. We are doing great damage by engaging in a cloture motion here. Let us vote this man up or down. If you do not like him, vote against him, but do not deny him the opportunity to receive, I think, the majority of votes he would receive in this body, and let him do his job as Surgeon General. We do not do ourselves proud by going through a process like this.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself 20 seconds. We have the members of the committee that were here this morning prepared to debate these issues that have been raised. We have read about them in the newspapers, we have heard about them on radio, and we have watched them on television. We believe they have been answered. We are prepared to debate.

I hope we are not going to be in the situation where we are using up our time in the last hour and we do not have an opportunity because we have those who want to speak and advocate for Dr. Foster. We have had now close to 45 minutes, and I have other Senators eager to address the Senate in support of this. We are trying to deal with these issues. We are here and we want to debate this. This is enormously important.

So I hope that we can at least engage and respond. I think the American people want that. This is a very, very important matter. There have been a lot of charges made. We are prepared to respond to them. But we do not want to be unfair to Dr. Foster by denying the opportunity for our colleagues here that are interested in this in the Senate, and certainly the American people, who are paying attention to this debate, to be able to make the case for him.

Mrs. KASSEBAUM. Mr. President, if I may respond to the ranking member, the Senator from Massachusetts, there are many Members on our side, of course, members of the committee, as well as others, who do wish to respond. Many could not be here until between now and 10 o'clock. So it, unfortunately, appears that your side is using more time than ours. I will do the best that I can to encourage Members to come to the floor because time is going by. Many have wanted to give, and will give, some very strong statements.

I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague, Senator KENNEDY, for the time and also for his leadership here.

Strangely, the issue of abortion is dominating our consideration. Here is an obstetrician/gynecologist who has delivered over 10,000 babies and was involved in 39 abortions, some of which he was just the supervising physician, where his name is on record. If he is confirmed, there will not be one additional abortion in this country because he is a Surgeon General of the United States—maybe less, but not more. I say "maybe less" because I concur completely with what Senator DODD had to say about the I Have a Future Foundation.

Here is a distinguished physician who took an interest in teenagers in a public housing project, and the statistics are squishy because they move in and out. But there is one statistic no one questions, which is that the dropout rate for these young people changed

dramatically. And that has a great deal to do with abortion. There are a lot of things we do not know, but we do know that girls, as well as boys, who complete high school are much less likely to become pregnant and become teenage parents.

There are 1 million teenage pregnancies in this country, 400,000 of which end up in abortions. He could have ducked that. He could have been home watching television. He could have gone to the country club and played golf instead of working with teenagers. And he cared. We have an opportunity to nominate someone and to approve someone who cares.

Dr. Foster, if you are listening and viewing this somewhere, let me tell you that this is not a judgment on you that is being made in the U.S. Senate. You can be proud of your record; your family can be proud of your record; your profession can be proud of your record; your country can be proud of your record. What we are doing is making a judgment about the U.S. Senate, about whether we have the courage to do what is right. I am sure the chairwoman would agree with me on this. There was not a single member of the committee who listened to his testimony that did not come away very much impressed by Dr. Foster. If people had not taken positions prior to his testimony, he would be overwhelmingly approved here. We are judging ourselves.

Senator SPECTER mentioned Justice Thomas when he was up. Senator KENNEDY and I were on the Judiciary Committee and strongly opposed him. TED KENNEDY did not get up here and try to have a filibuster. PAUL SIMON did not try to have a filibuster. We let the process work. That is what we ought to do. That is what we ought to do in fairness to Dr. Foster, but it is also what we ought to do in fairness to the process, in fairness to the U.S. Senate.

I hope we do the right thing, and the right thing is to let us make a judgment whether or not he should serve as Surgeon General of the United States.

I yield the floor.

Mr. DODD. Is there some event going on that the other side does not want to show up this morning on this?

Mr. KENNEDY. I yield myself a couple of minutes. I thought we were supposed to meet at 9 o'clock, in any event, to go over the job training—

Mr. DODD. Hark, hark, I hear the roar of an angel here. The magic words and the doors open. We may now get some time on the other side.

Mrs. KASSEBAUM. I yield 15 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for yielding. I rise in opposition to the Foster nomination.

Elections have consequences. I think democracy is based on the principle that when the American people go to the polls and vote, that vote has an impact on government. I think when the American people voted for Bill Clinton,

they either knew or should have known that his Presidency was going to mean a bigger Government. It was going to mean more spending. It was going to mean more taxes. It was going to mean more decisions made in Washington and fewer decisions made around the kitchen table. It was going to mean, on political appointments, that liberals were going to be nominated.

Let me say, Mr. President, we have considered hundreds of Clinton nominees. I am not aware of one who represented my philosophy or my values. Yet, with the exception of a small handful of those nominees, I have either voted for them or I have allowed them to pass without a vote. Why? Because I think philosophy alone is not grounds for voting against confirmation of any nominee, including Dr. Foster.

What I have tried to do is to set out three criteria for considering a nominee: No. 1, is the nominee competent for the position? No. 2, is the nominee credible? Can you believe what the nominee says? Is the nominee trustworthy in his or her career? No. 3, are the nominee's views—in the case of Bill Clinton—mainstream Democrat Party views of the type that the American people could have believed, could have known, or could have been expected to have known would be reflected in the people that Bill Clinton—as they would have known him and perceived him in the 1992 election—would nominate?

It is on the basis of these three criteria that I oppose the Foster nomination and will resist the nomination with my colleagues. It is on the basis of that opposition, on these three criteria, that we are going to have two votes on cloture. I hope and believe that those cloture motions will be defeated, and that the Foster nomination will not go forward.

Let me start with competence. Dr. Foster has held two important positions in his career that have been pointed out as his qualifications for this office. No. 1, Dr. Foster was the head of Meharry Medical College's obstetrics-gynecology residency program. During his tenure as head of that department, that program lost its accreditation.

I do not believe that is a strong recommendation. I do not believe Dr. Foster's record of having allowed the department, under his leadership, to lose its accreditation, is a qualification to hold a position which, in essence, is a position as America's physician. In that position he would oversee the presentation of reports and would actually make substantive decisions that would be binding on other members of the Government.

Mr. KENNEDY. Will the Senator yield?

Mr. GRAMM. I will not yield. I would be happy to yield when I finish. If you want to yield on your time, Senator KENNEDY, I would be happy to yield on your time, but I only have 15 minutes.

No. 2, Dr. Foster served as director of the I Have a Future Program. In the

stated mission is, to "address the burgeoning problem of adolescent pregnancy." That is the stated goal of the program.

We have heard repeatedly Dr. Foster's leadership in this program stated as a qualification for being Surgeon General. Now, on two occasions, and only two occasions that I am aware of, there were evaluations of this program. In both evaluations, the 1992 evaluation and the 1994 evaluation, evidence, that was in no way challenged by the people who were running this program, was clearly presented that showed the program had failed to produce any change in adolescent pregnancy among the people who were involved in the program as compared to the people who were not involved.

In both evaluations, any difference in pregnancy rates that existed—apparently a slightly higher level in the first study, a slightly lower level in the second study—were considered statistically insignificant. In neither case did these two evaluations find any statistically significant difference in teen pregnancy rates among people in this program.

On the two major positions that Dr. Foster has held—the head of a department of a medical school which lost its accreditation under his leadership, and a program funded by charitable contributions which did not, in either study reporting on its achievements, achieve its goal—I do not believe that any private personnel firm in America would have recommended Henry Foster for a position in the private sector of the economy, based on these two factors, or would have ever come forward with his name as someone qualified to be Surgeon General.

I am not going to get into the credibility issue because it will be discussed at length by my colleagues. On virtually every issue, from the number of abortions he performed, to whether or not it was standard practice to have involuntary sterilization of mentally incompetent people, to the very nature of the I Have A Future Program, or from the simple question of whether Dr. Foster had ever had a malpractice suit or been the subject of litigation, on almost every subject which was raised in the hearing, in almost everything which has been debated, in almost every issue that has come from the White House or come from Dr. Foster, there has been a consistent credibility problem.

Now, I want to get to the real reason that I am opposed to this nomination. We have two good reasons that anybody could be opposed to it. I oppose it for those reasons. But the real reason I oppose it is, the American people would have had no reason to believe that the Bill Clinton running for office in 1992 who became President would have appointed such a person. They would have every reason to believe it today.

In 1995, after Joycelyn Elders, after gays in the military, after the Clinton Justice Department has entered every

suit involving quotas and set-asides on the side of quotas and set-asides, after a series of appointments of people who hold radical views, today, no one is surprised.

Let me read four brief statements that in 1992, as candidate for President, Bill Clinton said. No. 1, "I want the American people to know that a Clinton administration will put their values into our social policy at home;" No. 2, "I want an America where family values live in our actions, not just in our speeches;" No. 3, "The thing that makes me angriest about what's gone wrong in the last 12 years is that our Government has lost touch with our values while our politicians continue to shout about them;" and finally, "We offer our people a new choice based on old values."

Now, some people have said this is a debate about abortion. To some extent, it is a debate about abortion. But it is a debate about radical views on abortion that were held by Joycelyn Elders and that are held totally and completely by Dr. Foster.

The view that, No. 1, we should not have parental notification for minors, a view that the vast majority of American people do not share. A view that abortion on demand should everywhere be the rule and the guiding principle, even in late abortions, even in those cases where States, today, are trying to exercise their legitimate rights under the Webster decision. I do not believe those views represent traditional American values. I do not believe they represent the will of the American people. And, finally, let me read one little quote which tells the whole story, from the "I Have A Future, Family Life Module Staff Manual" from September 1994, which was sent by the White House to the committee as a summation of the work of Dr. Foster on this program. Let me read one quote.

Values are neither good nor bad. They are the way you feel.

Values are neither good nor bad. They are the way you feel.

That in no way represents in any degree the statements that Bill Clinton made throughout his 1992 campaign. The Foster nomination is a nomination of a person who does not represent the traditional values of the American people and a person whose views are radical as compared to theirs and outside the mainstream that could have been expected of Bill Clinton when he was a candidate in 1992.

Final point: Why filibuster? Why not bring this up for just a simple vote and let the majority rule? The Founders, in setting the rules of the Senate, felt that if a determined minority had strong views that in order to shut off debate, it would require a supermajority. That provision has been used on numerous occasions by both parties and, by and large, it has served the interests of the public well. When Joycelyn Elders was nominated by the President, based on her record, based on her credibility, based on her quali-

fications, and based on how her views compared to the views of candidate Bill Clinton in 1992, I strongly opposed her nomination. But this was early in the process. We did not know what she would be like as a Surgeon General, and so no one prevented the vote.

We now have seen a disastrous tenure by Joycelyn Elders. We have seen a tenure that has divided the country. And I do not believe that we should confirm a candidate for Surgeon General whose views are identical to Joycelyn Elders' in nearly every way.

We made a mistake on Joycelyn Elders by not denying a vote on her nomination. That was a mistake I, for one, was determined not to make again.

Now, I believe that this is a nominee who is wrong for this job. If there is one position in Government that ought to be easy to fill, it ought to be Surgeon General. The duty of Surgeon General is to use moral suasion on public health issues. The duty of the Surgeon General is to unite the Nation in promoting good public health. And that ought to be an easy thing to do because nobody is opposed to good public health.

Surely, there must be one physician in America who voted for Bill Clinton, who supports him, who shares his views as stated in the campaign, who could do that job. Unfortunately, Dr. Foster is not such a nominee. I oppose his nomination. I have determined, along with my colleagues, to vigorously oppose it, to require that there be a vote on ending debate. For the sake of saving the time of the Senate, we have agreed to a procedure to vote on it not once but twice so certainly no one can say they did not get the opportunity to end this debate. But I oppose this nomination. This is the wrong person with the wrong views for the wrong job. I think we can serve the public interest by saying "no." I think "no" is the right answer. I am confident we are going to say it.

I thank my colleague for yielding me the time and I yield back my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to yield myself just a minute. Does the Senator from Texas understand why the accreditation was lost during that period of time? Does the Senator understand? Has he had an opportunity to review the record and see the excellent exchange between Dr. FRIST and Dr. Foster on the issue of accreditation that responds to that point that the Senator has made?

Mr. GRAMM. I have had an opportunity to look at that. But I think the fact remains, whatever you are going to say about an individual and about his efforts, when you are talking about promoting a person to be the Nation's chief physician, it is not a qualification under any circumstance to say that under his stewardship his department at his medical school lost its accreditation. No matter how or why or what the circumstances, I do not think

anybody would say that is a qualification. Nor do I believe that his I Have A Future Program, when the only two evaluations that were ever done, to the best of my knowledge, showed it had absolutely no statistically significant effect on the objective it sought, should be considered a qualification.

Mr. KENNEDY. Mr. President, I yield time to myself. I wish the Senator had a chance to review the record, because the issue of accreditation was addressed very credibly by Senator FRIST, talking about exactly what happened, the loss of patients and the change of demography there and the leadership that was provided by Dr. Foster.

These are the kinds of issues that have been reviewed and re-reviewed and re-reviewed. I think having his comments about that and putting that in perspective has certainly responded to this kind of a charge.

I think we have gone through the issue—I will yield myself 30 more seconds—about I Have A Future. At least Dr. Foster tried and he was given an award by the President of the United States, George Bush. I did not hear the complaints about that program at the time when President Bush was identifying it. There is a solid record that they reduced the dropouts, continued education, and went on to successful careers.

I do not know whether the Senator had a chance to meet with many of those who came through the program of I Have A Future, because they came here and spoke to Members of the Senate who were prepared to meet with them, to talk about exactly the kind of difference that Dr. Foster had made in their lives.

The PRESIDING OFFICER (Mr. KYL). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield the junior Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. I thank my colleague for yielding a few minutes here.

Mr. President, I was not planning to speak on this nomination today but while presiding for an hour and listening to some of the debate that has taken place, I felt compelled to do so because I think there is a misunderstanding as to why some of us are going to be opposing the nomination of Henry Foster.

I disagree with my friend, the Senator from Pennsylvania, Senator SPECTER, when he said that abortion is the sole issue. Abortion is not the sole issue in this nomination. I happen to be pro-life. It would be an issue with me if it were the sole issue, but it is not. The issue here in my opinion is credibility. I want to make it abundantly clear, when I vote against the nomination of Henry Foster to be Surgeon General, it is not because of his pro-abortion stand, or the abortion issue. It is his credibility.

I suggest that we recall—I do not think anyone in this Chamber knows

what his real position is or how many abortions he performed because there has been such a variance in what he has reported and what he has said. I can remember when his name first came up and there was an article written in the Washington Post quoting him, quoting the White House, saying he had performed one abortion in his career.

Then, on February 3, 1995, the Department of Health and Human Services released a statement by Dr. Foster which stated, "I believe that I have performed fewer than a dozen pregnancy terminations." This was a statement by Dr. Foster.

Then, back on November 10, way back in 1978, Dr. Foster, as a member of the Department of Health, Education and Welfare Ethics Advisory Board, is recorded in an official Government transcript saying, "I have done a lot of therapeutic abortions, probably near 700."

The documentation of that is HEW Ethics Advisory Board Meeting, Friday, November 10, 1978, Seattle, WA, page 180. The White House first claimed that the transcript was not genuine but later admitted its authenticity.

Dr. Foster initially claimed the transcript was inaccurate, that he did not make the statement nor did he do what the statement said, but later he said he did not remember making the statement.

At about the same time, in November 1980, OB/GYN News published a story regarding a study conducted on behalf of Upjohn Pharmaceuticals by Dr. Foster at Meharry Medical College in Nashville to develop an abortion pill based on the chemical prostaglandin. Dr. Foster has admitted that he was the research director of a clinical study in which 55 chemical abortions and 4 surgical abortions were performed on women participating in the study. Appearing on ABC's "Nightline" Program on February 8, 1995, Dr. Foster stated he was the physician of record in 39 abortions since 1973, since Roe versus Wade. He stated that the number of 39 did not include any of the 59 performed as a part of the study noted above since while he supervised the trial he did not personally perform these abortions.

So, Mr. President, to me regardless of whether your feelings are about abortions—again, I am pro-life—the fact is that either his memory is very bad or he has a habit of saying things that are not true. The inconsistencies are incontrovertible. I agree with my friend from Texas. But I think it is one more very significant reason to vote against the nomination of Henry Foster; and, that is, he says things that are not true.

So, Mr. President, I wanted to clarify why I will be opposing the nomination of Henry Foster.

I yield the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent to put in the RECORD the report of the Carnegie Corporation of May 3, 1995. They are the

one funding the I Have a Future Program. This is what they say:

By 1994, a significant proportion of the young people who received "I Have a Future Services" showed improvement on several measures of success, compared to a control group. The Corporation has worked with Meharry Medical College in developing the program, and Meharry has been responsive to recommendations for ways to improve the research design and the curriculum. The Meharry team has courageously and thoughtfully tackled an important and difficult problem. "I Have a Future" should have useful lessons to impart to others attempting to enhance the life options of young people caught in adverse circumstances.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Carnegie Corporation of New York, May 3, 1995]

I HAVE A FUTURE

Carnegie Corporation of New York funded the "I Have a Future" program from its inception in 1986. "I Have a Future" is a life options program addressing the multiple risks that many young people face in adverse circumstances—the risk of school failure leading toward dropping out, the risks of early pregnancy, the risks of drug abuse, and the risk of delinquency.

The program takes a comprehensive, problem-solving approach to the underlying factors involved in high-risk behaviors. It works to enhance young people's self-esteem, positive feelings toward family members, and a sense of responsibility toward their community. It urges them to pursue their education through high school and beyond and tries to give them a real sense of future possibilities.

The program combines many of the elements that researchers and practitioners agree are found in successful intervention programs for high-risk youth. These include individualized attention, collaboration with other community agencies, staff with specialized training, social skills training that helps adolescents both resist negative peer influences and adopt health enhancing behaviors, peer support, the involvement of parents, career/life planning, and opportunities for community service.

By 1994, a significant proportion of the young people who received "I Have a Future Services" showed improvement on several measures of success, compared to a control group. The Corporation has worked with Meharry Medical College in developing the program, and Meharry has been responsive to recommendations for ways to improve the research design and the curriculum. The Meharry team has courageously and thoughtfully tackled an important and difficult problem. "I Have a Future" should have useful lessons to impart to others attempting to enhance the life options of young people caught in adverse circumstances.

This is the Carnegie Corp. They are the ones who have done the evaluation. This is their bottom line.

I withhold the rest of our time.

Mr. President, I yield to the Senator from Louisiana 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. BREAUX. Mr. President, I thank the Senator for yielding.

Mr. President, my colleagues, in considering the confirmation of a Presidential nominee I think that we as

Members of the Senate have an obligation to vote on the merits of the nominee's qualifications. I intend to vote for cloture so that we can vote on the merits of this nomination later.

I have differed with some of the President's nominees. In fact, I voted against President Clinton's previous nominee for Surgeon General. I feel very strongly that the Senate should not hide behind procedural votes that present the question of the nominee's qualifications from even coming up. We should have the courage to bring the nomination up, debate his qualifications, and then vote "yes" or "no" on the merits. I realize that there are differences of opinion among our colleagues on this nominee, and indeed, on what the proper role of the Office of the Surgeon General should be. This I would suggest should be debated and decided by a vote of the Senate on the merits.

I have met with Dr. Foster in my office and discussed his views and also his past practices. He has family connections to my State of Louisiana, and I found him to be a very sincere person. I think, Mr. President, that the Senate owes the President and this nominee a vote on his qualifications and not just a vote on whether to even bring it up.

Mr. President, I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank my friend and colleague from Massachusetts, and I thank the Chair.

Mr. President, this Senator has been serving the Senate now for 17 years representing my people of the great State of Nebraska and in speaking for them I have tried to support the wishes of the Presidents of the United States from all different parties whomever they wish to place in their key positions. I have not always done so, because I think everyone should be looked at on an individual basis.

Like the Senator from Louisiana who just spoke, this Senator voted against the last nomination by President Clinton for the position that is now being debated with regard to Dr. Foster. I never as long as I have been here have taken part in a filibuster to try to thwart the will of the majority of this body and the elected President of the United States, whether that President be a Democrat or a Republican, to go the filibuster route and thwart the will of the majority of this body.

Mr. President, it seems to this Senator that the debate on the Foster nomination has simply deteriorated into a series of pronouncements by his opponents as to how they have come to principled reasons for voting against him.

I may be wrong. But it is the opinion of this Senator that Dr. Foster is being crucified on the altar of Presidential politics, pure, and simple. That is not what all of the opponents of Dr. Foster are thinking in my mind. But it is to a

considerable extent of some who are providing leadership. I think crucifying someone to enhance someone else's Presidential ambitions is a sorry sight, indeed, to see happening on the floor of the supposedly deliberative body that makes up the U.S. Senate.

I guess the feelings about abortion of this Senator are somewhat legendary in this body. I suspect that Dr. Foster and I do not see eye to eye on the matter of abortion. But despite the many pronouncements to the contrary, I believe any reasoned, seasoned interest of the U.S. Senate would recognize and realize that in all too many cases votes will be cast one way or other on this nomination driven by one's feelings or pressure groups on abortion.

Having said that, I probably do not agree directly with Dr. Foster on abortion, but I still say that all of the abortions that he has been involved in, as near as I can tell, are fully legal. He has broken no law of the United States of America. He has broken no laws of the professional organizations to which he is a very prestigious member.

I sat down with Dr. Foster in a one-on-one meeting not long ago. I came away from that meeting convinced that here is a family physician that I would like to have being the family physician of my family.

How then could I not vote to support his nomination even though we might not agree on all issues? He is a very decent human being. He is an understanding human being. He has the bedside manners, if you will, of what most of us would think of as a family physician.

He is very much concerned about the falling morality in this country. No one has spoken out more effectively, in my view, than Dr. Foster with regard to out-of-wedlock births and what we are going to do about it. Certainly there has been some confusion with regard to some originating statements that came out of the White House early in the nomination process. But there are few among us who have never made some mistakes, made some errors. I do not think any of those mistakes or errors on the part of Dr. Foster were intentional or plotted or designed to mislead. I think he made some mistakes. Who of us has not made some mistakes?

It seems to me, Mr. President, that we in the Senate have an obligation to have a majority vote, if you will, on nominees for important high office sent to us for confirmation by the President of the United States. So I will vote for cloture.

I think it is somewhat discouraging that by and large Dr. Foster is being crucified on the altar of Presidential politics; that we are even having a filibuster and a cloture vote. But I do not object to the right of my colleagues, mostly on the other side of the aisle, who choose this route. That is within their right. I think it is not playing fair with Dr. Foster or a qualified nominee sent us for confirmation by the President.

So I hope that the Senate will have the courage to rise above the obvious attempt to crucify Dr. Foster for the sake of partisan Presidential politics. It is wrong. It should not be a part of this process. And I hope the Senate will rise to the occasion and enough Members on that side of the aisle will recognize that despite some reservations they might have, and in some cases legitimately so, the right way to proceed on this is to stop the filibuster, invoke cloture, and then let the Senate adopt by majority vote its will. For the Senate to adopt a majority vote under its will will require some help from the Republican side of the aisle. We do not have enough votes on this side.

Mr. President, I thank my friend from Massachusetts, and I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you very much.

Today we face a set of questions. They are serious questions. They are questions of procedure, of principle, questions of candor and questions of credibility, for today we begin a debate not only about the qualifications of an individual to serve as Surgeon General but about the terms under which that debate will take place. It is a debate neither easily resolved nor easily limited. Neither is it a debate to be taken lightly.

There are those who have said that the Surgeon General's office is an office of just a handful of people, that takes up less than \$5 million of the taxpayers' money and therefore does not deserve the scrutiny that it has been given.

I disagree. The office of Surgeon General speaks with enormous influence and persuasion. Power of the position lies not in its legislative authority but in its ability to influence both the tone and the content of our national conversation concerning some of the most profound challenges that we face. And today the office of Surgeon General is in serious need of repair. It is an office that has been discredited by the reckless agenda and the damaging statements of its last occupant.

What we really need now, what we need today, is a Surgeon General of impeccable credentials and unquestionable credibility. We need a national doctor who commands the confidence of the people and who can unite us in tackling our most pressing pathologies. When you need a doctor, you need someone that you can trust; you need someone of reliability; you need someone of consistency. You do not want to go back with the same symptoms and get a different diagnosis in each visit. You do not want to have a different prescription. You need the confidence of knowing that what is said is what is believed and what will be followed.

We have pressing challenges. We have pressing pathologies. They are pressing. Whether it is the continuing scourge of cancer, the crisis of drugs, or the tragedy of illegitimacy, the problems are apparent and yet the solutions are not so apparent.

There are those in this administration who look at these problems and say that the only solution is to accommodate people in their problems. To teens in the back seat of a car they would say, "Better use a condom" when they should be saying "Stop. Get out; change your way of living." To addicts on the street, they would say, "Better use a clean needle," when they should be saying, "Stop. Get help; change your way of living." We do not need those who would say, "How can we help you in a lifestyle which is threatening your health and the health of the American people?" What we do need are people and leaders who will appeal to us at our best, who will appeal to the better angels of our nature, not seek to accommodate the basest of human desires. We need leaders who will agree with the great English writer and thinker G.K. Chesterton who wrote, "What is wrong is that we do not ask what is right."

We should be seeking to ask every individual, especially those faced by serious health challenges, how can we avoid these health challenges? How can we provide a healthy Nation by having the kind of consistent approach to behavior that will improve substantially where we are?

Frankly, there is not a lot that is right with this nomination. Initial appearances and claims were deceiving. If we were to just take what was originally given us, if we were to truncate or shorten the investigation, if we were to limit the debate, over and over again in this nomination we would find ourselves acting on the basis of inaccurate and false data, acting on the basis of alleged conclusions unsupported by the facts.

In a rush to market this nominee, the Clinton administration has displayed a reckless indifference to the evidence and a casual disregard for substantiating documentation. The frequent contradictions and serious misrepresentations about both the background and record of Dr. Henry Foster and about the performance of the I Have a Future program have in my mind seriously undermined the credibility of this nominee. They have led to confusion and to controversy surrounding the nomination. They have made any notion of a brief debate about this nominee impossible.

Let me just recap for a moment. Dr. Foster was introduced to the American people as the architect of a program touted as an abstinence-based program. The fact. It turns out that the program is based on weekly contraceptive distributions. A program which alleges a focus on abstinence has been unable to produce any abstinence brochures developed, produced, or updated under

Dr. Foster's leadership. In fact, the only brochures that could be located regarding abstinence were brochures written, published, and printed after Dr. Foster's nomination and after the controversy over Dr. Foster's so-called abstinence program began.

Dr. Foster was introduced to the American people as a man behind the program touted as preventing teen pregnancies. President Clinton called it an unqualified success.

Well, it turns out, according to its own data, participants were more likely to have had sex than nonparticipants, and that contraceptive use was not increased among those who were participants as compared to those who were nonparticipants.

Maybe President Clinton was half right in calling the program an unqualified success. It certainly was not a success, but it was unqualified in terms of helping these young people, for more of the young people had been involved in sexual activity who participated in the program than those who never even participated in the program. And according to the reports promulgated or published by the program itself, the words of the report say that there was no statistically significant difference in pregnancy rates between those participating in the program and those not participating in the program.

And as Dr. David Murray of the non-partisan research group STATS, stated:

The program's statistical results do not support the notion that pregnancy prevention or even lowering the risk of pregnancy follows from program participation.

Dr. Foster was introduced to the American people as the doctor behind a program extolled as reaching multitudes of children. It turns out that more individuals drop out of the program than persist in the program for complete participation.

Just a week after the Labor Committee nomination hearings, I received a letter from Dr. Foster stating that he had inadvertently misrepresented his position to me when I asked about additional statistics or studies on the I Have a Future Program. During the hearing, it became apparent from the studies that were available that the program's marks were not high, that it was not achieving its intended result.

So I asked if there were other studies, if there had been other data accumulated, if there were evaluations, and he clearly answered no. But his letter which he sent to me says that what he should have said was, "Yes, there are other statistics." As a matter of fact, there was not only an additional study but an independent analysis of that additional study. And this additional material reinforced the conclusions earlier made about the failure of the program; as a matter of fact, material which suggested a counterproductivity of the effort altogether.

But the additional material, that kind of a contradiction, just served to underscore and undermine further the

credibility of this nomination, a credibility which was not sustainable and believable as it related to the number of abortions conducted, was not sustainable or believable about the quality and nature of the studies, was not sustainable or believable about the impact on young people.

As we consider a vote to decide whether or not we are going to have a complete, open and full debate on this nominee or whether or not we are going to cut off debate rather quickly, these revelations point toward more debate, more scrutiny, more exposure, not less. For it seems the more we probe, the more we discover, and never in this nomination have we found that the initial representations were supported by the evidence or the facts. It is always that the additional revelations somehow contradicted what the marketing by this administration had been.

Dr. Foster is a decent man who should be commended for his dedication and service to a desperately needy population. I do not think anyone would contradict that. But his nomination is more than a matter of personality, it is about standards of credibility and integrity, and it is about the belief in what things will remediate the pressing pathologies of our society. It is about an exceptional situation where an office has been discredited by an individual, our last Surgeon General, who discredited not only the office but the administration that she served. It is about this nomination, and this consideration is a debate about substantial and gross inconsistencies and contradictions that will continue to swirl around the nominee.

I believe that we need a nominee who inspires unquestioned confidence. We need someone that we have the kind of faith in that we expect in our family doctor. This nominee does not pass that test. The process has not provided a basis for that kind of belief.

The questions remaining are serious enough that I voted against this nomination in committee, and I believe that they are serious enough that we should all vote against any measure that would limit the debate over this nomination today.

I inquire as to what time remains.

The PRESIDING OFFICER. The Senator from Missouri has 52 minutes 45 seconds. The Senator from Massachusetts has 43 minutes remaining.

Mr. KENNEDY. Mr. President, I yield 1½ minutes to the Senator from Connecticut to clarify some points.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank my colleague from Massachusetts. I just wanted to respond quickly to the Senator from Missouri on part of his statement. I sent a letter on June 13 to the majority leader in which I pointed out, again, the overwhelming evidence that this program, I Have a Future, has long supported abstinence—not just on some rhetorical statements, but rather based

on evidence, pamphlets, videos, so forth, that have been available going back to 1986. To suggest somehow that these were manufactured documents that came up after Dr. Foster's nomination is just not borne out by the facts.

Mr. President, the following are among materials that have been provided to the committee—by the way, I am not holding these, they have been part of the record. For example, the 1989 edition of the family life module staff manual specifically calls for the handing out of a pamphlet entitled "Many Teens Are Saying 'No.'" A copy of that pamphlet was provided to the committee. A 1986 pamphlet from the American College of Obstetricians and Gynecologists to which Dr. Foster alluded in his hearings called "A Parent's Guide to the Facts: To Help Mothers and Fathers Talk to Their Teenagers About Sexual Responsibility." That was the title. It includes a similar abstinence message. The pamphlets are only part of this program. The same abstinence message is delivered through videos, training materials, group discussions, games, a variety of other materials, all of which are a part of the record.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I ask for 30 additional seconds.

Mr. KENNEDY. I yield 30 seconds.

Mr. DODD. Mr. President, all of that material has been made available to the committee. To say that these were manufactured documents that came up after the nomination is ludicrous. It is all there, it is all available to the committee. It is a longstanding record of supporting abstinence as part of that program. To suggest otherwise is unfair to the nominee. It is not an accurate reflection of the hearing record.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Thank you, Mr. President. I thank the Senator from Massachusetts.

Mr. President, I have listened to the debate for about the last 40 minutes or so. I have decided to not speak in the language of statistics or charge/countercharge. I sit on the Labor and Human Resources Committee and had an opportunity to hear Dr. Foster and go through this hearing with him.

I have heard some language from my colleagues, mainly on the other side, about appealing to the better angels of our nature, about values, about mainstream, and about competency. So let me try to, within my own way, within a very short timeframe, set the record straight.

Dr. Foster, during the committee hearing, was articulate, thoughtful and

able to maintain his sense of humor. And more importantly, the committee and the American people came to see a compassionate, humane, caring theme—Dr. Henry Foster, the same Dr. Henry Foster known to his friends, to his family, and to his community and, more importantly, to his patients.

Sometimes we do not know what we do not want to know. We went through the debate on the I Have a Future Program over and over and over again in committee. The Senator from Massachusetts mentioned the Carnegie Foundation report. There is not one Senator here that should ever argue anything other than the question of why children have children is complicated and none of us really knows the answers, though we are all struggling to find those answers.

But Dr. Foster at least tried. During the hearing, every time I heard a criticism of this program, I asked my colleagues, "Could you point to another program that had more success? Could you point to a more worthy attempt? If we want to talk about values and how you live your life, can you point to a doctor who has been more there with young people, who has cared more about this problem of teenage pregnancy, who has cared more about the problem of substance abuse, who has cared more about the problem of violence in the lives of all too many young people in America, who has cared more about the problem of HIV infection and AIDS?"

Mr. President, I must tell you that during the committee hearing—and I suspect on the floor of the Senate as well—there will be no answer to the question I just raised. The silence will be deafening.

Mr. President, Dr. Henry Foster does appeal to the better angels of our nature. I heard one of my colleagues earlier talk about the standards being competency, credibility and mainstream values. Competency? This is an Africa-American man who has a whole life of accomplishments. This is an African American man who has contributed enormously to communities and to our country. And mainstream values? What is more consistent with mainstream values than to take your professional ability and to use that ability in such a way that you give to the most vulnerable citizens in our country, you take your professional ability as a doctor and give it to communities and you serve people?

Mr. President, the key to a successful and effective Surgeon General is, will that Surgeon General have rapport with the people of our country? There is no question in my mind that Dr. Foster will. Dr. Foster, if you are watching this debate—and for all the people in the country that are watching the debate—Dr. Foster, be proud. This personal attack is all about politics in the worst sense. Be proud of your life. Be proud of what you have done. I believe, as a Senator from Minnesota, Dr. Henry Foster will serve our country very well.

I yield the floor.

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. First, I wish to compliment my friend and colleague, Senator COATS, for his work on this nomination. I also would like to clarify a couple of statements that have been made by some of the proponents of the nomination.

I heard some of the proponents say this nomination is about Presidential politics. I disagree. I have seen politics play a part in previous nominations for different things. But I will tell you as a person who has been involved in some of the battles on the office of Surgeon General in the past, I do not think this is about Presidential politics. I remember Dr. C. Everett Koop, who eventually was confirmed for Surgeon General, but he was held up for months, almost a year.

I remember Dr. Elders. I was involved in slowing down that nomination. I tried to defeat it. I tried to use parliamentary procedures, and I slowed it down for several months, because I thought she was the wrong person to be Surgeon General. That was not about Presidential politics, although people said that on the floor. Dr. Elders alluded to it being about race. And that was wrong. She was the wrong nominee and she was the wrong Surgeon General. She made a lot of statements, both prior to her confirmation and after her confirmation, that proved she was the wrong person to be Surgeon General.

And, Mr. President, I state that Dr. Foster is the wrong person to be Surgeon General. He should not be confirmed. It does not have anything to do with Presidential politics. He should not be confirmed.

Why? I do not think we can trust him. I think time and time again he has made statements that have proven not to be truthful. I do not think he has been honest. I do not think he leveled with the Congress or with the American people. I do not think somebody should be confirmed if they cannot tell the truth. That does not mean he is not a nice guy, or that he has not done some good things. But if a person does not tell the truth, then they should not be confirmed to a high-level office. As a matter of fact, I terminate the employment of people if they do not tell the truth. I think that telling the truth is a basic requirement.

You might say, well, where are you getting these facts, and where are these things coming from, and is this not just based on opinions not fact? Well, a lot of it comes from Dr. Foster himself. A lot of the statements he has made on very sensitive, important issues have been misleading, at best. A lot of people have said this issue is about abortion because a lot of people

do not want to have somebody who has performed abortions be Surgeon General.

I agree. I do not want to have an abortionist as Surgeon General. But I also will say that with the numbers in the Senate, that probably would not necessarily disqualify somebody or mean they could not get the votes to be confirmed. But what about when you have statements like, maybe I have performed one abortion—that came out of the White House. Then we had a statement issued by the White House and by Dr. Foster, and I will read this statement. They have a printed statement on February 3, 1995 that says:

In that period of almost three decades as a private practicing physician, I believe that I performed fewer than a dozen pregnancy terminations.

Fewer than a dozen. This is a release to try to stop the discussion of how many abortions Dr. Foster had performed, because they had a problem with their nomination. And then I find out in a Department of Health-HHS hearing, Ethics Advisory Board, on November 10, 1978, Dr. Foster talks about doing about 700 or so abortions. So to quote, it says, "I have done a lot of amniocentesis and therapeutic abortions, probably near 700."

That was Dr. Foster. What was the response? First the White House said, "He was not there." "It was not Dr. Foster." Then, "He is misstated or misquoted and did not remember making the comments." But it is in this record. The White House was saying it is not true. It turns out, I think, that it is. In Dr. Foster's statements on abortion, he is misleading Congress and the American people. On "Nightline" he said, "I have done fewer than 39 abortions." Well, he was not counting those 700 or so he referred to in his testimony before the Ethics Advisory Board nor was he counting the abortions that occurred during a study he headed at Meharry, where over 50 abortions were caused by use of a suppository.

And then also in Dr Foster's statements, he says, "Well, I am not about abortion. I abhor abortion. I am against it." And then I look at some of the statements he made about the suppository, talking about, how this suppository can induce abortion in 1 to 7 hours and could be available for prescription in 36 months. We are going to have suppositories where everybody can get abortions; they can be quick, easy, and cheap.

He made that statement. So I am thinking, wait a minute, how is this consistent with "I abhor abortion," but he is doing a study to see if we can have a suppository to make it available to everybody. Then I go back to a statement the White House released that said, "I have done fewer than a dozen." On "Nightline," he said, "I did 39." And then we read a transcript saying he did 700. Then he is doing a study on a suppository where it could be cheap, free, and available to everyone.

Then I am when I read what Dr. Foster stated on February 27, 1995—that he is fighting mad at "white right-wing extremists that are using my nomination to achieve their radical goals."

That reminds me of some of the statements that Dr. Elders made. Who is he talking about? I am opposed to his nomination for a lot of reasons, but I have never put myself in that category. I do not know that people would put the New York Times in that category. Generally, it is a fairly liberal paper—editorially, at least.

On February 10, the New York Times says, talking about Dr. Foster:

Although Dr. Foster is a highly respected obstetrician, his lack of candor about his abortion record disqualifies him from serious consideration. Misleading statements by candidates for high positions simply cannot be condoned.

They go on:

Of course, the chief blame for this debacle lies with the White House, which once again put forth a nominee without adequately vetting the person's background or knowing the answers to potentially explosive questions. As a result, the administration put out false information on the number of abortions performed by Dr. Foster.

They summarize and say, "It is time to withdraw the nomination."

I think they were correct. However, the White House did not withdraw the nomination. They have been fighting for this nomination. They think this is important. They have tried to turn this into all kinds of different philosophical battles. They are wrong.

Some of my other colleagues have raised issues concerning credibility. I think there is a real credibility problem. Concerning the syphilis study, Dr. Foster stated, "I didn't know about that until 1972 when it became public." Yet, I do not think that is the truth. Dr. McRae, who was president of the medical society at the time of the study, stated in a letter on February 28, 1995, "I sat at the end of the table, and Dr. Foster sat some two chairs down from me on the left."

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

L.C. McRAE, JR., M.D.,

Mount Vernon, GA, February 28, 1995.

MR. JERRY HORN,
Celebrate Life Magazine.

DEAR MR. HORN: With reference to your inquiry concerning the Tuskegee Syphilis Study, I will express my knowledge of the study as I know it to be.

Some weeks before the County Medical Society Meeting of May 19, 1969, I received correspondence from Dr. Bill Brown at Emory University, U.S. Public Health Service. He was requesting a meeting with the County Medical Society to discuss an on-going "study". Prior to this letter I had received an endorsement from Dr. Ira Myers who was the Alabama State Health Director calling my attention to the fact that I would be hearing from Dr. Brown.

The meeting was organized and held at the then Torch Cafe some four miles outside Tuskegee. Prior to that time we held, our meetings at John Andrews Hospital on

Tuskegee Institute Campus. At this meeting were apprised, myself and everyone there included, of an on-going syphilis study that began in 1932 and was to run over a forty-year period. This study consisted of a double blind study of treated and untreated male syphilis patients. This was the first that any physicians in the County Medical Society knew anything about this study. Dr. Brown made his presentation requesting that we endorse the continuation of the study. It was my feeling and belief that the study was ending within three years bringing it to its forty-year period that was designed in the study. A list of the remaining patients in the study was given to each physician and I noted four or five of my patients that were on the list whom I had treated for latent syphilis not knowing that they were involved in the study.

Members attending the meeting to the best of my knowledge were myself, Dr. Brown, a colleague of his, Dr. John Hume, Dr. Thomas Calhoun, Dr. Howard Settler and Dr. Henry Foster.

I sat at the end of the table and Dr. Foster sat some two chairs down from me on the left. The presentation was one conducted over a thirty to forty-five minute period of time and it became our consensus that we would endorse the continuation of the study.

What is striking to me about the fact that those members present as named were unaware of the study, however no future conversations were held at either meetings or with me. When the news broke in 1972 about the Tuskegee Syphilis Study and Dr. Foster's name came up in that he was greatly helpful in working out the logistics of seeing that patients were located and treated and I felt that from my knowledge to the news media that Dr. Foster was doing a great service and I still feel that way to this day. What concerned me was that he was at the meeting and voiced no objection to the continuation of the study and yet became outraged in 1972 when approached by members of the press and other interested parties concerning the Tuskegee Syphilis Study.

The minutes of the meeting have not been located and through talking to some other reporters it was determined that Dr. Howard Settler, of course, was Secretary-Treasurer of the County Medical Society in 1969 and he stated that most recently, that his secretary had died and he had no idea where the minutes were.

If I can be of any further service to you, please advise.

Sincerely yours,

LUTHER C. McRAE, JR., M.D.

Mr. NICKLES. Dr. Foster was vice chair of the medical society where they were being briefed on the syphilis study in 1969, yet Dr. Foster emphatically says, "I was not there." He was not there. He performed a delivery that day. It turns out that the time of delivery that day did not coincide with the birth record of that child. There are so many inconsistencies, so many downright misstatements of fact. It leads me to conclude that Dr. Foster should not be confirmed.

Maybe one that troubles me, maybe it troubles me more than others, deals with the sterilization of the mentally retarded. This is sterilizing mentally retarded women without their consent. Dr. Foster admits doing this.

As a matter of fact, in the summer of 1974 he read a paper to a medical association that said, "Recently, I have

begun to use hysterectomy in patients with severe mental retardation." Since then, both Dr. Foster and the White House said, well, that was medically accepted, that procedure was in the medical mainstream. That is false. That is outright false.

As a matter of fact, in Alabama, that summer the law on sterilization shifted dramatically and practices that were formerly perhaps part of the medical mainstream were no longer.

I have a whole list, including the case in June 1973, where Mary Alice Relf, age 12, and Minnie Relf, age 14, were surgically sterilized in a hospital in Montgomery, AL. To make the story short, this case went to court. This was in June 1973. HEW regulations were sought to protect the rights of all persons, including the mentally retarded, with respect to sterilizations paid for with Federal funds.

However, those regulations did not take effect because the Federal district court in Washington, DC, in March 1974, found HEW had no authority to fund any nonconsensual sterilization whatever.

Mr. COATS. Mr. President, I yield the Senator from Oklahoma 1 minute, additionally.

Mr. NICKLES. Mr. President, if we look at the inconsistencies, they said sterilization for the mentally retarded was in the medical mainstream. It was not.

There were court cases saying, "No, do not do it." HEW said, "We will not do it or fund it." Dr. Foster was making speeches to medical associations saying, "We are doing it." There were cases, and there was an outcry against this activity.

If we look at this, if we look at the inconsistencies of his statements on what happened on the number of abortions, if we look at the syphilis study where he said, "I don't know anything about it," and Dr. McRae and others say, "Yes, he was informed about it," I think there are so many inconsistencies we really have serious questions about his honesty to Congress and to the American people.

Therefore, I happen to agree with the New York Times in their editorial that I read from, and their editorial today which states that Dr. Foster should not be confirmed by the Senate.

Mr. COATS. Mr. President, could I inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator from Indiana has 40 minutes and 40 seconds; the Senator from Massachusetts has 35½ minutes.

Mr. KENNEDY. Mr. President, I yield five 5 minutes to the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I thank my colleague from Massachusetts.

I am very disheartened and, frankly, disgusted with what is starting to emerge here on the Senate floor.

A defamation of a man's character. A defamation of a man's career by Sen-

ators who do not even know this man; by Senators who are not even physicians; by Senators who think they know more than professional organizations who have honored this man, than patients of this man who have come forward to testify to his decency, his qualifications, his integrity; by Senators who think they know more than President George Bush, who gave his program the 1,000 Points of Light Award; by Senators who think they know more than their own colleague, Dr. BILL FRIST, a Senator here, who said very clearly that he supports Dr. Foster.

I quote to my fellow Senator on the other side of the aisle, their own colleague, Senator FRIST: "When people ask me why I support Hank Foster's nomination, I will tell them simply, because he's qualified to carry out the duties of Surgeon General, and I am confident he will perform that job well."

I am disheartened that people would come on this floor and attack a decent man the way they are doing here today. I take offense at it. I apologize to Dr. Foster for it and to his family and his friends.

This is about politics. Politics of the worst sort. This is about pressure. Pressure of the worst sort. This is about sacrificing a decent man on the altar of right-wing politics in America.

I hope that if we do not win this vote today on cloture that the American people will rise up, that they will phone their Senators, because there is a chance to reconsider if we do not win today.

I am appalled at what I have heard here. I am appalled that people who claim to stand for family values and for a decent society, would attack a decent man in such a personal way.

I share the views of my friend from Connecticut when he says, "Who in their right mind will put themselves through this and get caught up in Presidential politics like this?"

Dr. Foster is an ob/gyn—an obstetrician-gynecologist—and delivered thousands of babies. Mr. President, only a very small percentage of his practice involved abortion. And this is how he gets treated.

This is a man who, as my friend from Maryland said, could have been a wealthy doctor in the Northeast somewhere playing golf at country clubs on the weekend, but chose to go into the South where women had to travel 150 miles to get decent health care.

I have letters I will put into the RECORD from doctors who served with Henry Foster, who saw that compassion. And people in this Chamber with a cushy lifestyle get on this floor and attack him personally for giving up his life, so he could serve people in need, so he could turn around the infant mortality rate in the Deep South.

They say "He will be like Joycelyn Elders." What does that mean? What does that mean? I have never heard that before on this floor. When we take

up a nominee, that people compare him to the person who held the office before. What does it mean? Think about it. More than one person on this floor has said it. The only thing I can think of is that they are both African-American.

I ask you to search your soul in this debate and stop the personal attacks on a decent human being. If you want to vote against him, vote against him. He deserves his day.

I ask for 30 additional seconds.

Mr. KENNEDY. I yield the Senator 30 seconds.

Mrs. BOXER. He deserves his day. And filibustering this nomination is keeping him from his day.

If you do not think a woman deserves a right to choose, fight against it. Convince the American people, because they do not agree with you. They want Government kept out of that decision. Do not take it out on a man who brought thousands of babies into this world.

Oh, he forgot exactly the number of abortions. We have heard that. Maybe he forgot the exact number of babies he brought into the world. Would that change your mind?

Let us be fair. Let us stop the personal attack. Let us stop Presidential politics. Let us vote for cloture. Then let each and every Senator vote his or her conscience.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 2 minutes, or more if he needs it, to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, today we are debating much more than the qualifications of Dr. Henry Foster. Few could argue he is not technically qualified. Furthermore, few, if any, would contest the fact that Henry Foster is a decent man who has worked hard and done much good in his lifetime.

I might also say, for my part I am not too caught up in these issues of credibility with regard to things that may or may not have happened a decade or more ago. I do not agree with my colleagues who say that you cannot trust this man. I hope the Members of this body are never judged by standards of consistency in other matters by which we judge some of these nominees.

However, Dr. Foster is caught up in something much bigger than himself and, therefore, so are the rest of us in this debate. Because of the way the President has used the office of Surgeon General and the appointments to it, we are now engaged in a heated national debate, one that I think is divisive and unnecessary. At a time when all of us, and especially the President, should be looking for ways to bring people together in this country, the President, by means of this appointment, has chosen instead to give a

symbolic victory to one side in the abortion debate.

The President has taken the office of Surgeon General, a rather obscure office with no real authority whose purposes have traditionally been to simply promote mental and physical health, and raised it to the position of spokesperson with regard to sensitive moral and social issues. Then he has proceeded to appoint Dr. Elders to that position, one of the worst and most controversial appointments in recent years.

With that legacy, naturally the position has become one of great sensitivity to many of the American people. It is time for an appointment that will symbolize a return to matters of basic health care. It is time for an appointee who will command the attention and respect of the Nation with regard to these issues.

Instead, the President has made an "in-your-face" appointment that was totally insensitive to the religious and moral beliefs of a large segment of the American people. One must assume the President knew the firestorm of divisiveness that this appointment would cause and that he simply assumed he would be the political winner in this national debate that would ensue, regardless of whether or not Dr. Henry Foster was confirmed.

That is not the proper use of the office of the Surgeon General and that is not the proper use of this nomination. Therefore, I choose not to endorse the President's actions and I will not vote to confirm this nomination.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield myself such time as I may consume. But I ask the Chair to inform the Senator when he has used 10 minutes of time.

Mr. President, I say to my colleagues that confirmations are probably one of if not the most difficult tasks required of us here in the Senate because we are not dealing with abstract statistics. We are not dealing with generalizations. We are not dealing with issues per se. But we are dealing with fellow human beings, their character, their lives, their experience—who they are.

When we make a judgment on a nominee, I believe it is a task that needs to be taken with some humility. None of us can claim a past without mistakes or without failings. Nevertheless, we are required to weigh the record against the criteria for service and come to an informed decision.

Let me begin today by saying what is not at issue in this nomination. Dr. Foster's commitment to the poor is not at issue in this nomination. He has proven that commitment over many years of service. Dr. Foster's engaging good humor is not at issue. He has shown it in our Senate hearings and at other times. And the administration's initial handling of the nomination should not be at issue. You can hardly

blame Dr. Foster for White House incompetence.

My concerns in this process have been specific and they have been factual. I have attempted to raise some basic questions, questions that for me are determinative in my decision in terms of whether I would support or not support Dr. Foster. Has the nominee been candid? Has the nominee, during his career, displayed the ethical judgment and leadership necessary for the position of U.S. Surgeon General? Would this nominee unify our Nation on important health concerns, or would he fragment it through divisive moral debates?

I think it is interesting that today in the New York Times, an editorial appears addressing the question of candor. It is not, I believe, either inconsistent nor does it indicate some kind of a right-wing conspiracy that Members who have opposed Dr. Foster have raised the questions of his credibility and his candor with the Senate and with the public. I am quoting from the New York Times, which says:

We continue to believe that Dr. Foster has forfeited any claim to the job by his initial lack of candor about his abortion record. He had a constitutional right, indeed duty,

According to the New York Times—to perform abortions for his patients. The number he performed . . . is in fact rather modest for a busy gynecologist serving a needy population.

But numbers are not at issue here. The sad fact is that, from the day his name was announced, Dr. Foster seemed determined to minimize his abortion record and kept being forced to revise the numbers upwards. His misleading statements led us in February to oppose his candidacy. Nothing that has emerged in the later hearings or comments has justified those misstatements.

. . . Dr. Foster's candidacy fails the candor test. He deserves . . . to be rejected.

Those are not words from this Senator. Those are not words from other Senators. Those are not words from the right wing. Those are words from the editors of the New York Times on the issue of his candor. So I think it is a legitimate issue. It is a legitimate issue to raise. It is a legitimate issue to evaluate. It is a legitimate issue by which to form a judgment as to whether this particular individual is the individual that is best suited for the position of U.S. Surgeon General.

It is not our job in a nomination debate to deal in general impressions. Our task is to investigate specific concerns.

The questions that I have raised I believe can be answered from the public record. In my opinion, none of these questions were answered satisfactorily during the hearing process; none in favor of Dr. Foster's nomination.

There are at least four concerns that I would like to raise before the Senate for consideration.

First, at the beginning of this process, I was concerned that Dr. Foster gave varying accounts of his record on abortion—numbers that could not be explained by a faulty memory alone.

The nominee has tried to dismiss those concerns, but he has not in my opinion specifically answered them.

I am concerned with more than numbers in this matter. I am a pro-life Senator. I would prefer a Surgeon General who extends his compassion to the weakest members of the human family. For me, as a matter of moral principle, a commitment to speak for those who cannot speak for themselves.

Having said that, the numbers are not relevant as the New York Times has indicated. It would seem unlikely to me that someone who admits to performing 39 abortions would confuse that figure with performing just one or even 12, that someone who testified that he abhors abortion, and it is one of the most difficult things that he has ever had to do, would be confused over his involvement in abortion or would not remember what his involvement was, and only when pressed on the record would say, "Well, yes, I guess the number is different than what I initially indicated." It is clear that Dr. Foster oversaw, in addition to the 39 that he admitted on the "Nightline" show, 55 additional chemical abortions, and 4 additional surgical abortions as part of a scientific study of which he was involved with.

We also know now from an official HEW transcript that Dr. Foster himself claimed to have done 700 amniocentesis and therapeutic abortions. We were never able to clarify just exactly what the breakdown was in terms of those abortions; where they came from. That is the clouded part of the record.

I cannot avoid the conclusion that Dr. Foster's frequently changing numbers and varying accounts of his personal involvement with abortions are profoundly troubling and difficult to explain as a mere lapse of memory.

Second, I am concerned that Dr. Foster may have been informed about the Tuskegee syphilis study before 1972, when it became widely known. That concern was not in my opinion satisfactorily answered despite my lengthy and thorough questioning of Dr. Foster on this subject in the confirmation hearing.

Dr. Foster declared in the Labor Committee hearing that neither he nor anyone in the county knew anything about the study. But we know that a number of medical personnel in the county helped conduct the study and knew that treatment was being denied to those black men who had syphilis in the name of continuing the study. We know that Dr. Foster was chief of obstetrics at the Tuskegee Institute, which provided services in connection with the study.

We know that Dr. Foster was vice president and later President of the Macon County Medical Society when that society was consulted regarding the study, and when that society agreed to cooperate with the public health service.

I have considerable additional material that if time would allow I would be

happy to share with the Senate. I have forwarded a letter to each Member of the Senate for their consideration detailing this information. If time permits, I hope to be able to examine some of that material.

The Washington Post editorialized that this was a critical factor in Senators' decisions of knowing what Dr. Foster knew and when he knew it regarding the Tuskegee study. That editorial claimed that, if he had knowledge of that study before 1972, he was not qualified for this office. I presented to the Senate a lengthy detailed record of information that I believe leads to the conclusion that Dr. Foster did know about the study and did not respond as he indicated.

We know that Dr. Foster, as then president of the medical society recalls, may have attended a meeting at which the medical society was notified of the study, and documents from the Public Health Service specifically state that each member of the society, which is a small society, 10 Members I believe, was provided with a list of surviving participants in the syphilis study.

The PRESIDING OFFICER. The Senator should be informed that he has consumed 10 minutes, and that he has 27 minutes and 10 seconds remaining.

Mr. COATS. I thank the Chair.

Let me state, third, that I was concerned that Dr. Foster performed sterilizations on the mentally handicapped, without proper consent. That concern was not fully answered.

Dr. Foster confirmed that this procedure was done, without the assent of patients and without a judicial decision. He and the White House defended this practice as mainstream medicine at the time, but we found that this procedure was not mainstream, even at the time. It was contradicted by Alabama case law, Federal regulations and professional standards.

I cannot avoid the conclusion that Dr. Foster, on this issue, displayed little ethical sensitivity, and demonstrated no ethical leadership.

Finally, I became concerned with both the inflated claims and the direction of Dr. Foster's I have a future program. This concern was not answered. In fact, it was decisively confirmed.

Dr. Foster and the White House claimed that abstinence was the bedrock of I have a future, and that the program itself was a tremendous success. Objective evidence undermines both of these contentions. Abstinence is not mentioned in two promotional brochures for the program, but contraception is prominently featured. In the program curriculum, abstinence gets a weak second billing to an aggressive contraception focus.

On this issue, the pattern of carelessness with the truth was repeated. When abstinence brochures were presented to the committee to show the nominee's commitment to this principle, the publisher confirmed the procedures were written just before Dr. Foster's selec-

tion and were ordered only a month after his nomination.

I have a future is a story of good intentions and poor results. Two evaluations by the program's own staff show it may actually have been harmful to teen participants. Although they started the program more abstinent than the control group, they ended up more sexually active, and no less pregnant at the end of the program.

Mr. President, I cannot avoid the conclusion that I have a future is a program operating on a failed theory, the theory that contraception can be an acceptable substitute for restraint.

In considering this nomination, I always come back to the unique nature of this office, an office with little staff, little funding, but exceptional influence. That influence is based on persuasion and respect alone. It is based on the ability to build consensus and provide moral leadership.

Dr. Foster has many good qualities, but they are not the qualities for this office, particularly at this time, in the aftermath of Dr. Elders. The reputation of this position must be rebuilt, or its entire future is in doubt. That job of rebuilding will require credibility, ethical judgment, and candor, and it will require in my opinion, a different nominee.

For all these reasons, I cannot support this nomination, and I urge my colleagues to defeat the motion to invoke cloture.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield 3½ minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in support of the nomination of Dr. Henry Foster and I think his background and training and education makes him uniquely qualified.

I rise today in support of the nomination of Dr. Henry Foster to be Surgeon General of the United States. Like many of my colleagues, I do have some reservations concerning the nomination. But in my judgment, there is nothing about his background that—under current law—should disqualify him from serving as the Nation's chief spokesman on health care issues. Based on his testimony before the Senate Labor and Human Resources Committee—which many hailed as an old fashioned tour de force—early last month and the accolades he has received from friends and associates since his nomination, he should be confirmed without further delay.

I think his background, training, and education make him uniquely qualified for this position, and I believe his testimony before the committee helped to dispel some of the fears of his opponents. I think we should be encouraged by this process. The May 2 hearing served the purpose for which confirmation hearings are designed—the nominee was able to make his case in his own way and in his own words, outside the realm of political caricature and interest group misrepresentation. His

qualifications were already well-known; after the hearing, the nominee was well known. This is the way the process should work. We should now have the opportunity for an up or down vote, based on what we know.

What we know of Dr. Foster is that he has 38 years of experience as an educator, professional physician, and public servant. He was the founder of a program that addressed the issue of teenage pregnancy called I Have a Future, developed in 1987. The program stressed abstinence as a first method of reduction. It was chosen by former President Bush for his Points of Light Program.

Dr. Foster served 2 years of Active duty and 2 years of Active Reserve duty in the U.S. Air Force. He was instrumental in the consolidation of Meharry Medical College and Metropolitan General Hospital in Nashville, saving both from possible closure. He is a member of the prestigious Institute of Medicine and is a member of many distinguished medical advisory and review boards. He served as chief of obstetrics and gynecology at the John A. Andrew Memorial Hospital in Tuskegee, AL, where he still has the full support of the local citizens.

This nomination has been sidetracked by disputes about how many abortions Dr. Foster performed, whether he knew about a controversial 40-year syphilis experiment on black men conducted in Tuskegee, and what role he played in hysterectomies performed to sterilize mentally retarded patients during the 1970's.

I am personally opposed to abortion. My position is well known, since the national media once carried my statement: "As a former fetus, I am opposed to abortion." But the fact is that it is a legal medical procedure that is generally carried out by obstetrician-gynecologists such as Dr. Foster. Reasonable people can debate what the law of the land should or should not be with regard to abortion.

Regardless of how many abortions he may have performed, the number is irrelevant because it is a legal medical procedure taught in many medical schools. As to the question of his candor in recalling the specific numbers, I suppose it would be fair to say he made errors in his recollection. I practiced law for 25 years in a small country town, and once I was asked how many murder cases I had tried. I gave an answer, and then upon reflection I realized the number I had given was incorrect. Then I got to thinking about it. Well, let us see. I did not think about this case, and I did not think about that case, and I soon realized that each time I thought about it I had really made a mistake.

Unless recollections are supported and refreshed by documentation, they are inherently hazy, especially in relationship to a long career. In hindsight, it would be clear that he should have not given out a precise number at the time. He may have made a mistake in

trying to neutralize a politically divisive issue. I do not think he intentionally misled the public, the administration, or the Labor Committee for his own personal gain.

The issue of when Dr. Foster knew of the syphilis experiments was addressed at the committee hearing. It has been alleged that he learned of these experiments during a May 19, 1969, briefing on the study. However, based on my reading of the record, Dr. Foster did not learn of the study until it became public in 1972.

I have a copy of an affidavit signed by Minnie Capleton Jamison, of Tuskegee, AL, whose son Dr. Foster delivered by Caesarean section on the evening of May 19, 1969. Ms. Jamison specifically recalls that part of the procedure occurred at 7 p.m., with the official medical record indicating that her baby was delivered at 9:17 p.m. The briefing on the syphilis study is said to have begun at 7 p.m. on May 19 at a medical society meeting. I ask unanimous consent that a copy of this affidavit be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. His critics charge that even if he was not at the May 19, 1969, briefing, he could have found out about the study through specialty journals unlikely to have been read by Dr. Foster. To read all medical articles and all journals, few doctors would have time to treat patients. This standard clearly violates the bounds of reason and logic.

Finally, some charge that Dr. Foster should not be confirmed because he performed hysterectomies on four mentally retarded patients for hygiene or life-saving purposes. During his testimony, he responded that these were not "forced" or "involuntary" sterilizations under the guidelines in place at that time. Informed consent was given consistent with the medical ethics in the 1960's and early 1970's, the time period during which these four procedures were performed.

Senator FRIST's support is one of the most compelling arguments in his favor. As the Senate's only physician, he is in a unique position to judge the Surgeon General's qualifications and ability to serve. Just as we look to the legal community to make recommendations about Supreme Court and other judicial nominees, we should look to members of the medical community for their assessments of nominees that are relevant to their field. Senator FRIST—a physician and Republican—strongly supports Dr. Foster. Virtually every medical group has come out in favor of his nomination. Their recommendations should carry a great deal of weight as we cast our votes.

Some worry that like his predecessor, Dr. Foster will be a divisive figure when who we need is a unifier. But anyone who saw the way he conducted himself at the hearing cannot doubt his

ability to bring people together and serve as a soothing force in our Nation. As a national official, his constituency and responsibilities will be vastly different and more comprehensive than as a private physician. There will be competing interests and views that he will have to take into account and often balance if he is to be successful. Like most nominees to high office, I expect Dr. Foster to grow and adapt to his new role in ways that will serve the country well.

Dr. Foster has the type of friendly, down-to-earth bedside manner that each of us look for in our own physicians. He has professional expertise and a keen realization of the health problems which confront our Nation that will guide him well in the office of Surgeon General. In deference to basic fairness, cloture should be invoked, and we should proceed to confirm this nominee.

EXHIBIT 1

STATEMENT OF MINNIE CAPLETON JAMISON

My name is Minnie Capleton Jamison, and I am a resident of Tuskegee, Macon County, Alabama. I reside at 1307 Gregory Street in Tuskegee.

On the evening of May 19, 1969, I gave birth to my son, Steven Darryl Jamison. Dr. Henry W. Foster was my obstetrician and guided me along the entire course of my pregnancy and delivered the baby. It had been a difficult pregnancy. I was confined to bed for seven of the nine months, and during the fourth month it was necessary for Dr. Foster to perform a surgical procedure to prevent a miscarriage. I had had two miscarriages before this.

I went into labor on May 18, 1969. I was admitted to John A. Andrew Memorial Hospital in Tuskegee that evening, and I was given medicine to slow labor. My baby was delivered by Dr. Foster on the next evening, May 19, 1969. The delivery was by Caesarean section.

I remember the evening well, but I do not remember all of the specific details. I know that Dr. Foster looked in on me from time to time, but I do not recall exactly what time he looked in or exactly how often he checked on me. I remember that the delivery took place at night, and that I was in surgery for approximately two hours. I recall specifically that part of the procedure was at 7:00. I recall that I was very nervous and I was hyperventilating. I was doing breathing exercises and I tried to focus on a clock at 7:00 p.m. I remember that the anesthesiologist was trying to calm me at the time, and that Dr. Foster joined and helped to calm me. I recall that all of this was before Dr. Foster started to operate, but I do not recall more specifically at what point this was in the procedure. I understand that the medical record indicates that the delivery took place at 9:17 p.m., and I do not dispute that record.

I also remember well what fine care Dr. Foster gave to me and my son. I remember that throughout a difficult time for me Dr. Foster was warm and attentive. I had been told by another obstetrician that I could never have a child. Dr. Foster told me that he would work with me and do everything humanly possible to make sure I could have a child, and he did. He was a very busy man with many patients, but he always took time and was always there to help. He was always very human and very professional. He is a fine man and will make a fine Surgeon General.

Signed: Minnie Capleton Jamison.

Date: 4/28/95.

Mr. KENNEDY. I yield 4 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

Mr. President, today we should be debating the nomination of Dr. Henry Foster to be U.S. Surgeon General. After all, it has been 6 months since this Nation has had a leading public health spokesperson, and the clock is still ticking.

I will remind my colleagues that every 59 seconds a baby is born to a teen mother. Every 17 minutes in this country AIDS takes another American life. And this year, 46,000 women will die of breast cancer.

We should be debating the nomination of Dr. Henry Foster but we are not. We are debating whether or not to allow a vote on Dr. Foster in this Chamber. This is very unfortunate, particularly in light of the many health care crises in this country.

When I first met Dr. Foster, I was very impressed for one very important reason. He is an ob-gyn. I have fought long and hard, as this body knows, for women's health issues. Every wife, every mother, every sister, every daughter understands that women's health issues have been at the bottom of the barrel for too long in this country. I thought finally with an ob-gyn as Surgeon General, our health concerns would be brought to the top of the Nation's agenda.

Let me make this very clear. I see a no vote today as a vote to deny women, for the first time and probably for a long time, a voice from the top on women's health issues.

I was also impressed by Dr. Henry Foster's devotion to teens in our country. As all of you know, I have two teenagers at home. I listen to them in my living room, and I hear the same message: No one cares about them. Adults go in their houses; they shut the doors; they close the blinds and no one pays attention.

Dr. Foster paid attention. He was willing to dedicate his personal time and his life to give children a message of hope, of opportunity and chance. That is what his point of light program, I Have a Future, is all about. This Senate should not go on record dashing that message of hope for our children today. A no vote on cloture does just that.

Let us not forget the bigger picture and message in today's vote. For 5 months, Dr. Foster has gone through a very intense process: An FBI check, a search of his entire medical records; every word he has uttered has been magnified, expanded, looked at, and questioned, and he went through the entire committee process. He passed with flying colors.

I heard some of my colleagues on the Senate floor say that Dr. Foster was confused, that he was not forthright. Anyone who looks at the record, anyone who watched Dr. Foster before that

committee, feels as I do, that he is a man of dignity, of honor. He is honest and he is forthright.

Are we giving him a vote today on his nomination? No. We are arguing whether or not he gets a vote in this Chamber.

What does that say to Americans in this country who may at some point be asked to serve their country? If you cast a no vote on cloture today, it says loud and clear: Think twice; think about your entire life being scrutinized by this Senate body, think about giving up months of your personal life, your job, and your security only to hit the end of the line and not even get a vote on your nomination. A no vote today on cloture sends a loud, strong message for future votes on Presidential nominations, and I think the Members of the Senate should think long and hard before they cast their votes today.

This vote today will be a vote on fairness. Can this body be fair to a person? And can we be fair to ourselves and the Senate process? I agree with my colleague from Illinois, Senator SIMON, that this is not a vote on Dr. Foster; it is a vote on us. And meanwhile, I will remind my colleagues the clock is ticking.

I yield back my time.

Mr. COATS. Mr. President, could you just inform us of the remaining time on each side?

The PRESIDING OFFICER. The Senator from Indiana has 23½ minutes; the Senator from Massachusetts has 20½ minutes.

Mr. KENNEDY. I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I rise in strong support of the cloture motion on the Foster nomination. The only issue that we should have to address is whether or not the President's nominee to be Surgeon General is qualified for that office. If the answer is yes, he should be confirmed. If the answer is no, then that individual should vote against Dr. Foster's nomination.

But, Mr. President, under no circumstance is it appropriate or fair for us to filibuster, to erect extraordinary hurdles to a vote on confirmation, to use procedural tricks to avoid having to take up the question of whether or not the President's nominee is qualified to serve in this office.

In the first instance, Mr. President, I join my colleagues in saying to the world that Dr. Foster is eminently qualified to be Surgeon General of the United States of America. He is a physician with a specialty in women's health. He has been through fire. Every aspect of his credentials, his actual objective qualifications to serve have been examined and found to be worthy. He is eminently qualified to serve as Surgeon General.

With regard to his character, which is the second part of what we are sup-

posed to look at, there is again in my mind no question that Dr. Foster has the highest integrity. No person, Mr. President, who worked with Dr. Foster in his 38 years of practice says otherwise. His colleagues, his patients, the community, those people who have known him for 38 years in professional life all have good things to say about him and laud him for his efforts in behalf of women's health.

And so the question becomes, as has been suggested by my colleagues, will the subjective bar, the subjective analysis be raised so that anyone who stands for an office such as this risks character assassination as a function of their willingness to serve our country? I do not think that that is appropriate.

Mr. President, the fact is that the opposition here is not as much about Dr. Foster as it is about culture wars. Abortion is not the issue here. Abortion, if anything, is the hook. It is the hook. I will ask the question to anybody, what obstetrician-gynecologist could say with certainty that they have never performed an abortion. It is a function of ob-gyn. Similarly, a syphilis study is not an issue. Again, he was a women's health specialist. The purpose for the opposition to use an emotional issue such as abortion is to divide America again. They are using this as the hook to raise the issue of culture war, to divide us one from the other.

I submit to this body that, if anything, Dr. Foster does not want to be a divisive force in our community's dialog. If anything, he wants to bring us together.

He has worked hard to raise the issues about what a Surgeon General ought to do. He has worked hard to articulate the kind of values that he respects. He has actually stood for the last 139 days going through all kinds of changes and difficulties, 139 days in order to make the message that we have to come together as a community, as a nation in order to reclaim our youth, in order to restore and rekindle hope, in order to make the Surgeon General's office a force for healing.

That is the mission that Dr. Foster has attempted to undertake. He is, obviously, committed to this. He has been through what can be called nothing less than trial by excoriation. And yet he has survived all of the attacks with his integrity intact and with his ideals unimpeached.

So the only question, again, I think we have to face right now is what kind of ideals will be represented by the action of this U.S. Senate. Will it be the crass politics of obstruction and division, or will it be a message of fairness? Will we allow this nomination to come to a vote, or will we erect additional procedural hurdles against that?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Ms. MOSELEY-BRAUN. In conclusion, I just say that Dr. Foster's nomi-

nation deserves a vote, America deserves a vote, and I hope to have the support of my colleagues for this motion to invoke cloture. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Kentucky and 1 minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes.

Mr. FORD. I thank the Senator, and I thank the Chair.

Mr. President, I, like Senator DOLE, oppose Dr. Foster's nomination to be Surgeon General. However, I refuse to become a pawn in Senator GRAMM's Presidential politics. This cloture vote has Presidential one-upmanship written all over it, and it is a disservice to the American public.

I agree with my colleague who said this vote represents the first Republican primary. This is about Presidential politics, pure and simple. If we had played by these rules in the past, James Watt would not have become Secretary of the Interior, Ed Meese would not have become Attorney General, Samuel Pierce would not have been HUD Secretary, Clarence Thomas would not be on the Supreme Court, and Robert Bork would not have had an up-or-down vote.

Mr. President, I will vote against Dr. Foster, but I think he is entitled to a vote. I agree with those who say we should vote to invoke cloture so then we can vote for the nominee. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute.

Mr. DORGAN. Mr. President, sadly, we put people on trial too much in politics in our country today. That is what has been done to Dr. Henry Foster by his opponents, both in the Senate and in the press. He has been put on trial, accused with reckless charges and careless words designed to tarnish the reputation of a good man.

For instance, I heard at one point in this debate that Dr. Foster had performed hundreds of abortions. I asked the opponent who charged that how he had arrived at that number. He showed me a number that included abortion and amniocentesis. I asked, "Do you think amniocentesis is an abortion?" because that is what was included in that number. That is an example of the reckless charges designed to discredit the reputation of a good man.

I do not know Dr. Foster very well, but I do know from testimony by his friends and colleagues that he is a good, decent, honest man who has dedicated his life to helping others.

Sadly, he has been put through a political meat grinder, as happens all too often these days. The treatment of this nominee has been fashioned to serve the political interests of some in the Senate, in my opinion. But we can correct that today. We can do justice to Dr. Foster by voting to invoke cloture and then by confirming his nomination to be Surgeon General.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized for 10 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Indiana for yielding me this time. I commend him for his efforts with regard to this nomination. I know he has been diligent in trying to find the truth, and in this instance, it has not been easy.

I want to begin my remarks by frankly questioning the current scenario of the office of Surgeon General. Over the past few years, instead of being a position that brought us together in advocacy of good health policies, it has become a position that divides us. It has made us fight over various issues.

I have come to question whether we really need this position. Why should the Federal Government have a paid advocate in this office? There is a cost involved—about \$1 million. There are a number of staff people involved, along with a travel budget. I have reached the conclusion that the Surgeon Generalship is a position we probably do not need anymore. What is done within that office should be done by other agencies within the Department of Health and Human Services or elsewhere in Government and the private sector.

The second point I want to make needs a longer explanation. The Foster nomination came to the Senate in the aftermath of the situation involving the former Surgeon General, Dr. Joycelyn Elders. There were many problems associated with her tenure in office, with what she had to say and how she said it.

Many of us raised concerns about her conduct as Surgeon General, and eventually, of course, the President had to call for her resignation, because she was advocating things that most people in America certainly were not comfortable with. I do not believe Dr. Foster would do the job in the same way. I think his approach would be gentler. I am certain he would not say some of the things that Dr. Elders said when she was Surgeon General. But he has held some offices and has otherwise been associated with organizations which advocate the very things Dr. Joycelyn Elders advocated. I believe that is the wrong approach to the office of Surgeon General.

More than ever before, if we are going to have that office, we need a doctor who will advocate health measures which are in the overall best interest of our country and with which most Americans can agree. Maybe it is good to have some leading-edge comments every now and then, but we need not have those issues flaunted in our faces, as they have been for the past couple of years and, frankly, as they were over a longer period of time. That

is one reason why Dr. Foster, given some of the things in his background, was a mistaken selection by the President of the United States.

My next point is extremely important: No, we should not blame Dr. Foster for the mistakes of the administration in handling his nomination, but we should expect to get candid, direct, and accurate information on presidential nominees. There is no question that some inaccurate information was given to Senators, whether by the White House or by Doctor Foster himself. The Senator from Kansas, NANCY KASSEBAUM, certainly was given some inaccurate or incomplete or misleading information. Senator KASSEBAUM is not given to overreacting, but she was one of the first to raise concerns about the way the Foster nomination was handled.

Then we went through the process of the administration's changing information it had previously provided concerning Doctor Foster's record. Clearly, it was not handled well by the administration. That alone is not enough to reject the nomination, but it certainly is a problem.

What bothers me more than anything else about this nomination is that lack of total truthfulness, that changing of important information. Maybe it was because Dr. Foster was not familiar with the fast ways of Washington. Maybe he sometimes talked without checking his facts. But the misstatements happened several times. There also were slips of the tongue when he questioned the motives and the background of the people who opposed his nomination.

He subsequently said that was a mistake. But there is a pattern here, a pattern of inadequate, insufficient or incorrect information from the administration, a pattern of changing information from the nominee, and a pattern of talking before thinking. That is what got Dr. Elders in trouble. Why does anyone want to repeat that experience?

Dr. Foster got off to a bad start by repeatedly revising his information about the number of abortions he had performed in his career as an obstetrician-gynecologist. That was only the first of many confusions which have, collectively, eroded his credibility.

For instance, we were told that his I Have a Future Program has had marvelous results. I think the concept of that program is good. I would like to see it work. I like the idea of abstinence education for teens, helping them live up to their responsibility to avoid sexual activity. But then we found out that that was not quite the case with Dr. Foster's program.

We found, moreover, that Dr. Foster was associated with organizations which, in fact, took quite a different approach to teen pregnancy. He has had a long and close relationship with Planned Parenthood, which has for years opposed abstinence-based programs like those funded under HHS'

title XX program. Indeed, Dr. Foster held a high profile in that organization at the very time it was fighting in the courts against a Tennessee parental notification law regarding abortion.

We also found what appears to be the very belated printing of brochures stressing abstinence for his I Have a Future program. These documents seem to have been ordered from Meharry Medical College, where Doctor Foster is dean, on March 8, 1995, weeks after his program had come under fire for its emphasis upon teen contraception instead of restraint. This had all the earmarks of an organization doctoring its records to sway a Senate committee. The shipping invoice for the pamphlets was dated March 23, 1995. They were passed out to the Labor and Human Resources Committee at Dr. Foster's hearing in early May.

So, once again, it seems that truth is an evolving matter where Dr. Foster is concerned. It has been shaded this way and that as we have gone through the process. Another example—and something about which I have a great deal of concern—is the issue of involuntary sterilizations. At a time when the involuntary sterilization of retarded girls and mental patients had provoked national outrage, Dr. Foster reported his own expertise in that regard in an article in the Southern Medical Journal. The article appeared in 1976, 3 years after an especially shocking case—the Relf case—occurred in Alabama, where Dr. Foster was a prominent ob-gyn. The Federal courts, the Congress, the Department of HEW were all involved. But the furor seems to have been lost on Dr. Foster.

Equally troublesome is the cloud of uncertainty that now obscures Dr. Foster's role in the notorious Tuskegee experiments, conducted over decades in his home county of Macon, AL. It stretches credibility to be told that a physician of Dr. Foster's prominence—indeed, the vice president of the County Medical Society—did not know about all that.

How could he not have known that his fellow doctors had agreed to withhold antibiotics from men being tortured and killed by syphilis? I find it hard to believe that this information escaped him until it was nationally publicized—and he denounced it—years later.

The Foster nomination has presented a persistent pattern of misinformation, not just the instances I have mentioned here, but others, like his leadership of a research project at Meharry in conjunction with a pharmaceutical company. We still need a clearer account of that episode, why it was undertaken and why it was eventually abandoned.

All these things considered, I think it would be a mistake to confirm this nominee. We do need more information, and more accurate information, before accepting Dr. Foster as Surgeon General.

Dr. Foster's advocates are right in one regard. The real vote to confirm or reject his nomination will occur today at noon. That is the vote on invoking cloture. That is the vote that counts.

I believe this nominee should not be confirmed. I urge our colleagues to consider the many serious reasons why I and other Senators have taken that position. It is not just the abortion issue, but the many questions about the veracity of the nominee concerning programs he was involved with, organizations he was associated with, and medical controversies in which he played a part.

I urge a vote against the cloture motion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Massachusetts. Just in very brief form, because time is so limited, I sat here in amazement and I listened to what was being said very carefully. I just heard that Planned Parenthood is opposed to abstinence for teenagers. I have never seen that mailing or that program. It is absurd. What we are talking about is a man and his professional qualifications to fill this job. He did not run for office. That was not his credentials. He was not looking at how this might be one day when he was considered for a nomination to a high post. He did what his conscience and the Hippocratic oath had him do. He has been endorsed—I heard this morning on the radio, that Dr. McAfee, the president of the American Medical Association, heartily endorses Dr. Foster and his qualifications. Further, he has been endorsed by the Association of American Medical Colleges, by the Association of Academic Health Centers, the American Academy of Pediatrics, the Tennessee Medical Association, and the American College of Physicians. They all know he is qualified.

The problem here is not Dr. Foster's qualifications. The problem here is politics at the expense of the health of the American people. The problem is that we are playing Presidential politics right here in this room. It is pitiful. Talking about the fairness of the system and how it is equitable for a minority to restrict the majority view, why can we not have a straight up-or-down vote on this without threats of filibuster? When it was Robert Bork or John Tower or Clarence Thomas, even though there was strong opposition, many Senators opposed them. The fact is that the votes were held here, up or down.

So when I sit here and I listen to what the debate is about, the debate is not about Dr. Foster and it is not about fairness to the American people; it is about who can score points. And

they score points, unfortunately, while Americans die. Every day, 2,000 Americans die from heart disease. Every day, close to 1,200 men and women die from tobacco-related illness, people die from breast cancer, and every day 110 men and women and children die from AIDS. These figures are tragic, but what is more tragic is these deaths result from preventable diseases.

I hear people castigating this very well-qualified physician, this compassionate human being, who lifted himself up by his bootstraps, and criticize him for what he did and for what he thought was right. I am not much for biblical quotations, but John said, "He that is without sin among you, let him first cast a stone."

I hear mistakes being made all over the place here. We have an Ethics Committee that hears breaches of conduct by the Senators. And, yes, this man is condemned because he did what his conscience and the law allowed him to do. I think we ought to get an up-or-down vote on this. I hope my colleagues will vote for cloture and we can confirm Dr. Foster's appointment.

Mr. KENNEDY. I yield 6 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in support of a vote for cloture. I believe this would probably be the first time in history if cloture is not granted for a nominee that has come out from a committee with a positive recommendation to be denied an up-or-down vote.

I also recognize from listening to those who have opposed granting cloture, that it is critical that we have debate on Dr. Foster, because there is so much information out here which is incorrect.

I sat through the hearings, and I have gone through thousands of pages of documentation, and I came to the conclusion that a President has the right to have people around him who he wants to have, and he has that right here.

There is nothing that should stand in the way. First of all, there is no evidence whatsoever that this man is not competent to handle the job.

Second, there is no credible evidence that there is any flaw in character or any reason why this person should be denied the job.

To deny Dr. Foster the ability to have his nomination debated is indefensible, in my mind. I am not going to go into all the issues, but there are a couple I would like to straighten out.

First of all, the Tuskegee situation. All of the argument has been about who knew what when. When did it occur? Was he there? Was he not? What we do not know is whether at that meeting which the CDC held in Tuskegee in the late 1960's, with the doctors of Macon County that they were told anything about the fact that there was a group of black men being denied treatment in order to see the difference between treating people with syphilis versus not treating them. That

did not come out until the 1970's, and all hell broke loose, and everyone said what a shocking thing.

Whether Dr. Foster was there—the evidence was clear he was not—but even if he had been there, he would not have learned anything.

All of the information that has clouded that, strike it out of your mind, and remember that nobody at that time other than CDC knew the experiment was being conducted. Whether he was there or not is irrelevant.

Second, another issue where there is confusion, as the previous speaker from my side of the aisle got into, there were two situations with respect to a sterilization situation which occurred in this country at a time when the decision was, and it was sort of ethical and considered wise in many respects, to sterilize seriously mentally deficient people. That had nothing to do with Tuskegee. The previous speaker got that confused. Make a judgment, but it was not unethical or improper at that time. Later on it was discarded as a methodology.

Third, the abortion issue. Yes, there was changing information, confusing information, things hard to follow. That was not the doctor's fault. He was very clear. He searched his records and found out, over 30 years, performed 39 abortions, or was responsible for them. Thirty years—that is not a doctor who is working in abortion clinics. He is an ob-gyn. Obviously, he is going to have a number of abortions during that period of time, to save the life of the mother or whatever.

The abortion issue is one that has been made to be a key issue, when it should not be here at all.

I would ask Members to try and remove from your minds all the discussion we have had, and ask the simple question: Is this person deserving of the right to have a vote of up or down? That is the crux of it.

We are having this cloture vote, because there are at least 51 votes that will support Dr. Foster to be the next Surgeon General of the United States. This is an attempt to use the cloture—and some of these issues which the information is, at best, misunderstood—to try and prevent or even avoid having that opportunity to vote.

I urge my colleagues to seriously recognize and understand, first, the facts are very clear that the doctor ought to be recommended. The committee recommended him. More importantly, that he ought to be entitled to an up-or-down vote on the issue. We will discuss it and spend a day or so discussing these things so we can clear this up in everyone's mind.

I spent days on this, and I am confident there is no reason this doctor should not be confirmed. He certainly should be allowed to have a vote up or down on whether or not he should be confirmed to be the next Surgeon General of the United States.

I yield the floor.

Mr. COATS. Mr. President, I yield 2 minutes to the Senator from South Dakota.

Mr. PRESSLER. I thank my colleague.

Mr. President, I rise in strong opposition to the nomination of Dr. Foster. He does not represent the family values that my State seeks.

Also, I am very concerned about inconsistent statements. As has been stated on this floor, not to paraphrase from others, but the real issue should not be whether or not young people will lose a clean needle when they use drugs. The Surgeon General of the United States should encourage them to say "No" to drugs.

We really need to take a look at this position of Surgeon General and see whether it even needs to exist in the future. The Secretary of Health and Human Services is supposed to do this function.

If we are going to have a Surgeon General he should be a role model for family values, for what our country believes in. He should be a strong opponent of the use of drugs and of teenage pregnancies, stating his opposition to it. Not stating other side issues such as using clean needles, et cetera, et cetera.

I am strongly opposed to the nomination and shall vote against cloture. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes and 30 seconds.

Mr. KENNEDY. I yield 1 minute to the Senator from California.

Mrs. BOXER. Mr. President, many of my colleagues have quoted from newspapers—Senator COATS quoted from the New York Times. But he failed to say something important: The New York Times says Foster deserves a vote. So do not just give half the story. They are calling for a vote. We should vote "yes" on cloture.

The Boston Globe said it well. "It is time for the opponents of Foster to choose: Either let Foster be confirmed without a fuss, or seek protection under the political equivalent of chapter 11, because all their arguments are bankrupt." They are bankrupt.

Then the Republican San Diego Union Tribune, quite a Republican editorial board, said: "The more we learn about Foster, the more convinced we are he would be an effective Surgeon General." The Chicago Tribune says Foster's prospects for approval by the committee appear to be good, and of course they were right. The Republican committee sent him to this floor positively, but then they add, "A foul situation is developing in the Senate."

My friends, a foul situation has developed in this Senate. This Republican Senate is trying to deny this man a vote.

Mr. KENNEDY. I yield 1 minute to the Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President. I thank my colleagues who

have been here on the floor this morning working very hard to bring this nomination to a vote.

I remind everyone that the clock is ticking on the health of all Americans. Our Nation has been without a Surgeon General for 6 months.

I see this vote very clearly today: We are not voting on the nomination of Dr. Henry Foster today. We are voting on the opportunity for Members to vote on that nomination. A "no" vote will send a very clear message to women across this country. It denies women the opportunity to have a Surgeon General who specializes in women's health care.

A "no" vote denies teenagers across the Nation a spokesperson who can give them hope and opportunity and who believes in them.

A "no" vote sends a message to all Americans that public service is not something they should get involved in.

A "no" vote denies this country the service of not one man, but many future leaders.

A "yes" vote says this body is fair and will allow the vote of Dr. Foster to come before this body.

Mr. KENNEDY. Mr. President, 1 minute to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, this debate of Dr. Foster has often characterized him in a way that I think is misleading. Dr. Foster has been characterized as someone who is not the man that I met in my office.

Dr. Foster came and met with me, both in my office and met in the committee, and showed the kind of person we want to be the Surgeon General of the United States.

First of all, he showed backbone and he showed guts. Anyone of a lesser personality would have flinched under this new toxic atmosphere in which we find Presidential nominees going forward. But he was willing to speak to both friend and to foe, to speak with candor, grace, dignity, quiet good humor, the willingness to set the record straight.

That is why we can see why he was so well-regarded by his patients and by his own community with the bedside manner.

Mr. KENNEDY. Mr. President, I yield myself the remaining minute.

The issue before the Senate comes down to a simple question of fundamental fairness. I believe that a majority and probability an overwhelming majority of our Republican Senate colleagues know in their hearts that Dr. Henry Foster deserves to be confirmed as the next Surgeon General of the United States.

Dr. Foster is a highly principled physician whose honesty, integrity, and outstanding character shine through. His extraordinary record of achievement shows, beyond any reasonable doubt, the lives he saved, the doctors he has trained, and his pioneering leadership against teenage pregnancy.

President George Bush sought to highlight his I Have a Future Program in Nashville, TN. He honored it as one of his 1,000 points of light.

We all know what is happening here. The normal confirmation process has been sidetracked by Republican Presidential politics. Dr. Foster deserves a vote. I hope the Senate will vote cloture on this so that he can be judged fairly and honestly and candidly.

Mr. SIMPSON. Mr. President, I rise today to speak in support of Dr. Henry Foster's nomination to be Surgeon General.

Since February 2, when President Clinton first announced his nominee for Surgeon General, a wide range of criticisms and attacks have been leveled against Dr. Foster. I believed and said from the very beginning Dr. Foster deserved the same chance as every other nominee to address these concerns in a committee hearing. That indeed is the reason for the hearing process.

I further stated that, although I had not yet found any valid reason to oppose Dr. Foster's nomination, I would withhold my final decision until after the committee hearings were held. Now that the hearings are concluded, I have decided that I will vote in support of Dr. Foster's nomination. I believe any questions as to whether or not Dr. Foster is fit or qualified for this position were dispelled during the hearings. I think it is fair to say that this was never the chief concern about the nomination.

I realize that there are some people who oppose his nomination because he, like many obstetrician-gynecologists, performed abortions in the practice of his profession. However, I do not believe Dr. Foster should be disqualified from serving as Surgeon General solely because he performed abortions. We face the possibility of such a history whenever we consider an obstetrician-gynecologist for this position.

Much has been said about Dr. Foster's "credibility" due to some initial confusion about how many abortions he performed in the course of practicing his profession for more than 20 years. Dr. Foster addressed these concerns honestly and forthrightly in his opening statement before the Labor and Human Resources Committee.

In that statement, he asserts that:

I regret the initial confusion on this issue. But there was never any intent to deceive. I had no reason to do so * * *. I have worked very hard to establish a record of credibility and ethical conduct. It is open to anyone who chooses to scrutinize it.

I think that those of us in public life should be able to eternally empathize with him about the difficulty of "getting it exactly right" when speaking to a reporter.

Not only did Dr. Foster address the "credibility issue" in his statement, but he also outlined what kind of Surgeon General he says he will be and how he intends to focus on the "full range of health challenges" facing our Nation, including cancer, AIDS, heart disease, maternal and child health, aging, substance abuse, violence, and teen pregnancy.

Another issue raised during the hearings was the question of whether or not Dr. Foster had personal knowledge prior to 1972 of the "Tuskegee study" in which black men were denied treatment for syphilis in order that doctors could observe how the disease progressed. This experiment was abruptly terminated in 1972 when it was publicly disclosed that then-available treatments were being withheld from these men. When questioned at the hearings, Dr. Foster stated emphatically that he had no knowledge of the study before 1972. In fact, Dr. Foster never approved of or in any way cooperated with this study. In 1972, when he was fully informed of it, he immediately called for the study to be stopped and for the surviving men to be treated.

The real issue about this nomination, for me, is not "the bad things" Dr. Foster did not do, but the many noble, altruistic things he has done. I have had several opportunities to visit personally with Dr. Foster and to question him on various issues. He described to me his work with disadvantaged youths and the role he played in creating the "I Have a Future" Program that encourages teens in some of Nashville's toughest housing projects to be sexually abstinent and to avoid drugs. I am impressed by the fact that Dr. Foster has spent his lifetime preaching abstinence. It is not just a slogan or a high-minded phrase for him. He has been right down in the trenches helping some of the poorest people in society. Many lives, including hundreds of young people, have been touched by Dr. Foster's work in his community. He is a good and generous man.

Dr. Foster's philosophy emphasizes delaying sexual activity, providing education and job training, and ensuring access to comprehensive health services. Not only has he been successful in reducing teen pregnancy, but he has also helped to instill the values of personal responsibility, belief in God, and self-esteem in many young people who live in absolute poverty and are most "at risk." Many of those youth traveled to Washington this past winter to express their admiration and respect for Dr. Foster. All anyone had to do was listen to their personal stories to understand how Dr. Foster has made a profound impact on their lives.

Dr. Foster is one of the leading experts on, and advocates for, maternal and child health, and has developed and directed teen pregnancy and drug abuse prevention programs that bolster self-esteem, and encourage personal responsibility. He has had a distinguished career as a physician and community leader, and I believe he is a very qualified nominee who will make an outstanding Surgeon General.

Finally, I would implore my colleagues to at the very least bring this man's nomination to a vote. I know that many in my party are displeased by the way the administration failed to display all relevant information about this nomination. And, I know that

many have strongly held views about abortion. But, do not make this man the victim of those controversies. There are other places to voice displeasure about these matters. A nominee, who comes before this body, seeking only to serve his country, deserves far better.

Dr. Foster has strong bipartisan support both inside the Senate as well as around the country. I look forward to seeing him make a positive contribution to the Nation's public health.

Mr. LEAHY. Mr. President, I support the nomination of Dr. Henry Foster to be the Surgeon General of the United States.

Over the past 4 months, Dr. Foster's entire career has been under great scrutiny. Opponents of his pro-choice stance have looked for every shred of information that could cast a shadow on the character and integrity of Dr. Foster. I believe that his opponents have failed in this effort.

I followed the nomination hearing with great interest. During the hearing, Dr. Foster conveyed a sincere vision of what he would do as Surgeon General. His top priority would be to continue his work on reducing teenage pregnancy. This is an important vision.

I am astounded by the personal attacks that have been made against Dr. Foster on the floor of the Senate today. I believe we should be focusing on the thousands of babies that Dr. Foster has delivered and the thousands of teenagers he has counseled. Instead, the focus has been on a medical procedure that is legal in all 50 States.

I believe Dr. Foster is a man of integrity who will excel as Surgeon General.

When President Bush nominated Clarence Thomas to the U.S. Supreme Court, I was the first member of the Senate to declare my opposition to his nomination. I did not believe that Clarence Thomas was qualified to serve on the Court. Even with strong reservations, I felt that Judge Thomas deserved an up-or-down vote.

I hope the opponents of Dr. Foster will let his nomination come to a vote. He deserves no less.

Mr. GORTON. Mr. President, on May 25, the Senate Labor and Human Resources Committee voted to approve President Clinton's nomination of Dr. Henry Foster as Surgeon General, over my opposition. I voted against Dr. Foster because he has shown extreme intolerance of those with whom he disagrees, and is therefore not the kind of Surgeon General who can or will exercise broad moral leadership. I intend to vote against his nomination here in the Senate if that nomination comes to a vote.

Dr. Foster's indulgence in name-calling—decrying those who disagreed with him as "white, right-wing extremists"—came after his nomination, when he was already a public figure. His behavior shows his lack of capacity to build consensus. For the first 2 years of the Clinton administration, this Nation suffered a needlessly divisive Sur-

geon General. We do not need another for the remaining year and a half. The next surgeon general should heal wounds, not deepen them.

Despite my opposition to Dr. Foster's confirmation, however, I will vote for cloture. If a majority of the Senate is willing to confirm the nominee, then he should be confirmed. All sides have had ample time to air their views; no useful purpose is served by further delay.

But the most important reason not to filibuster Dr. Foster's nomination is that a filibuster will set a terribly damaging precedent. Had this tactic been used 4 years ago, Clarence Thomas would not be on the U.S. Supreme Court today. Dr. Foster deserves a straight up-or-down vote. Whether one agrees with him or not, he is entitled to the same consideration given almost every other nominee.

In 2 years, a Republican President will be submitting nominees for far more important offices. That President will appoint Cabinet members and Supreme Court Justices who undoubtedly will be opposed by Democrats and the national media. I do not want to make it easy for them to stall nominations of future conservatives by giving their opponents the moral precedent to use the filibuster as a means of defeating them. I also do not want to further cloud the nomination process by essentially ensuring that the only nominees who can gather the necessary 60 votes for confirmation are those with no track record, no history of making bold statements, and no strong views that make them attractive to large segments of our Nation.

Nominations to the Supreme Court are the most important a President can make, nominations that affect the future of the country long after the President who made them is gone. To put at risk future nominations to the Supreme Court just so we can hand President Clinton a setback today makes little sense.

I agree that Dr. Foster should not be put in a position where he will have a forum to speak about the important issues of the day. He has already proven that when he is given that opportunity, he will make comments that divide our Nation and lead to the kind of debate we see here on the Senate floor. Dr. Foster is not a builder; to the contrary, he uses political rhetoric to divide people, a tactic that makes for captivating headlines in the newspapers and provocative television stories, but does little to make our Nation stronger.

So let me be clear—no matter how strongly I feel that the nomination of Dr. Foster should be defeated, I am not willing to put the long-term future of our Nation at risk by allowing a precedent to be set that could lead to the filibuster of the next Republican nomination to the Supreme Court.

In short, my Republican colleagues should not now set a precedent they will soon come to regret. To prevent this vote from coming to the floor is to

thwart the democratic process and to tamper with appropriate executive privilege. I remain as opposed as ever to the confirmation of Dr. Foster, but I am unwilling to put the long-term future of our Nation at risk by allowing such a mischievous precedent to be set.

Mr. THOMAS. Mr. President, I rise today to express my opposition to the nomination of Dr. Henry Foster, Jr., as Surgeon General. The issue is not one of abortion. I believe the President of the United States has the authority to nominate whomever he pleases to represent his position. However, the position of Surgeon General is unique in that it requires pulling Americans together as this nation's doctor.

Unfortunately, Dr. Foster's credibility to represent the public health concerns of this country was severely damaged during the nomination process. I am deeply concerned about Dr. Foster's conflicting statements with the findings by the Senate Committee on Labor and Human Resources and with the White House. Our Nation's "family doctor" needs to be consistent and must speak with credibility so all will listen.

This time of exploration into the background of Dr. Foster has caused me to evaluate the role of the Office itself. It seems to me when this country is making priorities in the budget, it does not appear that the Office of Surgeon General is particularly integral to the overall mission the Federal Government faces. The Secretary of Health and Human Services has a budget of \$726.5 billion. Surely, the Secretary can take over the role of the Surgeon General and save the taxpayers substantial money.

The Office was created back in 1870 in order to direct the Marine Hospital Service. The primary purpose was to provide health care services to sailors. It is clear to me that the Office has outlived its intended service.

Mr. President, many issues that Surgeon Generals in the past have trumpeted, like the risk of smoking and fetal alcohol syndrome, are crucial to health of our country. No one wants to silence that discussion. Those public health concerns can and should continue to be a priority, but as part of the role of our Secretary for the Department of Health and Human Services, or even in certain circumstances the President himself.

Mr. BAUCUS. Mr. President, I wish to express my support for the nomination of Dr. Henry Foster, Jr. to be Surgeon General of the United States. I do so because Dr. Foster fulfills the two conditions I consistently apply when deciding whether to support a particular nominee's confirmation: First, is this nominee ethical with a professional record of integrity; and second, does this nominee possess the proper professional qualifications and background for his or her particular position?

My conclusion is that Dr. Foster fulfills both criteria. He is first a man of

high integrity and ethics; and second has demonstrated a lifetime record of professional accomplishment, commitment, and scholarship to the field of medicine, and in particular, gynecology and obstetrics.

Throughout the years I have applied these two criteria consistently and even-handedly, even when a nominee's own personal ideology has at times differed from my own. I do so again today.

Dr. Foster is a classic obstetrician-gynecologist of the highest order. He is not an abortion doctor. In fact, throughout his medical practice and career, Dr. Foster has promoted abstinence as the best way to prevent unwanted pregnancy. His practice has focused on delivering healthy babies and educating young people about proper family planning so that unwanted pregnancies and abortions can be avoided. Dr. Foster has demonstrated particular commitment and compassion to both rural and inner-city America and the unique health care-related problems these two areas face.

I respect the concerns of those who oppose Dr. Foster. Yet I also believe it is fair and appropriate to give this nominee the benefit of the doubt. Years ago, there was another Surgeon General nominee that attracted more than his fair share of criticism, although most of that criticism came from the left. That was, of course, Dr. C. Everett Koop.

Dr. Koop went on to prove his detractors wrong. He went on to serve the Reagan administration with great class and distinction. And I would urge Dr. Foster to look toward Dr. Koop as a role model. If he does that, I am convinced he will be a great Surgeon General.

In sum, over the last four decades Dr. Foster has proven to be a respected scholar, an accomplished researcher, a practicing physician, and an esteemed medical school dean. I believe that a person of Dr. Foster's professional background should be confirmed.

Mr. ROBB. Mr. President, I rise in support of the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States.

While I recognize the concerns that have been expressed about this nomination, after reviewing his Senate Labor and Human Resources Committee confirmation hearings, I am confident that Dr. Foster answered all questions honestly and openly and is well qualified for the position of Surgeon General. Accordingly, I will vote for cloture and in support of his nomination if cloture is invoked.

Any examination of Dr. Foster's record, Mr. President, shows that Dr. Foster has dedicated his life to the health and well-being of others—a qualification uniquely suited to a Surgeon General nominee.

Dr. Foster has worked at Meharry Medical College in Nashville, TN, where he has received numerous honors for his work in obstetrics, treatment of sickle cell anemia, and teen pregnancy

prevention. In 1988, in a Tennessee housing project, Dr. Foster began his I Have a Future project which encourages young people to practice abstinence and was named by former President George Bush as one of his Thousand Points of Light.

And Dr. Foster's record of service continues to this very day.

Mr. President, at the very least, Dr. Foster deserves a vote by this body on the merits of his nomination. We owe him that much. So I urge my colleagues to support today's vote to invoke cloture on the nomination of Dr. Henry Foster as Surgeon General of the United States.

With that I thank the chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Does the Senator from Indiana have any further speakers?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time, since I know we are virtually out of time at this point. I will allocate whatever leader time may be required to make my statement.

Mr. President, several facts need to be emphasized before we take this vote. First, Dr. Foster may be one of the most qualified nominations ever to be made for Surgeon General of the United States. No one denies the fact that he has had an extraordinarily distinguished career—as a dedicated public servant, as an accomplished educator, as an exemplary community leader.

Dr. Foster has touched and positively influenced more people's lives than most can hope to in a lifetime. More than 10,000 children who owe their lives and health to Dr. Foster can attest to that.

Second, the fact is we need a Surgeon General now. We need a leader in health, just as we need a leader in economics, in law, or in foreign policy. Some would argue we need a Surgeon General even more than in these other areas.

Many of the most serious health problems plaguing our country are those money and health insurance cannot solve. They are problems of public health: smoking, teenage pregnancy, breast cancer, AIDS, and violence. Every 59 seconds, a baby is born to a teen mother. Every 30 seconds, a child in our Nation smokes for the first time. Every day, 2,000 Americans die of heart disease. This year, 46,000 women will die of breast cancer. These figures are all the more tragic because, in large measure, they are preventable.

But how do we prevent these problems without leadership? The answer is, we cannot. The two most powerful tools of prevention are public education and moral suasion, both functions of leadership. No one is better suited than the Surgeon General to use each of these tools.

The third fact, and it is a fact, is that a majority of Senators recognize both

the need for a Surgeon General and the qualifications of Dr. Foster. Democrats and Republicans supported Dr. Foster's nomination in committee. Democrats and Republicans support his nomination now. It is clear that a majority of this body supports this nomination today. They know how badly we need a Surgeon General. They know how important it is, how important these issues of public health are. They know how eminently qualified Dr. Foster is. They know what a skilled Surgeon General he will be.

But they also know there is a catch. The catch is there is a minority of Senators who, for the most unfortunate reasons, want to deny Dr. Foster even the opportunity for a vote. They know that Dr. Foster may be the first victim of Republican Presidential politics; that this vote may be hostage to a narrow constituency in the Republican Party who hold a different philosophical view than Dr. Foster. That is really what this is all about. It is about whether or not the far right has enough influence to stop a qualified public servant from serving his country. It is about whether some who seek the Republican Presidential nomination can make this the first vote of the Republican primaries.

Mr. President, this matter is too important to be trivialized by politics. This nomination, more than virtually any other, will affect the lives of millions of children and other Americans who need the leadership that Dr. Foster can give. It is a matter of fairness, not only to Dr. Foster, but to all those who now wait—who wait for solutions to breast cancer, who wait for help for teenage pregnancy, who wait for strategies in coping more ably with violence, with AIDS, with heart disease.

In the cause of fairness, in the cause of doing what is right, let us stand united as Democrats and Republicans in giving this man and our country what he and it deserves—a vote for cloture and a vote for the confirmation of the next Surgeon General for the United States.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

The Chair might inform the majority leader there are 11 minutes and 27 seconds remaining on the side opposing the nomination, and of course the leader has time.

Mr. DOLE. Thank you, Mr. President. I thank my colleagues on both sides of the aisle.

I think most everything has been said, but I just want to repeat a few things and sort of set the record straight about some other things. To begin with, maybe just a little history here might help some of my colleagues who may not have been here at that time.

From 1987 to 1992, I served as Senate minority leader under Presidents Reagan and Bush. There can be little doubt that during that time, the proc-

ess of Senate confirmation became more contentious and more political than ever before. Some of the nominations that became political footballs are well known—Robert Bork, John Tower, and Clarence Thomas, to name a few. But most of us here have probably forgotten about the others. While we may have forgotten, I am certain their families have not forgotten and they probably have not forgotten, either.

This is not my information; it is information provided by the Congressional Research Service. During the 6 years Democrats controlled the Senate under Presidents Reagan and Bush, 11 nominees were reported out of the committee but did not receive a vote on the floor of the Senate. In other words, they came out here and that was the end of it. They did not get any vote; not on cloture, not anything. They just sat here and they went away at the end of the session.

Eighteen nominees were allowed a committee hearing but not a committee vote. Is that fairness? We had all this talk about fairness. Where is the fairness in that, when you have a hearing and no vote?

And a staggering 166 nominees were not even given the courtesy of a committee hearing.

Let us get everything straight out here. I have listened to all the crocodile tears this morning about this nomination, but I have not heard anybody go back and review what has happened in the past. These are facts. These are facts. These are not BOB DOLE's facts. These are facts.

I was just one of the many Senators, Democrat and Republican alike, who said during those years that if the Senate continued to turn confirmations into inquisitions, then good men and women would be no longer interested in serving in our Government.

When President Clinton took office, my philosophy remained the same: Absent unusual circumstances, a President's nominee should generally be confirmed. And Republicans cooperated to confirm President Clinton's Cabinet in record time. I think even the President said so when he called me.

In fact, during his 2½ years in the White House, President Clinton has submitted 248 names to the Senate for confirmation to civilian positions. Several have been controversial, but not one has been defeated in committee or here on the floor—not one. Not one.

My point is this: When we were in the minority, Republicans did not abuse the nomination process. And we will not abuse it now that we are in the majority. And we have not abused it with this nomination.

I assume, when people refer to Presidential politics, they may have me in that category. Everything around here is Presidential politics up here, but not downtown. Oh, it is all statesmanship in the White House. It would never occur to them to have any Presidential politics.

When this nomination was made, that was Presidential politics, to try to drive a wedge between Republicans on the issue of abortion. That is what it is all about. President Clinton made a calculated political move—politics. Politics, not qualification.

Nobody, including Dr. Foster, can question the fairness of the hearings chaired by Senator KASSEBAUM who, if cloture is invoked, will vote against Dr. Foster. At no time did the hearings become a media circus. We went through media circuses this year, and when the Democrats had control, we had nominees who were being pilloried day by day and ridiculed by the media, by the liberal media.

Dr. Foster was asked tough questions. He gave his answers and the committee voted him out 9 to 7.

I heard on the morning news that this has been delayed and delayed. I am going to give the facts again, as I did when this debate started.

This nomination was put on the calendar the 26th of May, the day we went out for the Memorial Day recess. We came back on the 5th of June. As I calculate, today is the 21st. I said that I wanted to meet with Dr. Foster. He could not meet the first weekend because he had commitments. I do not fault him for that. I could not meet the next weekend. We met on Monday. Today, we have the debate on the floor—on Wednesday.

So I want to set the record straight for those who are saying somehow this has all been held up. It has not been held up at all on the Senate floor. In fact, I think it is a very expeditious handling of the nomination.

Yes, supporters of the nominee must obtain 60 votes. That is the way it works. I have had the Congressional Research Service do a little work in that area. I have heard people say, "Oh, this never happened before." It has happened a lot. I voted. Let me just give you a little information here. Sometimes facts may not be important, but they are nice to have in the record.

Cloture was first sought on a nomination in 1968, when a motion to proceed to the consideration of the Abe Fortas nomination—Chief Justice of the Supreme Court—was defeated 45 to 43. When cloture was not invoked, President Johnson withdrew the nomination. Since 1968, 24 nominations have been subjected to cloture votes.

So there have been plenty of precedents for cloture proceedings on nominations.

In 1980, as the Senator from Massachusetts will recall, the nomination of Stephen Breyer to the Circuit Court of Appeals was subject to a cloture vote because of Republican concerns. Cloture was invoked, and the nomination was confirmed. I voted aye on cloture, and I voted aye on the nomination.

In 1986, a very, very important nomination, the nomination of William Rehnquist to be Chief Justice of the

Supreme Court was subjected to a cloture vote—the Chief Justice of the Supreme Court subjected to a cloture vote; not some small office with a staff of seven, with no policy, nothing but a public relations office. I voted yes on the cloture motion. I voted yes on final passage.

Prior to the 103d Congress, the following nonjudicial nominations have been subjected to the cloture procedure: William Lubbers, nominated to be general counsel of the National Labor Relations Board, 1980; Don Zimmerman, nominated to be a member of the National Labor Relations Board, 1980; Melissa Wells, nominated to the rank of Ambassador, 1987; and William Verity, nominated to be Secretary of Commerce, 1987. On each of these nominations, cloture was invoked and the nominations were confirmed. And that is only part of the story.

I remember meeting a few years ago with a fellow named Bill Lucas, an outstanding black American who was sheriff in Wayne County, MI; an outstanding man, a Republican. The Black Caucus did not show up for that event. But he was an outstanding American. The vote in the committee was 7 to 7, a tie. That was the end of it. We never had a vote. We never had anything on the Senate floor because the Judiciary Committee said, "No; we are not even going to report it out, not even unfavorably." That is fairness? I do not think so. It was not fairness for Bill Lucas. It was not fairness to his family. He did not have any hearing on the Senate floor.

So I just suggest that we are all talking about all this being fair. I have a memory for fairness. I have been here a while, and I have tried to be fair. I had a number of options—not bring it up at all. But I did not believe that was appropriate. I thought about it. It was an option. But that would have been one person making a decision for 100 Senators, and I did not do it although it has been done in the past by majority leaders on the other side when they had a majority, not to bring it up at all. But I chose not to do that. I do not believe we give up our rights when we bring it up. We are not giving up our rights. And I can understand where people would have different views.

I would say, as I have said, I had a good visit with Dr. Foster. I think he is a very nice person. We are not voting on that. There were contradictions in his statements. I asked him 20 to 25 questions, and I tried to make a record so I would understand, myself, on much of the debate. I read the information which Senator COATS sent to each of us, which was very helpful.

I was troubled by the Tuskegee information. I was troubled by sterilization of some mentally retarded women. I was troubled by a lot of these things that Dr. Foster had no recollection of. I could not understand it. But again, let some say, "OK, maybe you can dismiss that." So I just suggest that there may be a lot of things—I am proud of

the fact that Dr. Foster is a veteran. He served his country. I am proud of that. He is proud of that.

I just want to suggest that a cloture vote on a nomination is nothing new here in the Senate. As I said, there are 24 nominations that have been subjected to cloture votes since 1968. And one of those votes occurred on the nomination of William Rehnquist to be Chief Justice of the United States, the head of the third branch of our Government, and we had to have a cloture vote.

So it seems to me that we understand the options. I told Dr. Foster we would not let him hang there in limbo. He told me his sabbatical ends the first of the month. He has been on a year of sabbatical, and he would like to have some determination. I think he is entitled to it. That is why we are here today.

So I must say, we said let us do it. The Democrats said, "Oh, we would like to wait a week"—so they can work over Republican Senators and try to get the liberal media to follow the steps that they normally do and spread their spin across America.

So I say again, about Presidential politics, certainly everything is not Presidential politics here. If I wanted to have one-upmanship, I would not have brought the nomination up. Maybe others have ideas about Presidential politics. But again, let me suggest that certainly it was not overlooked at the White House.

I think another major point is candor. I think even Dr. Foster's supporters have to say on a number of occasions, this nominee's candor has come into question. All of these were not Dr. Foster's fault. This particular nomination was flawed from the outset because of the way it was handled at the White House, the way they did not bring out all of the information right up front. I know that was not Dr. Foster's fault.

In his committee hearing, in his public statements, and in his meeting with me, Dr. Foster had an explanation for every misstatement concerning the number of abortions he performed and for every controversial action, including his alleged knowledge of the infamous Tuskegee syphilis study and his role in sterilizing several mentally retarded women during the early 1970's. Some explanations made sense, and some did not. Some questions were answered and some were not.

And somewhere along the line, I think a line was crossed where no matter how Dr. Foster tries, there will always be questions in the minds of many Americans about this nominee's candor and credibility.

This is not just the opinion, as has been noted here—I have watched every debate on C-SPAN—it is not just the opinion of a few conservative Senators. It is also the opinion from an editorial in today's New York Times.

But it seems to me, Mr. President, that we have President Clinton de-

manding we return to civility in our politics. He said the Americans want Republicans and Democrats to work together for the betterment of our country.

If that is true—and I think it is—then this nomination certainly does not further those goals. Without consulting with Senator KASSEBAUM, my colleague, or any other Senator, President Clinton selected a nominee who was all but guaranteed to cause a political controversy, a nominee who was all but guaranteed to divide the Senate, and all America, as well. And that is just what this nomination has done.

Sadly, this divisive nomination was made in the wake of the forced resignation of a Surgeon General whose tenure led many to believe that the time had come to abolish the office before it became even more politicized than it was.

So again, I will conclude by saying that while I admire Dr. Foster's military service and his obvious passion for his work—and he has done a lot of good work—that somewhere out there among America's hundreds of thousands of physicians, there is a man or a woman whose past actions and statements would not divide the American people and this Chamber. They can be pro-choice. They could be pro-life. They could be whatever. There are thousands and thousands of qualified people out there. The Surgeon General should be "America's doctor"—America's doctor.

I have listened to these statements, one just by the Democratic leader, about cancer, heart disease, the Surgeon General is going to take care of all these things. If we just confirm Dr. Foster, all these things are going to go away. We know that is not the case.

They should not be the Democrat's doctor or the Republican's doctor. They should not be the liberal's doctor or the conservative's doctor. Ideally, their qualifications and experience should be so apparent that they would be confirmed by an overwhelming vote. And this is most assuredly not the case here. The bottom line is, will Dr. Foster unite the American people? Will his public pronouncements and speeches be regarded as medical and scientific fact rather than political rhetoric? Would he be regarded as America's doctor? That is the question we need to answer.

As I said, he may be a fine person, but in my view he is the wrong person for this job.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows: