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20 Weeks, 13 Hours, 140 Characters: The Abortion Controversy in the Texas State Senate and Online

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ABSTRACT

The abortion controversy in America has long been characterized by problematic discourse in which neither prolife nor prochoice groups make headway in persuading the other side. This thesis examines the discourse of the abortion controversy as it played out in and around the Texas State Senate on June 25th, 2013, during a filibuster of a restrictive abortion bill known as Senate Bill 5 (SB5), by Senator Wendy Davis (D-Fort Worth). The analysis focuses on three sets of data: first, the testimonies authored by citizen protestors and animated by Senator Davis; second, the question-and-answer period between Senator Davis and Republican Senator Bob Deuell; and third, the discourse occurring on Twitter during the filibuster. Using a blend of discourse analytic methods and rhetorical theory, the thesis aims to prove that regardless of context, speaker(s), and medium, discourse regarding the abortion controversy is almost always characterized by the same problems of stalemate.

20 WEEKS, 13 HOURS, 140 CHARACTERS:
THE ABORTION CONTROVERSY IN THE TEXAS STATE SENATE AND ONLINE

By

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B.A. Trinity University, 2010

THESIS

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degree of Master of Arts in Communication and Rhetorical Studies
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CHAPTER 1

Introduction and Theoretical Framework

June 25th, 2013; a Special Session of the Texas State Senate. On the senate floor, a woman in a white skirt suit and pink sneakers prepares to speak. In the gallery, a restless crowd gathers, many in bright orange t-shirts to show solidarity with the Texas prochoice movement. Outside the capitol building, hundreds of citizens from Austin and across Texas amass with signs and chants. And on Twitter, the self-appointed pundits, journalists, and activists are poised to set the Texas State Senate as the topic of a worldwide top trend. Few state legislative sessions attract this kind of attention—in fact, few *national* senate sessions do. What was different for June 25th?

The bill up for debate, under the name Senate Bill 5, was a controversial piece of legislation regulating abortion clinics across Texas. And the woman in white and pink, Senator Wendy Davis, had declared her intention to filibuster the bill. There had been plenty of uproar regarding the bill leading up to the special legislative session, including House Committee hearings which ended at 4:00 AM on June 21st after more than twelve hours of citizen testimonies, with more than 300 unable to speak. The public controversy surrounding the legislation of abortion is alive and well, and the drama leading up to the filibuster on the State Senate floor that day had hyped the event up to international interest.

In this thesis, I examine three arenas of the filibuster and its surrounding discourse in order to study the enactment of public controversy. Specifically, I argue that Wendy Davis participated in producing the characteristics of public controversy, as well as strategically using those characteristics based on her knowledge of past instances of abortion discourse. By navigating the use and production of public controversy discourse, Davis catapulted the filibuster and herself to widespread recognition, and established the filibuster as a symbolic act of heroic defiance and herself as a champion of the people's rights. To do this, I look at how public

controversy plays out in several different scenarios by several different actors: first, as Davis reads the testimonies of prochoice citizens who were unable to speak at the HB60 hearings; second, in the course of a question-and-answer period between Davis and Republican Senator Bob Deuell during the filibuster proceedings; and finally, layperson discussions of the filibuster on Twitter before, during, and after it occurred. Ultimately the thesis centers on two major arguments: that public controversy looks the same across speakers, scenarios, and mediums, and that through the rhetorical work of Senator Davis, the filibuster became a symbolic rallying point for both prochoice Texans and Democratic Texans. The remainder of this chapter introduces Senate Bill 5, the filibuster itself, and Twitter, then provides a theoretical framework for the analytic chapters.

Texas State Senate Bill 5

Senate Bill 5, known as SB5, is an omnibus bill, meaning several related, smaller bills were collected into this one. It made several major changes to the laws in Texas. First, it banned abortions after twenty weeks, where previously they were legal up to twenty-eight weeks, or the beginning of the third trimester of a pregnancy. Related to this, SB5 also required the physician to date the pregnancy from the point of fertilization instead of the medically standard and accepted method of dating it from a woman's last menstrual period (LMP). According to the Texas Medical Association, dating a pregnancy from fertilization requires a great amount of guessing and can lead to overestimating the age of the fetus by several weeks (TMA, 2013). Thus, it is the dispreferred method of most physicians.

The second major change required by SB5 is that any clinic offering abortion procedures must meet the legal requirements of an ambulatory surgical center (ASC). An ASC is a facility

where outpatient surgeries occur, and the argument for upgrading abortion clinics to ASC requirements is to ensure that all possible care is available to women in case something goes wrong with the procedure.¹ To further complicate this, abortion clinics would also be required to be within thirty miles of a hospital and have at least one physician on staff licensed from that local hospital. Prior to the passing of SB5, studies by Planned Parenthood in Texas suggested that of the thirty-six abortion clinics in the state, only five would be able to remain open (note that there are roughly six million women of child-bearing age residing in Texas, according to the US Census Bureau). This is due to the high cost of renovation necessary to convert a clinic to an ASC, and to the geographic constraint of being located near a hospital that would also license a physician to perform abortions.² Of the five remaining clinics, all would be located in the cities of Dallas, Austin, San Antonio, and Houston.

The bill caused a great deal of uproar in Texas and around the country among prochoice advocates. The primary argument against the bill is that it is actually legislation aimed at preventing women from being able to access abortion care, disguised as a bill intended to protect women. Due to the Supreme Court decision in *Roe v. Wade* (1973), states may not make abortion illegal, nor may they place undue burden on women seeking abortion care.

Conservative states like Texas, whose population is presumably majority prolife, have since taken measures to restrict and limit abortion access while staying within the legal lines created by *Roe v. Wade*. In Texas, this includes a bill that went into effect in 2012, referenced in Chapter 4 as “the Sonogram Bill” by Wendy Davis, which besides being medically unnecessary,

¹ In 2009, there were a total of 784,507 abortions, of which eight resulted in the death of the mother due to complications from the procedure (CDC, 2009).

² Many private hospitals are operated and funded by religious groups that oppose abortion, and will therefore not allow a physician licensed at their hospital to oversee the running of the abortion clinic, as SB5 requires.

instituted a 24 hour wait period between a woman’s first visit and when the abortion procedure can take place. While each bill individually does not necessarily place “undue burden” on women, many advocates argue that together the Sonogram Bill and SB5 make it very difficult for women—especially poor, rural women—to access abortion care.³⁴

Wendy Davis and the Filibuster

Although SB5 in alternate form was voted on but not passed in the regular session of the Texas Legislature, it was the top of the docket for vote during the special session called on June 25th. Democratic State Senator Wendy Davis of Fort Worth, Texas, opted to filibuster the bill because of her ideological opposition to the restriction of abortion care access. In special sessions, the Texas State Senate allows bills to be voted on until midnight, at which point the session must end and any bills left on the table are dead until the next session.

Unlike in the national Senate, a filibuster in Texas cannot be stopped by a vote of cloture and the filibuster cannot be tabled to allow other bills to be debated. Instead, the senator must speak the entire time and remain germane to the topic s/he is filibustering, with a three-strike rule. If the Senate agrees three times that a filibuster has gone off topic, the speaker must yield the floor. Moreover, to maintain the floor, a senator cannot eat, drink, sit, lean, or use the

³ For example, a woman from El Paso, TX, would have to travel eight hours by car to San Antonio or nine to Dallas in order to visit an abortion clinic. This is in addition to the mandatory 24 hour waiting period between an initial visit and the actual procedure, meaning the same woman would have to stay overnight in the city for at least three nights. The drive to the city, the day of the first visit, the day of the second visit, and the drive back home, would require at minimum four days, money for transportation, food, and lodging, while losing at least two days of work. And finally, this is also in addition to five clinics now doing the work of over thirty—meaning this woman from El Paso may not even be able to schedule her procedure in time to make the 20-week cut off. For these reasons, prochoice activists have claimed the requirements violate the *Roe v. Wade* Supreme Court ruling, which says the state cannot limit, restrict, or put undue burden on a woman’s access to abortion. Further critique has challenged that the law disproportionately affects women of low socio-economic status, and is at heart another example of the wealthy controlling the lowest classes in the disguise of helping them.

⁴ SB5 was in fact signed into law on July 18th after a second Special Session was called by Governor Rick Perry on June 26th, the day after the filibuster. The session took place on July 1st. The law was then appealed by Planned Parenthood, but on March 28th, 2014, a federal appeals court upheld most of the provisions, which are now in effect.

bathroom. She must, in other words, remain standing and prepared to speak at all times. Thus, in order to successfully postpone or block the passage of SB5, Davis had to stand for over thirteen hours, of which she spoke for nearly eleven. The remaining two hours were filled with other stalling tactics such as points of procedure and parliamentary inquiries, as well as debate among the senators gathered on whether or not Davis's "third strike" would be accepted as such.

The senate did vote on SB5 that day, despite thirteen hours of stalling tactics. However, the vote occurred right at the midnight hour, with the final count not occurring until after midnight had passed. Despite this timing problem, the Senate President announced the bill passed, and the time was changed on the official transcript of proceedings to indicate the vote had been taken before midnight. However, this was not lost on those senators opposed to the bill, who challenged the decision and succeeded in getting the proper timestamp placed on the records. SB5 had officially been defeated—for the day.

The filibuster itself is comprised of several key aspects. Davis begins the filibuster with a history of SB5 and related abortion legislation. She then spends several hours reading testimonies submitted against SB5, beginning with testimonies written by members of the medical community. Next she reads the testimonies of those citizens who had come to testify at the HB60 hearings but were cut off due to time constraints. These testimonies were submitted to her as they had been written for the HB60 hearings, meaning most of them reference HB60 rather than SB5. Davis follows these testimonies with several other citizen-authored testimonies which had been written and submitted to her office specifically for use in the filibuster. During this time, she also takes questions from several senators during the course of the filibuster. The most notable question-and-answer period is that between Davis and Senator Bob Deuell (Republican, District 2 [northeast Texas]). Upon finishing reading the testimonies, Davis spends

the remaining time discussing the legislative history of abortion in Texas. The third point of order raised against her occurred as she spoke about the Sonogram Bill of 2012, which Lt. Governor and Senate President David Dewhurst ruled non-germane to the discussion of SB5.

Twitter: A Primer

While all of this was happening on the Senate floor, a remote discussion was happening across the country on the social networking site Twitter. The filibuster was broadcast for all to watch online, and many people chose to chime in on both sides of the debate in the public forum of Twitter. While we see in the first two analytic chapters the voices of people directly engaged in the debate itself, the citizen authors and the senators, in the final analytic chapter I focus on the way the unratified participants⁵ join the fray on Twitter. These people, whose voices are not recognized as part of the official proceedings, use the public forum of Twitter to contribute to the discourse regarding abortion law in Texas. Since anyone who wants to can follow a topic on Twitter by using relevant hashtags, it is a public and visible forum for debate that broadcasts a user's audience than that person might otherwise have been able to reach. Despite being unratified participants, the Twitter users demonstrate strikingly similar argumentative and discursive characteristics. In order to fully analyze them, an introduction to the language, interface, constraints, and affordances of Twitter follows.

Twitter has a language of its own, developed in part due to the constraints of the user interface. An explanation of the user interface and the jargon of Twitter should help to clarify

⁵ Goffman (1981) lays out different types of participants. Ratified participants are those acknowledged to be part of the conversation, while unratified participants are those who listen and comment on the sidelines, not officially part of the dominant discourse but still discussing and contributing in some way.

the excerpts of data found especially in Chapter 5. The primary function of Twitter is to publish “tweets,” which can be no longer than 140 characters. In order to publish a tweet, a person must be a member of Twitter and have a Twitter handle, or username, which is unique to that person (there are no repeats, though handles can be only one character different from one another). This username is written with the at-sign (@) at its front—for example, Sen. Davis’ twitter handle is @WendyDavisTexas. When used with the at-sign on Twitter, these handles automatically do two things: first, the tweet that mentions the handle will show up on the referenced person’s Twitter feed; and second, it links to that person’s Twitter profile. For example, if I were to tweet the following: “@WendyDavisTexas filibustering right now on Senate floor!”, the tweet would appear on Davis’s Twitter homepage even though she does not normally see tweets I publish. The tweet would also appear in all of the Twitter feeds of people who ‘follow’ me, and they could then click on “@WendyDavisTexas” from my tweet, which would take them to Davis’ Twitter feed.

With any public tweet (a user may choose to keep his or her profile private and thus only available to approved followers), any person on Twitter may favorite, retweet, or reply to it. Favoriting functions much like the “like” button on Facebook (see West & Trester, 2012): it indicates that you approve of the tweet in some way but does not otherwise evaluate, reply to, or comment on the tweet. The original publisher of the tweet will know that you chose to favorite it, and others can see the number of people who have favorited the tweet. Retweeting takes the original tweet verbatim and posts it to your own Twitter feed, thus broadcasting it to the audience of your own followers. A retweeted post will appear on your feed under the original author and publisher, with an arrow in the upper righthand corner and the words “Retweeted by [user]” below the tweet itself to indicate it is retweeted. Again, the original poster will know that

you retweeted, and anyone may view a list of the people who have retweeted a particular tweet.

The third possibility is to reply. Clicking “reply” opens an expanded version of the tweet, with a text box below automatically populated with the handle of the original poster. So, if I chose to reply to a tweet from Davis, the reply would by default begin with

“@WendyDavisTexas.” I would, however, have the option to delete this handle from the text of my reply. Reply handles stack, meaning that if I am replying to Governor Rick Perry’s reply to Davis, my tweet would be auto-populated with “@GovernorPerry @WendyDavisTexas.”

Replies to a tweet are compiled into a chronological list, available if you click the word “expand” beneath any given tweet. Expanding a tweet allows a user to see the replies, the number of favorites and retweets, the date and time a tweet was published, and a preview (if applicable) of any linked online media, such as a news article or photograph.

The final function necessary to explain here is the usage of hashtags. Hashtags (#) precede words or phrases that in some way categorize the tweet, and are typically either integrated into the tweet if it makes sense (e.g., “I went #shopping today”), or more commonly they are listed at the end of a tweet (“I bought shoes today #shopping #shoelover #emptywallet”). A tweet may contain no hashtags or many hashtags, depending on the stylistic choice of the user. A hashtag functions as a link to a Twitter feed specific to the word or phrase of the hashtag. If I were to click on the word “#shopping” from the example above, I would be taken to a Twitter feed which compiles all instances of tweets containing “#shopping.” Thus, if I am interested in what people are saying about the Texas legislature on any given day, I can use “#TXlege,” a standard and accepted hashtag for discussion regarding the Texas legislature, to see all relevant tweets. When a certain hashtag phrase is used with great frequency in a short time period, that hashtag “trends” on Twitter. Trending topics appear on the left side of the Twitter

interface in a box specifically dedicated to alerting the user to currently trending topics. Not all trends are universal. They are tailored to the likely interests of a user based on whom that user follows, and are moreover regionally calculated. However, a user may pick which set of trends s/he wants to view—from any regional trends, to national trends, to worldwide trends. Thus it might be fairly mundane to see something about the Texas legislature appear in the trends of a Texan user, but perhaps more noteworthy to see that same topic appear in the trends of a user from New York, and especially impressive for it to become a top trend nationally or internationally.

Theoretical Framework: Framing, Positioning, Public Controversy

As the primary theoretical background, three concepts are of particular note. As the first, the term public controversy is a well-researched area of political communication. Phillips (1999) summarizes the landscape of scholarship on controversy as rooted in Habermas's conception of the public sphere. He posits controversy as having two main veins of scholarship: those who believe it is a problem to be avoided, and those who believe it expands the public sphere. Goodnight (1992) suggests that our ability to engage in public sphere discourse is severely limited by our current public discourse practices, and that controversy enacted properly is a blend of expert knowledge and persuasive appeals to community. His critique that our current practices only encourage deadlock is easily seen in the abortion controversy, which has done little to help foster democracy and political engagement. Husting (2006) argues that due to the media-propagated cultural metaphor of protest as war, people perceive that the abortion controversy is one that tears the country apart and precludes forward movement. Activists on both sides of the issue buy into the mindset that in protest, as in war, there is no compromise or

middle ground. Either one wins, or one loses—and the cost of losing is high indeed. Under this mindset, prolife activists can only see the harm done by prochoice activists, and vice-versa. This problem is at the heart of the filibuster and its surrounding events, and is reflected in every testimony Davis reads, as well as her own commentary.

Gronbeck et. al (2007) similarly deals with controversy in the political realm. She suggests that “ordinary democracy” occurs on the level of the local governance, in the “routine communicative practices in communities that elect officials. Ordinary democracy highlights the talk in regular public meetings where officials listen, or at least act like they are listening, to citizens” (Tracy, 2007, p. 7). Before the filibuster occurred, this concept of ordinary democracy was carried out in the public hearings where citizens came to read their testimonies to State House representatives, only to see a breakdown in democratic proceedings as the Chair of the Committee ended the hearing early. This failure of ordinary democracy reflects the overall nature of the abortion controversy, in that it stalls and stalemates true clash and discussion rather than encouraging it.

Along similar lines, Buttny (2012) examines the strategies of managing controversy from a corporate standpoint. He suggests a central tenant to controversy discourse is the management of risk, and how in a controversy each opposing side highlights or minimizes the potential risks of the contested issue (p. 237-238). He also points out that hearings and discussions over a public controversy involve experts, with a special cultural weight given to expert testimony over narrative citizen testimony (p. 238). In the abortion controversy, risk and expertise play an important role in the way framing (to be discussed shortly) impacts the failure of interlocutors to clash. Each side frames the controversy as having different primary risks and values certain expert testimony over others, contributing to the lack of clash that occurs in abortion debate.

Goffman's (1981) notion of *footing* entails an interactant's projected alignment or stance in relationship to other interactants. Changes in footing are achieved (at minimum) through linguistic means. Goffman identifies three aspects to the speaker, which he calls "production format": the animator, or the person literally giving voice to the words; the author, or the person whose words are being reported; and the principal, whose beliefs are being represented in the words (1981). The speaker is not always the author nor the principal, and can moreover embed multiple authors, animators, and principals in their words. For example, when Davis introduces testimony that was written by a Texas citizen, she shifts from author to animator, and is a co-principal. She says to introduce one testimony, "Another statement by ACOG opposing SB5 by Senator Hegar and HB60 by Representative Laubenberg" (Mardoll, 2013, p. 40)⁶. Here, she is the author of the words, using them to introduce testimony to her primary audience, the Senate. She then shifts footing, from author to animator, by immediately reading the testimony, authored by the medical association ACOG, the American Congress of Obstetricians and Gynecologists. In this case, the testimony is direct statement of ACOG's beliefs regarding SB5, as well as Davis's beliefs, making both ACOG and Davis principals of the statement. Considerations of authorship and animation become especially important in a political controversy, as the case of the filibuster and Twitterverse reaction to it illuminate. Davis' use of testimony, as well as Twitter users' retweeting and quoting, complicate matters of authorship in order to borrow and lend credibility to arguments, sometimes at the cost of misappropriating authority and

⁶ All thirteen hours of the filibuster was transcribed by a collaborative effort, with the final version published in e-book format. The effort was led by Ana Mardoll, who has graciously given me permission to reproduce the transcript in this thesis project. Because of the complications of the many authors within the filibuster, all of the filibuster excerpts in this document are cited to Mardoll, with the page number of the e-book document as published to a PDF. The PDF version was obtained through private correspondence with Mardoll, who can be contacted for further information regarding obtaining a copy of the full transcript. The sections quoted in this document are reproduced in full with permission in Appendix I.

empowerment.

Alongside footing, the concepts of framing, positioning, and intertextuality play an important role in the analysis of the filibuster and its surrounding discourse. Intertextuality draws from the works of M. M. Bakhtin (1986), who claims all utterances are necessarily part of a long chain of utterances. By nature they are both responsive and evocative of future responses. A speaker never *creates* a word but rather borrows and co-owns and rebuilds words of others, reinterpreting or recreating contexts. Framing is best understood as how a speaker chooses certain words, phrases, and facts to define a situation (see for example Tannen & Wallat, 1993; Bing & Lombardo, 1997). In her analysis of family communication, Gordon (2009) notes that “framing and intertextuality should be viewed as inextricably intertwined: Intertextual repetition is a fundamental means of constructing and laminating frames” (p. 13). In other words, whenever a person intertextually repeats (animates) the words of another, the speaker necessarily is evoking the original frame as well as creating a new one for the current conversation. S/he laminates the frame, either layering or embedding the previous frame into the new one, in order to create a more complex meaning of a single utterance. In rhetorical scholarship, DeLuca et. al (2012) summarize Pan & Kosicki (2005)’s idea of framing, suggesting framing “offers a rather broad and integrative perspective on how public life is constructed, in and through a sociocognitive process wherein cognition, discourse, and practice play out in a dynamic way” (quoted in DeLuca et. al, 2012, p. 490). In simpler phrasing, “frames work by contextualizing individuals’ meaning construction” (DeLuca et. al, 2012, p. 490).

On the other hand, positioning is more inward-looking and considers how speakers tap into shared prior experience to discursively establish selfhood (Gordon, 2003). Speakers position themselves and others as actors in a storyline; providing narratives of relationships and

assigning roles (implicitly or explicitly) to the characters (Davies & Harre, 1990). Along with framing and positioning, knowledge schemas play an important role in how interactants understand political controversy. Knowledge schemas “refer to participants’ expectations about people, objects, events and settings in the world, as distinguished from alignments being negotiated in a particular interaction” (Tannen & Wallat, 1993, p. 60). The prolife and prochoice camps represent groups with similar knowledge schemas, which results in clashing frames between the two groups.

Though the term "framing" is typically used in discourse analysis, the concept is also relevant to rhetorical studies. In fact, Burke's (1966) concept of terministic screens is strikingly similar. Terministic screens function in language, Burke claims, as color filters do in photography. One can talk about, observe, and analyze the same phenomenon as another person, yet use an entirely different set of terms and related ideas. Burke provides the example of two scholars of infant behavior, both studying the same thing: babies crying. While one uses the “terminology of observation regarding the nature of infantile reflexes, [the other] adopted a much more *social* point of view. His terms were explicitly designed to study infantile responses that involved the mother in a reciprocal relationship to the child” (p. 49). One might call these two approaches different screens, or different frames: the social frame versus the biology frame. Terministic screens function similarly to frames, making some ideas and terms salient and others unintelligible or unimportant. Packaged with terministic screens comes the idea that language is symbolic action, that our words *do* in the world symbolically; catcalls, for example, *do*—they have an emotionally and psychologically tangible effect on the target, as well as position the caller and the called in social relation to each other. Terministic screens “direct the attention” of the subjects and objects of that symbolic action, insofar as “any nomenclature necessarily directs

the attention into some channels rather than others” (Burke, 1966, p. 45). By linking framing and terministic screens, I intend to show that both discourse analysts and rhetoricians have been dealing with the same linguistic phenomenon under different names, as well as pull through the concept of language as symbolic action in relation to the filibuster.

The clashing frames and repetitive arguments of the abortion controversy may be naturally occurring, but some argue it is (also) an intentional tactic designed to distract the citizenry from more important, lasting issues. Drew, Lyons, and Svehla (2010) advance the argument that political and/or media leaders can use today’s sound-bite culture to lead citizens towards conclusions that are contrary to the best available data. This has the effect of “turning all positions into merely equivalent, if different, opinions and replaces data analysis and serious deliberation with familiarity as the criteria [*sic*] for weighing one opinion or position against another” (p. 18). This concept is tapped several times throughout the course of the filibuster, mostly in the form of accusations of obscuring the truth with pseudo-science from either Davis herself or those citizens whose testimonies she animates. Testimony itself is more closely examined by Karen Tracy’s (2011; 2012a; 2012b; Tracy & Delgadillo, 2013) work on public hearings regarding same-sex marriage. Tracy & Delgadillo (2013) delve into conflict and debate in hearing settings, finding that the political ideology of the speaker determines the content and form of the testimonies more than any other factor (p. 227). Thus, political polarization plays an important role in actually shaping the discourse of a public controversy.

New media outlets such as Twitter can as often as not contribute to this problem, since “while media outlets have increased in number and scope, audience self-selection means that these each construct their own insulated political spectacle” (Drew et. al, 2010, p. 22). This claim is supported by the research of Himelboim, McCreery, and Smith (2013), which concluded

that at least on Twitter, “political talk is highly partisan, where users’ clusters are characterized by homogeneous views” (p. 168). In other words, exposure to ideological opinions other than one’s own is infrequent and unlikely on Twitter. This is reflected within the top tweets that occurred during the course of the filibuster, as well as the “debates” that follow from them. People largely avoid replying to—perhaps even avoid reading—tweets which purport an opinion contrary to their own. When debate does occur over the abortion controversy, it rapidly degenerates from the topic on hand back to the related public arguments, as will be discussed in Chapter 5.

Overview of Upcoming Chapters

Throughout this thesis, I apply these theories and concepts to the discourse surrounding the filibuster in order to expose the characteristics of public controversy, and to bring to light the symbolic function of the filibuster. I aim to combine discourse analytic methods with rhetorical concepts in order to demonstrate the way the two fields, often conceptualized as separate and distinct, in fact overlap substantially. Moreover, by using a blended methodology and theoretical framework, I hope to further convince scholars in communication and rhetorical studies that a combined approach can at times provide fuller insight and understanding of a rhetorical text than either single approach.

The discourse analyzed throughout this thesis is at once a product of past interactions, and a constitutive moment in defining how public controversy is and will be enacted. This, I believe, is the rhetorical impact of the study: to question why and how the filibuster was at once special and not special at all. By analyzing the words, phrases, terms, frames, and tactics of the filibuster and its surrounding discourse, we begin to see the interplay of pragmatic and symbolic

goals. At stake is the very success and failure of the filibuster, as an act of congressional policy making, as a symbolic act of resistance and rallying cry for prochoice Texas. Ultimately, the goal is to question what can be done by prochoice activists in the future to avoid the pitfalls of the public controversy discourse, while encouraging more productive, meaningful interaction between people on opposite sides of this very divisive and charged ideological fence. Examining the political discourse surrounding the abortion legislation in Texas provides excellent insight into the nature of political controversy, and as such can be used to suggest positive, progressive communicative tactics.

CHAPTER 2

Data and Method

Discourse analysis and rhetoric are like siblings: too concerned with how they are better than each other to recognize how similar they are to each other. My desire in this thesis is to join the now-growing group of scholars who focus on the similarities and combine discourse analysis and rhetoric in useful ways. I believe that discourse analysis provides grounded, text-based evidence to highlight the effects and power of language. Discourse analysis requires the scholar to explain language phenomena using the very language being studied. Discourse analysts ask “why that now?” as they read transcripts of conversations, or email chains, or whatever else they might be studying. For some, this means a descriptive form of scholarship. Identifying the underlying structures of language beyond grammar and syntax means the careful work of categorizing and explaining language phenomena, such as adjacency pairs (Sacks et. al, 1974; Heritage & Clayman, 2010), or Initiation-Response-Evaluation (IRE) sequences (Mehan, 1979). While rhetorical theory often employs very similar methods when working with case studies, rhetorical scholars at times eschew discourse analysis for failing to grapple with big picture questions because of these descriptive studies.

That said, there are many instances of discourse analysts doing the work of the big picture. Gordon (2009) analyzes the conversations of several distinct family groups to show how we construct family boundaries and identities through language usage. Herring (2006) worked with data from online chat rooms to demonstrate how sexism and misogyny work in online spaces to police male dominance. Work on the concepts of politeness and face, such as that by West and Trester (2013), endeavor to explain how we construct, maintain, and negotiate relationships using language. Poggi (2005) examines how persuasion functions on a turn-by-turn basis, with an eye towards explaining how the persuader and persuadee’s intentions interact.

This blending of discourse analysis with rhetoric has also produced fruitful studies of within rhetorical scholarship. Eisenhart and Johnstone (2008) identify six major areas of overlap, where both rhetoric and discourse analysis provide useful approaches and considerations. These are how discourse shapes/is shaped by: (1) the world, (2) language, (3) participants, (4) prior/future discourse, (5) medium, and (6) purpose/possible purpose (Eisenhart & Johnstone, 2008, p. 11). They situate how examining discourse on the micro level of examining individual utterances can provide insight into the ways in which language literally shapes and is shaped by these six aspects of text-making, informing the rhetorical implications of the text—how its style, argument, context, and agency affect change.

In this thesis, I focus primarily on the third heuristic of how discourse shapes participants and is shaped by participants, and the fourth heuristic of how discourse is shaped by prior discourse, and shapes future discourse. As has been laid out in the introduction, the filibuster occurred within the long history of the abortion controversy, and it necessarily reflects the previous instances of that history. That history shows a strong tradition of activists using testimony and personal narrative. The participants are thus key in understanding how the text is shaped. But the filibuster is more than the sum of its parts; it became a symbol and Wendy Davis became caught up in that symbolism. It therefore shapes its participants. Upon submitting their testimonies to be read by Davis, the authors of the testimonies surrender their agency to determine their place in the debate, what their testimony means to listeners, and how they are positioned within Davis' larger tactics of the filibuster as a whole. Twitter users submit their words to the public to be retweeted and replied to, at once presenting a very particular type of identity (prochoice activist, angry prolife consumer, etc.) to the rest of the world and inviting others to take up similar or opposing identities. And, like the testimonies and the filibuster text

itself, Twitter users join in a long history of texts about abortion and its legislation; their words reflect years of activism before them, and shape the years of activism ahead of them.

For the first analytic chapter (Chapter 3), I analyze two specific segments of the filibuster speech. First, Davis begins the filibuster with her own commentary as introduction to the bill and its history. In this commentary, she uses her own words to set the agenda for the day's proceedings, outlining major points and her primary veins of argument. Davis reads three different groups of testimonies, the first of which are from medical associations. I have chosen the two subsequent sets of testimonies as the focus of this chapter. The first of these consists of 31 testimonies which were sent to Davis from citizens who had written them previously with the intention of reading them to the committee at the public hearings for HB60. Davis introduces each testimony with a brief tagline including whatever identification and affiliation remarks the author gives, such as: "And now from Jane Keedy, who lives in Representative Dawanna Dukes' District" (Mardoll, 2013, p. 77). She reads the text of the testimony, and occasionally provides brief, meta-discursive comments (such as "and here she cites [source]"). I will also briefly analyze the following, shorter set of testimonies which were written and submitted to Davis specifically for the occasion of the filibuster. This chapter demonstrates how Davis takes the words authored by the citizens, and recontextualizes them into the filibuster, in order to create a storyline of heroism, victimhood, and villainy. The nature of this storyline intentionally transforms the filibuster from pragmatic to symbolic.

In the second analytic chapter (Chapter 4), I analyze the portion of the filibuster speech in which Senator Bob Deuell asks Davis questions regarding her stance on SB5. This period, chronologically occurring near the end of Davis reading the testimonies, lasts roughly fifty minutes, and involves primarily Deuell asking questions and Davis answering, though at times

this gets flipped around. The analysis focuses on instances of facework and argumentation between the two senators, singling out excerpts from the lengthy conversation which indicate moments of attention to either parliamentary procedure or argumentative clash. The chapter contributes to the concept of public controversy as stalemate, using the “debate” to show how framing differences can cause a failure of clash even when participants are civil and polite. Ultimately this reflects the larger culture of abortion controversy activism, wherein ideologically opposed persons seldom experience productive conversation.

Finally, in the third analytic chapter (Chapter 5) I analyze data that comes from tweets which occurred right before, during, and after Davis’s filibuster of SB5 in Texas. The scope of Twitter’s uses and modes of interacting make representative selection a difficult task. I’ve chosen two types of Twitter interactions as examples of how the abortion controversy plays out on the social medium. First, I have chosen a conversation between four specific Twitter users regarding Davis’s initial announcement on Twitter of her intention to filibuster. This set of tweets primarily relies on the reply function of Twitter, wherein a person can reply to a tweet from another user and create timelines of topically linked conversation. This is usually a fairly synchronous way of communicating via twitter, and exhibits characteristics of talk-in-interaction that other usages of Twitter don’t exhibit, such as an extended back-and-forth between a small group of individuals who intend for those same others to read and respond to their tweets. Second, I have chosen a set of tweets all responding to one particular tweet, but that are not replies to each other. This type of reply does not intend for specific others to see a response, but still all build from the same original tweet. It is not as synchronous, but stays focused primarily on a particular, specific topic.

The first set of tweets comes from a conversational set of replies to a reply to a tweet by Wendy Davis, in which she announced her intention to filibuster SB5. Sen. Davis's tweet stated, "The leadership may not want to listen to TX women, but they will have to listen to me. I intend to filibuster this bill. #SB5 #txlege" (Davis, 2013). Thousands of Twitter users replied, retweeted, and favorited the senator's tweet. One such reply came from Twitter user Conservative States (@CCSL_States), who answers just four minutes later, "@WendyDavisTexas – Texas women are prolife and they voted in 'the leadership'" (2013). This reply itself received a number of replies, in which a brief debate unfolded regarding the effects of SB5. Besides @CCSL_States, the key players in the interaction are RiskyLiberal (@RiskyLiberal) and Michael LaBranche (@mdlbranche). These two users demonstrate a prochoice, liberal opinion regarding abortion, while @CCSL_States espouses a conservative, prolife opinion. Of the 49 tweets that followed @CCSL_States initial tweet, the first twelve resemble an actual conversation, with the three participants referencing each other's points and replying directly. After this, the replies become less synchronous and more inflammatory.

The second dataset began with a tweet from the magazine Cosmopolitan, which read "Cosmo girls! Senator @WendyDavisTexas has to hold the floor until midnight to protect your rights: <http://cosm.ag/6012k7yy> #StandWithWendy". A large number of Twitter users who follow Cosmopolitan responded to the tweet to express their approval or outrage that Cosmo would so publically take a prochoice stance. There are many of these responses, but they are not meant to be a turn-by-turn conversation with other respondents. Rather, they are individual expressions of opinion, linked only because they are all expressing opinions on the same tweet.

Both datasets reflect the characteristics of public controversy, and will be compared to the text of the filibuster itself as demonstration of this. The goal of this chapter is to show how

conversations about abortion rely on public arguments, a concept developed from Spitulnik's (1996) work on public words. The reliance on public arguments is a primary contributing factor to the reason debate over abortion ends in stalemate so frequently, as seen in Chapter 4. This chapter strives to take the focus of the thesis beyond just the senate floor, and display how the abortion controversy looks the same across mediums and layperson/expert/legislator boundaries. This is what makes the abortion controversy a public controversy, and what made the filibuster have such potential for being a successful symbol of prochoice resistance. Without the public eye on the filibuster, without the reflection of the world's eye on Wendy Davis on Twitter that day, the filibuster would have been just another moment of resistive yet ultimately futile struggle. Twitter is not the reason it was more than this, but Twitter does provide a clear reflection of the thoughts and moods of the people (or at least, a certain type of person).

Throughout these three chapters, the primary method will be discourse analysis. I use excerpts of conversation and the texts of tweets to provide evidence for my claims, analyzing the words of the people involved. This is done in order to show how the language used by Davis, the citizen authors of the testimonies, and the Twitter users, all actively contributes to and at the same time reflects the nature of public controversy.

CHAPTER 3

Victims, Villains, and Heroes:

The Filibuster as a Symbol

Senator Davis chose, of the hundreds of rhetorical options available to her, to begin the main body of her filibuster with the animation of citizen testimonies. Although she does provide a brief introduction in her own words wherein she orients her senatorial audience to her stance and the history of SB5, she transitions into the reading of testimonies within the first half hour (around the 25 minute mark) of more than eleven hours of filibuster. This choice must be taken as intentional and important. However, the use of layperson testimonies carries the risk of dismissal based on non-expert, anecdotal evidence. If the filibuster is read as a pragmatic text, with the goal of stopping SB5 from passing, the risk of using anecdotal testimonies may be too high. But when taken as a symbolic text, meant to exist in a moral framework and heroic storyline of resistance, the testimonies become a necessary authorization of Davis as the champion of prochoice Texas.

The genre of personal testimony used for political purposes is a unique aspect of political communication scholarship. Tracy (2008) considers how citizens use what she terms “reasonable hostility” to claim agency in a public hearing. She claims that at times, a less powerful interactant may speak from a place of righteous anger, performing face-threatening acts toward the more powerful interactant(s). This reasonable hostility is ratified by general consensus among the community of participants, for example the gallery applauding or commentators. On the other hand, the public officials see the face-threatening act as hostile and inappropriate, and attempt to silence the speaker through appealing to rules of decorum. For both sides, these tactics work to either challenge or maintain the current power system. As explained by Goggin (1993), it is strategically wise of the less powerful to socialize a conflict—that is, to bring in as many supporters and fence-sitters as possible in order to tip the balance. Conversely, it is in the best interest of those in power to restrict this socialization, and keep the

scope of the conflict as small as possible in order to maintain the power position. When the Senate President reminds the gallery not to applaud or make noise, for example, he restricts the socialization of the filibuster. When Sen. Davis reads the testimonies of the citizens who were similarly restricted from speaking days earlier, she forcefully expands the scope of the conflict to include more voices which had institutionally been silenced. She thus authorizes herself through the reasonably hostile voices of the citizens, and backs up her authority through many voices and an expanded scope of conflict.

Davis also uses her commentary on the testimonies to alter the usual trajectory of testimony at public hearings. Tracy, along with co-authors Durfy (2007) & Delgadillo (2013), has delved into public hearings and their characteristics. While examining school board hearings, Tracy & Durfy (2007) note that the micro-speech of a public testimony tends to follow a three-part pattern: (1) self-identification of the speaker and his/her affiliation, (2) topic-specific statement of opinion and reasons for it, and (3) a statement of thanks to indicate conclusion. As will be seen later, the testimonies animated by Davis follow a similar pattern, but with footing shifts allowing Davis to identify and comment on the original authors, who are not present/able to give their own testimonies.

For the testimonies read by Davis, the statement-of-opinion stage consists primarily (though not exclusively) of personal narratives. These personal narratives are attacked during question-and-answer periods as being non-expert and therefore of limited use. This question of legitimacy is an old one in the abortion controversy. Kunelius and Renvall (2010) examine how US society privileges the scientific, expert voice over that of the “average” citizen. They argue that this encourages deadlock, as scientific testimony presents issues in a black-and-white manner. Personal narrative, on the other hand, allows for movement forward on determining

solid compromises in conflict. Ideally, therefore, the testimonies of ordinary people are necessary for the resolution of societal conflict, as privileging their stories over bald facts can enable otherwise obscured solutions to be found. However, anecdotal evidence can also be grounds for dismissing testimony when the power structures are against the themes of the anecdote (Moore & Stilgoe, 2009), making it a risky form of support for an argument in a politically charged environment such as the filibuster.

Using personal narratives has long been a characteristic of women's activism, and especially in regards to women's health issue. Sobnosky (2013) studied the women's health movement of the 1960s and '70s, and argues that personal narrative was the primary agent of change by allowing otherwise marginalized women to collectively present dissatisfaction. He identifies three major narratives constructed across the testimonies: Making the Past Present, Rites of Passage, and Real Scientists (personal experiences of health, medicine, and bodies). These larger narratives formed by the many, individual stories of women allow the observer to find the shared experiences and larger truths while avoiding the pitfall of an overly fragmented set of supporting testimonies. A set of a hundred individual narratives with no connections, Sobnosky argues, is not a solid ground on which to build policy or understanding of a group's experience. However, transcendent narratives built from these discrete stories are a singularly powerful tool in changing the treatment of a marginalized group. Wendy Davis—who was herself a single mother at age nineteen—becomes the symbolic representation of the transcendent narrative, by being the single animator of a great number of authors and even more principals.

Across the narratives and anecdotes of the testimonies, the different authors often use moralizing language. Moralizing rhetoric, according to Gould (2009), “implicitly (and

sometimes explicitly) poses the question: How could you? That is, it asks rhetorically, What kind of person are you that you could do such a thing or be such a way?" (p. 379). She suggests a subgenre of moralizing is political moralizing, wherein one believes that "a person's political attitudes and actions reveal one's true self: through your politics, you expose yourself as either a righteous human being or something less than that" (p. 379). The accuser uses shaming language with the intent to embarrass or humiliate the accused for their lack of commitment to political integrity. In the case of the citizen testimonies, the authors are in the unique position of being both *above* and *below* the senators in social standing; on the one hand, senators are elected representatives of their constituents, meant to reflect those constituents' interests and ideas in the state legislature. On the other hand, senators hold positions of power, with the cultural norm that they deserve respect as leaders and public servants. This strange position in our society, at once more powerful than and also beholden to the average citizen, makes it possible for citizens to shame their senators with the goal of swaying public policy and legislation. Moreover, through the moralizing that occurs in the testimonies, the symbolic storyline of Davis's act of resistance is fortified and authorized by the constituents of both Davis herself, and those of her colleagues.

This symbolism is of the utmost importance for understanding the public controversy of abortion. Says Collins (1987), "the struggle over the abortion policy must be conceptualized as a highly symbolic contest. As Granberg (1978, p. 424) pointed out, 'a struggle for the custody of the conception of abortion is an integral part of the overall conflict'" (Collins, 1987, p. 9). Prochoice activists use the symbolic language of choice, with common phrases including "'individual autonomy for women' and 'a woman's right to her own body'", while prolife supporters depend on the symbol of "life, family, and social order" (Collins, 1987, p. 9). In combination, these symbolically charged movements produce an "ambiguous emotional debate"

which erroneously allows for allegations that one side does not support the symbol (choice, life) of the other side. Both sides “have used speech that is ultimately incapable of transforming the polarities” (Collins, 1987, p. 10). In other words, the embedded symbolism used by both sides produces speech that ultimately only polarizes and fails to persuade. If the goal is to bring someone of the opposite ideology around to one’s own view, symbolic language is not a very effective tool.

Symbolism is not restricted, however, to being a tactic of the activists’ linguistic battle. Controversial events also have a rich history of becoming a symbolic rallying moment for otherwise unorganized or silent protesters. For example, Hertz & Reverby (1995) study the controversy that emerged at Wellesley College, a women’s college, surrounding the choice of Barbara Bush as the commencement speaker. The senior class, alumnae, and members of the community immediately protested the choice, writing a total of 452 letter testimonials as to why they believed the choice was a bad one. The letters and protests, the authors argue, became symbolic of the liberal education of women, and brought attention to the otherwise unexamined college curriculum. The invitation of Barbara Bush was interpreted as a symbol of the growing elitism and upper class privilege that quickly became exposed in the college curriculum and administration, much to the dismay and anger of the students and alumnae. In short, the protest and media coverage quickly expanded beyond the literal invitation of Mrs. Bush, and instead used that event as a springboard for organized protest of the larger issue of elitism and class privilege. Thus, an event became a symbolic rallying point for concerned community members. Davis’ filibuster is not only rich in the symbolism of the prochoice movement in the words she chooses to speak, but also becomes a transcendent symbol of resistance to the anti-choice, conservative forces attempting to restrict women’s rights.

Davis uses the testimonies authored by prochoice citizens to construct a symbolic storyline of victims, villains, and heroes. As she reads the testimonies, her own status as the filibustering senator becomes heroic, lifting her to the role of champion for the citizens, who have become victims of their own uncaring, unethical representatives. Davis shifts footing frequently between animator and author, embedding layers of ownership into the testimonies, reclaiming and reusing the citizens' voices in order to make the internal symbolism of the storyline of heroism match the symbolic nature of the filibuster itself. The internal construction of the hero story gives meaning to the filibuster itself, transcending the immediate pragmatic goal of stopping the passage of SB5, which savvy activists (Davis included) knew was impossible. Instead, the hero symbolism transforms the filibuster itself into a righteous moment of reasonable hostility, the common woman fighting back against the big, bad wolf of uncaring, agenda-pushing politicians.

Authoring and Animating the Hero Story through Citizen Testimony

The relationship between author, animator, and principal of the testimonies read by Davis in the filibuster is a complicated one. Davis is clearly the animator, and in that role she also positions herself as the *hero* of the authors. She explicitly defines her role as giving voice to the silenced citizens:

Excerpt 3.1⁷

1 WD: Now, members, I'm going to begin to read testimony from people who were
 2 unable to testify before the house committee. These were people who came to the

⁷ Transcripts are formatted with the initials of the speaker (WD=Wendy Davis) on the first line of each utterance by that speaker. No markings are used to show any linguistic or para-linguistic notations. In order to draw attention to important parts of the transcript excerpts, I have added underlining in many excerpts.

3 Capitol and waited many, many, many hours for the chance for their voices to be
 4 heard. And unfortunately, the Chair of the Committee hearing that testimony, at
 5 one point around 1am, made a decision that no longer would testimony be
 6 accepted, in his words, "because it had become repetitive". An answer to that was
 7 provided very poignantly by a young woman who was there to testify,
 8 apologizing that the chair believed her testimony on such an important issue was
 9 repetitive, when for her it was her individual story, and she felt her individual
 10 right to speak on the impact of legislation like this. Because that testimony was
 11 not allowed, I thought it particularly appropriate today to use the opportunity with
 12 this microphone in my hand to give voice to the people who were not able to
 13 provide their voices as part of that testimony.

(Mardoll, 2013, p. 52)

Immediately, Davis positions the key players of the filibuster within the plotline of something like a fairy tale: there are victims, villains, and a hero. She positions the testimonies' authors of as victims, denied their right as democratic citizens to have their voices heard by their government ("unable to testify" [line 2], "waited for many, many, many hours for the chance for their voices to be heard" [lines 3-4], "she felt her individual right to speak" [lines 9-10], "that testimony was not allowed" [lines 10-11], "people who were not able to provide their voices" [lines 12-13]). This takes a clear moralizing tone, setting up the very reading of the testimonies as a sort of shaming tactics; how could the senators tolerate the silencing of their very own constituents? Notice within these phrases characterizing the citizens, the sentence construction is often passive ("an answer to that was provided... by a young woman" [line 7], "testimony was not allowed" [lines 10-11], "people who were not able to provide their voices" [lines 12-13]), or the verbs imply slow, internal action ("waited" [line 3], "felt" [line 9]). This formation of the sentences is an instance of form following function; Davis wants the audience to believe the citizens were robbed of their agency, so she constructs her sentences to reflect that through the passive voice or verbs indicating passive action like waiting or feeling. Thus, her narrative structure drives home how the authors were robbed of their civic agency, which reflects back on

the political and personal morality of the senators meant to represent them.

For there to be victims, there must be a villain, and in this case it is the Chair of the committee, and by extension all those whose political ideologies align with his. She characterizes the Chair of the committee as unfeeling, a person who callously dismisses the individual experience of women and men who simply desire to participate in their government. Unlike with the authors, Davis uses active verbs to describe the actions of the chair (“made a decision” [line 5]), and reports his words directly as a quote⁸ (“in his words, ‘because it had become repetitive’” [lines 6]). He is thus not only a decisive actor, but also has a literal voice within her narrative of the fairy tale. This positions him as powerful, able to control events through decisions and words that the passive citizens must heed.

Davis creates with her storyline a rhetorical situation, an exigence revolving around the robbed voices of the citizens. The only way to right this wrong is for, somehow, the victims to have their voices heard. Without keeping her audience waiting, Davis humbly accepts this as her burden. She will take on the role of hero in this little play, the champion who gives voice back to those who were silenced. She does not call herself a hero or champion, but rather dissociates herself from the action—a mark of humility reminiscent of Abraham Lincoln—by giving the credit to “the opportunity with this microphone in my hand” [line 11-12]. Anyone could fill this role. Any good senator who remembers what it means to be a representative could do what she is doing. In fact, in the very next lines of the text, she states, “Because that is truly what we are to be: Representatives, Senators who are elected to serve our community and to give voice to

⁸ Hodsdon-Champeon (2010)’s in depth study of online conversations suggests that direct quotes tend to be associated with a negative judgment of the original speaker. She argues this is likely because the current speaker wants to show distance from the original speaker’s stance and make it more obvious that it is not his/her own words, thus quoting them directly rather than paraphrasing or claiming credit for the words.

them on the Senate floor” (Mardoll, 2013, p. 52). Any representative or senator could, even should do what she is doing (note again the moralizing tone); however, others have not and therefore *she* is the senator giving voice to all of the silenced citizens, not just her own constituents. As such, she implies her own position as hero, morally superior to her misguided and mistaken fellow senators, while implicitly shaming them for not serving their communities properly.

Shaming is a tactic used by the citizen authors, as well. Several authors use shaming tactics in their testimonies, berating the senate for either the allowing the special session to be called just to pass an unpopular bill, or for bringing such a bill to the Senate floor in the first place. Julie Gillis of Austin, TX, wrote her testimony as a narrative about her mother, who had passed away. She says,

Excerpt 3.2

1 [my mother would] have been ashamed of our elected officials for allowing this to
2 happen—hell, for encouraging it
(Mardoll, 2013, p. 65).

Jane Keedy writes,

Excerpt 3.3

1 Lieutenant Governor David Dewhurst bent the rules to add these bills. He had his chance
2 during the regular session. This should not be happening. Shame on him, and shame on
3 you who support these bills. A woman's body is hers. The state has no right limiting her
4 health care choices, including abortion.... Shame on you who support these bills....
5 Shame on you, Lieutenant Governor Dewhurst, and shame on you who back these bills.
(Mardoll, 2013, pp. 77-78).

And finally, from April of Austin, TX:

Excerpt 3.4

1 I am ashamed of my state government, who touts low taxes and small government, but
2 has chosen to spend more taxpayer money by calling a special session in order to pass
3 laws that have already failed to pass in the regular session. I am disappointed that my
4 state government thinks so poorly of its own citizens that they don't trust them to make
5 the right decision for themselves... Please do not pass this harmful, shameful bill
(Mardoll, 2013, pp. 85-86).

In all three excerpts above, the authors identify targets of their shaming tactics, either in the abstract (excerpt 3.2, “elected officials”; excerpt 3.3, “you who [support/back] these bills”; excerpt 3.4, “my state government”) or specifically (excerpt 3.3, “Lieutenant Governor Dewhurst”). In the first and third excerpt, with the targets as left generically as elected or state officials, Davis herself falls into the category of the shamed representatives whose very commitment to the democratic ideal is questioned. Her own ethos as speaker is at stake here; in the storyline of these testimonies, when taken individually, she is positioned as the errant representative along with the other senators.

This reading, however, depends on the authors also being the animators. Recall that these testimonies were written before the filibuster, to be read by the authors at the congressional hearing. As this did not happen, the active, shaming tactics of the authors were never delivered to their originally intended audience, nor by their originally intended animator. With Davis as the animator, she is able to re-position herself through brief footing shifts that remind the audience she is exempt from the moralizing criticism of the authors. She steps back and forth from animator and author through meta-discursive markers, such as the little introductions she gives to each new testimony (for example, “This next testimony is from Nancy Cardenas from Austin, Texas” [Mardoll, 2013, p. 55]). These shifts remind listeners that she is in fact the vessel through which the voices of the previously silenced citizens can now speak. This reminder harkens back to her own introduction, wherein she had already positioned herself as the humble champion of the victimized citizen. She actively occupies that position of hero through the animation of the voices who are criticizing the villainous senators who do not listen to their constituents; therefore, she cannot possibly be one of the villains. It is through the discursive act of shifting footing that the political moralizing done by the citizens is deflected away from Davis

and instead fully leveled at the senators in support of SB5.

All three parts of a citizen testimony as defined by Tracy & Durfy (2007) (identification, statement of opinion, thanks) are present in the 31 testimonies. Most of the testimonies begin with the author identifying her- or himself, through stating their names and often which senator represents them. Most also end with the author thanking the listeners for their time. All, obviously, entail a statement of opinion. Davis animates all three parts of the testimonies, reading (presumably) word-for-word from the documents submitted to her. However, she only ever *authors* one of the three parts: the identification. As discussed previously, she gives a short line introducing each citizen author, and each time she does so, she shifts footings and takes momentary authorship. These footing shifts are not strictly necessary; after all, each testimony begins with the author stating the same information. The shifts, therefore, serve some other purpose than informing the listeners. Along with the purpose previously identified of reminding the listeners of Davis's hero position, the shifts also ensure that the audience continues to hear the testimonies as *pieces* of something larger—parts of a whole. The filibuster is not comprised entirely of citizen testimonies, and the constant footing shifts are frequent reminders that the testimonies are but pieces in the larger puzzle of the filibuster. The filibuster, though comprised of many parts and of extraordinary length, is a single unit of speech act (Bakhtin, 1986). In this light, the footing shifts from animator to author that mark the transition points between testimonies layer authorship so that Davis has some ownership of the words in the testimonies, too. In other words, she is the author of the filibuster as a whole, and the testimonies are some of the supporting evidence she offers to make her overall case in the filibuster, just as a person might use a quote from George Washington's farewell address when making a case about American isolationism. Thus she at once acknowledges the other-authorship and claims some

degree of ownership of the words.

The footing shifts make it impossible to forget for too long that the words being animated are part of the larger filibuster. And Davis' position within the filibuster has already been established—she is the hero. Thus, each time she steps from animator to author to introduce each new testimony, she is also reaffirming her heroic status, reminding listeners that it is through her voice that these previously-silenced citizens have been returned to full citizen status. Each testimony, therefore, fits into its place in the filibuster nicely, furthering its fairy tale storyline and ultimate outcome of becoming a symbol to prochoice, Democratic voices in Texas.

The Symbol of the Filibuster

Taken in its political and contemporary context, Davis's construction of this storyline adds up to something bigger than just a state senator taking eleven hours to make her point. The filibuster captured the nation's imagination in a way that state legislatures seldom do. The fairy tale storyline complete with victims, villains, and a hero, resonated with a nation ideologically divided regarding abortion. The filibuster became a symbol around which prochoice activists could rally. They ratified Davis's self-positioning as a hero—they sang her praises and lauded her as a hero. Even the testimonies play their part in making this visible. The final set of testimonies Davis reads often include brief notes to Davis expressing their appreciation for her symbolic act of resistance. Of the seven testimonies in this section, three begin with such a comment. From Patricia, of Bellaire, Texas:

Excerpt 3.5

1 Dear Senator Davis, Thank you with all my heart for standing up for all of us. It has been
2 heartening to see so many wonderful Texans fighting for Texas women these past few
3 days. Your courage is particularly inspiring. It's way past time for Texas women to
4 declare 'don't tread on us' and mean it.

(Mardoll, 2013, p. 123)

From a woman identified only as Ellen:

Excerpt 3.6

1 Thank you so much for speaking for me and millions of other Texas women about the
2 Republican attempt to dismantle women's health care.
(Mardoll, 2013, p. 124)

And from Joyce:

Excerpt 3.7

1 Please be my voice. ... Thank you for what you're about to do to speak up for women in
2 Texas.
(Mardoll, 2013, p. 124).

It takes little explication to see how these testimonies contribute to the heroic positioning of Davis. However, it is significant to note that Burke's (1966) idea of language as symbolic action provides an illuminating read of these statements. Instead of acting the way an insult or request does in the world, these statements act to position Davis strategically in relation to the other senators and the citizenry of Texas. Even further, Davis animates these thank-you messages to herself, wrapping the symbolic action of the citizen authors into the symbolic, rather than pragmatic, goal of the filibuster. In other words, by shifting her footing from author to animator, animator to author, she coopts the *pragmatic* aspect of symbolic action in the citizens' testimonies, and reconfigures them as useful as part of her larger political goals. She introduces these final seven testimonies by saying,

Excerpt 3.8

1 And now members I have personal testimonies that were sent to our office
2 when people learned that we would be speaking against this bill today and
3 asked us to be their voice in this chamber.
(Mardoll, 2013, p. 122)

In this brief introduction, Davis opens space for the interpretation that she has not yet read these testimonies herself ("testimonies that were sent to our office" [line 1]). After all, it is easy to

assume that the busy senator did not sift through all of the emails with personal testimonies; instead, an office staff member most likely did this task, separating out the best and most on-topic options. This is evidenced by her use of the plural possessive adjective “our” (“our office” [line 1]) and the plural object pronoun “us” (“asked us to be their voice” [line 3]), which indicate that others worked with her (or for her) to sort and select the testimonies. This interpretation allows the listener to hear the lines of praise highlighted in excerpts 3.5, 3.6, and 3.7, not as vain inclusions by Davis, but as notes that Davis’s office staff purposefully included. Davis’s animation of the words praising her now seems almost accidental (and very well may have been). She merely says the words of the ordinary person who authored the testimony selected by her office, and those words happen to contribute to the storyline she has already created. In excerpts 3.5, 3.6, and 3.7, Texas women need help to have their voices heard, expanding the scope of the victimhood to all Texas women. Davis is universally identified by these three randomly chosen sample representatives as their champion who has both the agency and the “courage” [excerpt 3.5, line 3] to provide an outlet for their otherwise unheard voices. The strategic animation of these particular citizen authors actively constructs, affirms, and authorizes Davis’s creation of the hero/victim storyline.

While the other testimonies used moralizing statements and language to suggest the proponents of SB5 are immoral and unrighteous people, the statements of thanks and lauding of Davis provide a different kind of moralizing effect. Her character and moral stance is undeniably affirmed as good and righteous. She is ratified to be the speaker and representative by these authors, who instead of shaming her, use moralistic language to praise her. She stands out among her peers as having unquestionably strong morals and commitment to her role as a senator. In this case, the testimonies focus on the *powerful* aspect of the senator; whereas to

shame a senator, the citizens used language that highlighted the power of the constituent citizen over the senator, to praise Davis they focus on how she has power over her constituents. “Please be my voice” (excerpt 3.7, line 1), one woman pleads. A person pleads with those in power over her, and shames those over whom she has power.

This is more than Davis filibustering what many thought of as an unjust bill. Activists and citizens alike knew that the bill would pass, if not on June 25th, then soon after (as it did, on July 13th in another Special Session). Davis therefore chose to filibuster for reasons other than stopping the bill’s passage. The symbolic storyline she constructed within the filibuster through reading citizen testimonies and subtle footing shifts transfers to the world beyond the senate floor. With Davis as the hero, the act of the filibuster becomes a heroic act itself. By using the testimonies of citizen authors to tell a story of victims, villains, and heroes, Davis makes the filibuster a triumph of justice rather than a failure of legislative proceedings. The pragmatic goal fades to minimal importance in light of the heroic moment of standing up to bullies, of defiance in the face of certain defeat. This is especially important for the prochoice movement in Texas given the perception of the state as overall staunchly conservative and prolife. It highlighted the number of vocal, prochoice activists in the state willing to rally to the call when it came, something that the Texas prochoice movement has not experienced in many years, if ever. The filibuster became a catalyst for prochoice Texans to unite, protest, and reclaim agency.

Not every Texan is prochoice, of course, and the storyline of heroism and victimhood was not blanket accepted across the board. For many, the framing of the filibuster as heroics was far from the truth, and instead Davis was seen as representing a cause that worked against the interests of the constituencies. In the legislative bodies in Texas, the majority of representatives and senators are conservative and elected on a prolife platform. As such, some of them

rhetorically worked to resist Davis's storyline during question-and-answer periods, as will be discussed in the following chapter.

CHAPTER 4

Let's Agree to Disagree:

Lack of Clash in Situational and Argumentative Frames

A characteristic of any conflict is argument and debate, especially in conflicts over legislation, since these divide neatly between supporters and opponents of the bill in question. A necessary condition of debate is clash. Clash, while frequently cited as something debate participants should strive for, is seldom defined clearly. In reference to presidential debates, Morello (1988) vaguely states clash to be “those times when the candidates engaged each other in arguments of attack and defense” (p. 277). Pfau (2002) implies clash is something debaters should strive for when he states “debates are superior to other communication forms” because, among other reasons, they can “[facilitate] clash, depth, and unfiltered access” (p. 251). Rowland (2013) similarly implies the importance of clash, claiming that argumentative quality depends in part on “the degree to which candidates [answer] the questions they [are] given” and the frequency of “instances in which they [respond] to a claim or evidence made by their opponent” (p. 532). Synthesizing these vague references to clash, I define clash as a positive and constitutive attribute of debate, in which the debaters directly respond to each other’s questions and points in a focused manner, in order to test the quality of a claim or posit an alternative.

Because the legislating of abortion is so morally polarizing and debate regarding it relies heavily on public arguments, little actual clash occurs when prolife and prochoice activists interact. This is in part due to the conflicting argumentative frames of the two opinion groups. Bing and Lombardo (1997) illuminated a similar phenomenon when examining the way newspaper journalists discussed sexual harassment. In fact, they claim that “when the topic is sexual harassment, people often ‘talk past’ rather than ‘talk to’ each other, as if they were discussing different issues” (p. 293). This occurs because there is not a single agreed-upon definition of sexual harassment within American culture, resulting in a clash of frames rather than a clash of arguments. Different argumentative frames necessarily include certain sets of

facts and arguments, while rendering other sets invalid. In other words, what in one argumentative frame is a perfectly sound warrant for an argument, in another frame becomes unintelligible, illogical. This results in “talking past” rather than “talking to,” in which people talk about the same larger issue, and yet talk about two completely different things.

This use of the term framing is different than that covered in Chapter 1, and in the following analysis in this chapter, I delve into the difference of these two definitions of frames. Discourse analysts have long used framing within the definitional boundaries of the term as laid out by Goffman (1981). In this line of research, framing is about the way interactants understand what is happening in the situation. As such, I call this *situational framing*. On the other hand, *argumentative framing* is the way certain words, terms, and viewpoints frame the type of arguments used to make a case. Argumentative framing is similar to Burke’s terministic screens; they render some terms salient and others unreasonable, as discussed above.

In the debate that occurred between Senators Wendy Davis (D) and Bob Deuell (R) regarding Senate Bill 5 (SB5), clash failed to occur on the argumentative level. Sen. Davis, filibustering the restrictive bill and self-identifying as the day’s champion of the Texan prochoice citizenry, accepted questions from Sen. Deuell, a well-known conservative senator who is also a medical doctor. While they understand the situational frame to be the same, their argumentative frames are radically different. This results in an exchange which is simultaneously highly attuned to the situational demands of a senatorial debate, and completely lacking in the type of clash that is considered a positive characteristic *of* senatorial debate. I trace both of these traits back to the fact that the senators are discussing the legislation of abortion.

Situational Framing: Avoiding “bad” clash by maintaining decorum on the Senate floor

It is hardly a secret that the topic of abortion tends to bring about high passions and angry, rude discourses. A quick internet search brings up countless news articles, blog posts, images, Tweets, etc., in which the searcher can find examples of both prolife and prochoice activists making shocking, rude comments. In fact, it’s more or less *expected* that interaction between these two camps will end in vitriolic, close-minded speech. In much abortion activism, this type of behavior is mistaken for clash. With that in mind, the day of the filibuster saw a heightened attention toward proper and appropriate Senate proceedings in order to avoid that kind of speech, which is largely considered inappropriate for a legislative body. For example, Sen. Davis introduces her speech by referencing the rules and regulations of the Senate by mentioning the “extraordinary measures” taken to call the special session, insinuating their impropriety. Moreover, at many points throughout Davis’ speech, the activists watching in the gallery are reprimanded by the Senate President (Lt. Governor Dewhurst) for being noisy or applauding. Several senators raise parliamentary inquiries regarding the proper way for both senators and spectators to comport themselves. Throughout the entire filibuster, one can observe this heightened attention to what constitutes proper senatorial comportment.

In other words, there are (among others) two dominant possible situational frames for the discourse that happened on the day of the filibuster. The first is the situational frame of *abortion activism*. In this frame, Davis is situationally constrained into the role of the prochoice activist, and those who disagree with her into the role of prolife activist. As will be demonstrated shortly, they rhetorically resist these roles by instead adopting the second possible situational frame, that of *senatorial debate*. Whatever the topic of senatorial debate, the participants are necessarily senators, and to accept the title “senator” is to accept a certain minimum standard of behavior

and decorum. In the first possibility, the norm of behavior is often personally hateful, demeaning speech towards one's adversaries. In the second, the norm of behavior is civility, mutual respect, and a commitment to focus on policy and effects of policy options. Senator Davis and other senators on the floor demonstrate a heightened awareness of the pitfalls of the *abortion activism* situational frame, and through specific rhetorical tactics they demonstrate their commitment to actively attending to and maintaining the *senatorial debate* situational frame instead.

This is perhaps most easily seen in the question-and-answer periods between Sen. Davis and other senators. At several points during the reading of the testimonies, Davis yields to questions from her peers. One such question-and-answer period occurs between Davis and Senator Bob Deuell. Deuell, a conservative republican from Northeast Texas, is a physician and has served as senator since 2003. He asks Davis a number of questions regarding the testimonies she has read and her argumentative position, and in response she answers in her own words, authoring her own sentiments in a way that the testimonies do not. This footing shift is accompanied by several interesting markers in the conversation, including the way both senators refer and defer to one another in order to mitigate face threatening acts (FTA) (Brown & Levinson, 1978/1987). Significantly, Sifianou (2012) suggests that disagreement is a complex aspect of face and face-threatening, with the potential to be an FTA depending on the situation (p. 1561). Given the abortion debate's history of rude, morally charged, sometimes even violent disagreement, disagreement during abortion debates is often intentionally a face threatening act. The close attention to civility and politeness therefore reflects the desire of these senators to respect the congressional setting and procedure and maintain the situational frame as that of senatorial debate. By maintaining this frame, Davis remains firmly in the heroic role created by her animation of the testimonies, modeling ideal activism through staunch, polite defense of her

desire to see the bill fail.

The following analysis focuses on several instances from within the senators' interaction, which lasts for roughly fifty minutes (including one parliamentary inquiry and several breaks for the senate president to remind the gallery of the rules of decorum). I selected the data below because they exemplify the senators' extensive use of face work. This face work resists the possible identities of abortion adversaries offered by the potential of the "abortion debate" situational frame, and instead constructs the identity they both prefer: senators professionally debating a bill.

The very nature of the question-and-answer period in a senatorial setting can be very face-threatening. Although sometimes a friendly senator may request to question the speaking senator in order to highlight or bring out a certain aspect of the argument, in this particular instance Deuell supports SB5 and Davis, of course, opposes it. Thus, when he stands to question her, he is immediately positioned as adversarial by virtue of the situation. In the abortion controversy, occupying adversarial positions is one step away from waving coat hangers or "bloody" tampons at each other. With this as backdrop, both senators do extensive work to avoid allowing their adversarial positionings to make the debate turn sour. In the following excerpt, Davis is setting up a statement of disagreement with Deuell's previous point, about halfway through the question-and-answer period. Disagreement, as a potential FTA, always has the possibility to insult one's fellow debater and put him/her on the defensive.

Excerpt 4.1

1 WD: Senator Deuell, first of all, I want to say that I respect you so much, I truly do.
 2 You are a good person, you are a good doctor, you are a good Senator. And I
 3 know you care about people and I do not intend to suggest that you do not.
 (Mardoll, 2013, p. 143)

Here, Davis goes out of her way to extensively praise Deuell, saying she "respects [him] so

much” (4.1, line 1) and then listing three different aspects of him that she approves of: he’s a good person, a good doctor, and a good Senator. She starts with “person,” then narrows in on the two relevant pieces of his ethos: doctor and Senator. She purposefully picks these two aspects to praise, because Deuell has already mentioned them several times throughout his questions. This not only indicates that he places importance on and pride in these identities, but moreover that they are at stake in this debate. Thus, when Davis affirms that she thinks he is a good doctor, she mitigates the face threatening act of disagreeing with him, preserving both his pride and status as an expert. Moreover, decreasing the threat to his face allows her to remain in the role of a debate opponent without the atmosphere between the two senators becoming uncivil.

As the question-and-answer period continues, Deuell refers to the scene of the Senate more explicitly:

Excerpt 4.2

1 BD: That’s really what this debate is about and I appreciate you too. Obviously
 2 you wouldn’t go through what you’re going through now if you didn’t
 3 believe-- believe in it.
 (Mardoll, 2013, p. 144)

Here, Deuell gives meta-commentary on “the debate” and “what [Davis is] going through” (4.2, line 1). He goes out of his way to “appreciate” what she is doing and indicate his understanding that the act of filibustering can be grueling physically and mentally. Like Davis in 4.1, he resists the position of adversary and instead positions himself as someone uniquely capable of understanding her current status--a fellow senator. Like Davis’ reference to Deuell being a “good Senator” (4.1, line 2), Deuell’s references to the debate and Davis’ situation highlights that the two are peers. This establishes a professional connection between the two, which indicates positive face work while backgrounding the fact that they are debating a contentious bill under unusual and controversial circumstances. They overtly and consciously make a point

of ensuring the question-and-answer period remains perfectly (parliamentarily) civil and polite.

This is not to say face threatening acts never occur in the question-and-answer period. By nature of the debate, the two senators must necessarily challenge each others' opinions, evidences, and policy decisions. However, every time such an act occurs, one or both of the senators carefully decreases the magnitude of the face threat, as in the excerpt below:

Excerpt 4.3

1 BD: But you said that there was nothing in this bill that allowed for extenuating
 2 circumstances, but on page 5, line 21 and-- I'll read it to you. And I don't
 3 mean to be condescending I just happen to have it and maybe you don't.
 4 But it says that "prohibitions and requirements under sections 171.043,
 5 171.044 and 171.045b do not apply to an abortion performed on an unborn
 6 child who has severe fetal abnormalities." It seems to me that that would take
 7 care of the situations that you described where perhaps the parents didn't
 8 find out until after the 20-week period. So, I wanted to clarify that or at least
 9 get your comments on that part.
 10 WD: Well, I appreciate the clarification and I think that some of that testimony that
 11 I read occurred prior to the substitute language.
 (Mardoll, 2013, pp. 144-145)

Deuell directly challenges one of Davis's central points during her filibuster so far, that the bill does not allow for exceptions in cases where there are extenuating circumstances. In line 1, he sets up the challenge, offering as his solution to read the part of the bill that contradicts Davis's point (line 2). Here, he directly recognizes that this could be taken as condescension, a very face-threatening affect, and offers the alternative interpretation of "I just happen to have it and maybe you don't" (4.3, line 2-3). In this statement, he overtly rejects an adversarial frame under which his actions would be easily construed as insulting, while simultaneously positioning himself as a helpful peer who wants to make sure the debate is fair and clear for both parties. After reading the relevant portion, he says "I wanted to clarify that" (4.3, line 8), again altering the definition of the challenge to one of clarification.

Davis accepts this altered definition. She tells Deuell that she "appreciate[s] the

clarification” (4.3, line 10), as opposed to rejecting his offer and insisting on the definition of challenge or condescension which would be easily argued under the situational frame of abortion debate. “Clarifying” on the other hand fits well into the situational frame of senatorial debate, implying that someone clears up an ambiguous statement in the interest of making an argument more intelligible. By accepting the definition Deuell gives for the criticism, Davis intentionally accepts what could easily have been face-threatening and adversarial (criticism) as Deuell being friendly and helping her make her argument as clear as possible.

Finally, Deuell closes the question-and-answer period with a direct reference to the desire to keep everything civil and proper.

Excerpt 4.4

1 BD: Senator Davis, I don’t have any other questions at this time, I appreciate
 2 your answers and I’m glad that we can have a civil discussion here on the
 3 floor. Thank you so much for answering my questions.
 4 WD: As am I. Senator Deuell, thank you for your questions.
 (Mardoll, 2013, p. 153)

He tells Davis that he is “glad that we can have a civil discussion here on the floor” (4.4, line 2). This reads as a subtle commentary on the way certain aspects of the day had proceeded, drawing attention to the fact that perhaps discussion might not have gone so well had the two senators not been so mature and willing to cooperate. Given the frequent need for the parliamentarian and Senate President to ask the gallery to follow the rules of decorum for the senate, this comment makes it clear that Deuell saw their question-and-answer period to be a model for proper interaction in the congressional building.

As these excerpts demonstrate, the senators were well aware of the two competing situational frames at play in this question-and-answer period. They actively resisted the roles of adversarial abortion debaters, choosing instead to operate within and carefully maintain the

frame of senatorial debaters. One major difference between the alternative positions created within the two different frames is the status of face threatening acts. Adversaries in the abortion conflict often purposely engage in face threatening acts, which stands out as a defining rhetorical characteristic of the frame. By contrast, the Texas State Senate operates under strict rules of parliamentary decorum for both the senators and people watching in the gallery. This means that overt face threatening acts like personal insults are directly forbidden, and in fact civil and polite behavior is required.

For Davis, avoiding the situational frame of abortion conflict was more than about senatorial rules of comportment. As discussed previously, the filibuster was not pragmatic in that the end goal could not have been the blockage of SB5 given the political climate in Texas. Instead, Davis engaged in the filibuster for other, symbolic reasons. It was paramount that her filibuster last as long as possible to achieve her more transcendent goals; it was equally important for supporters of the bill in the Senate to see it ended as quickly as possible, by raising three successful points of order against her. Thus, Davis had to be particularly careful to avoid any act or behavior that could be challenged by parliamentary rules. Her careful attention to the situational frame, therefore, was not just to model for the gallery what proper and meaningful debate can look like. She also seemingly feels the constraint of the space and place on her role as activist, acknowledging through her choice of situational frame that her brand of liberal activism holds a tenuous spot amid a conservative atmosphere.

Argumentative Framing: The bottom line of safety vs. access

Despite agreeing on and working together to maintain a situational frame, the two senators do not operate under the same argumentative frame. In this approach to framing, the speaker

chooses an angle from which to approach the topic. When two people use the same argumentative frame, clash can occur; otherwise, the frames themselves clash and the debaters use arguments that do not directly respond to each other's claims and evidences (see Bing & Lombardo, 1997, for further explanation). To put it simply, situational frames define what the interaction *is*, while argumentative frames define what the interaction *is about*. So, the two senators may be in perfect agreement that their interaction is a senatorial debate (as opposed to abortion activism, or a personal disagreement, or a lay-person/expert consultation, etc.), while still discussing separate issues. Clearly, they are both ultimately talking about SB5 and its effects on reproductive health care in Texas, but the particular arguments used by each frame the discussion so that the other's points seem unintelligible and beyond the scope of rebuttal.

Davis chooses the argumentative frame in which the bottom-line standard for success is widely available, safe access to abortion care in Texas. For simplicity, I will refer to this as the *access frame*. Deuell on the other hand is not concerned about widespread access—during the fifty minutes of question-and-answers, Davis uses the word “access” six times, and Deuell uses it not once. Deuell's argumentative frame metaphorically screens out the term “access” as irrelevant to the conversation. Instead, his argumentative frame has the bottom-line standard of success is maximized individual safety of each clinic. In his argumentative frame, access is secondary to each clinic being able to respond to any potential risk regardless of how unlikely that risk is. This will be referred to as the *safety frame*.

Towards the middle of the question-and-answer period, the following exchange occurs:

Excerpt 4.5

- 1 BD: Thank you, Mr President. Senator Davis, are you taking the position that
- 2 if this bill becomes law and every abortion clinic in Texas becomes an
- 3 ambulatory surgical center, that women would not be safer and get better care?
- 4 WD: No. I'm taking the position that if this bill becomes law, not every facility
- 5 will have the capacity and the resources to become an ambulatory surgical

6 center and that women who currently are being provided care, very safe care
 7 in existing clinics today will be denied that access, because--
 (Mardoll, 2013, pp. 139-140)

Davis has, at this point, already belabored the fact that many abortion clinics would not have the ability to upgrade to an ambulatory surgical center (ASC), one of the requirements of the bill. Deuell's question almost seems to be an example of *reductio ad absurdum*, suggesting almost comically that Davis is attempting to argue that ASCs are not a safer environment for medical procedures than clinics held to lesser standards. In his argumentative frame of safety, it doesn't matter that "not every facility will have the capacity and resources" (4.5, lines 4-5) to upgrade, or that the current clinics are providing "very safe care" (4.5, line 6). The bottom line for him is that an ASC is necessarily a safer medical environment than a non-ASC clinic, and therefore should be privileged in order to potentially save lives.

Davis, on the other hand, is framing the bottom line of the debate as women's access to (safe) abortion care. She highlights the fact that clinics will close rather than upgrade, which decreases women's *access* to health care. She says:

Excerpt 4.6

1 WD: And I understand your point that if an argument could be made that even one
 2 woman would be made safer by virtue of it, doesn't it make sense.
 3 But I would ask you to consider the very valid concern that there are
 4 many women who will lose their access to care as a consequence of this law.
 5 And that one woman, or that twenty women, or that three hundred women,
 6 or that three thousand women, should cause you and me and everyone else on
 7 this floor great concern.
 (Mardoll, 2013, p. 143)

Davis here makes the same move as Deuell earlier (excerpt 4.5, lines 1-3), summarizing her understanding of his argument in lines 1-2 (excerpt 4.6). Instead of asking for his comment, though, she goes on to re-contextualize his bottom-line of safety into her frame of access. The argument of one woman potentially being safer becomes illogical in the face of thousands of

women having no access whatsoever, especially coupled with other arguments Davis has previously made regarding the safety of current clinical conditions and the unsafety of illegal or at-home abortion solutions for women without access to a clinic. Deuell's arguments begin to look like a single-minded obsession with prioritizing an unlikely extreme case, making his position easier to dismiss as illogical and not necessary to refute. This ultimately allows the debater to avoid clash on the points themselves, since the opponent's argument has been rendered irrelevant due to a different argumentative frame.

Deuell, on the other hand, makes a solid case for his own frame, bringing in certain facts that make his arguments seem justifiable and urgent while Davis' fade as careless and blindly utilitarian:

Excerpt 4.7

1 BD: But if you look at every clinic, and you look at what's required for a family
 2 medicine clinic or pediatric clinic or a federally qualified health clinic,
 3 government dictates safety factors all of the time. We have to have people
 4 come through and look at our ophthalmoscopes and our otoscopes and put
 5 a sticker on them every year when there is very little chance for them to
 6 malfunction. We have to have a crash cart--I mean, I could go on and on and
 7 on. It is not unprecedented for the state or the federal government to require
 8 these requirements. And in an abortion, even in the first trimester, there are
 9 complications that can occur that can be devastating and even life-threatening.
 10 The uterus has a blood flow of 500 cc's a minute, and sometimes even under
 11 good hands, bad things can happen. And that's what we're trying to do. The
 12 medication with RU-486, bad things can happen.

(Mardoll, 2013, p. 142)

Deuell first reframes the regulation debate as normal for the medical industry, making the question of whether or not the state should hold medical facilities to certain standards seem silly as it already does so extensively (4.7, lines 1-6). Then he reasserts the bottom-line safety frame, pointing out the fact that the complications of an abortion "even in the first trimester" (4.7, line 8) can be "devastating and even life-threatening" (4.7, line 9). The vivid detail of the uterus'

blood flow (4.7, lines 9-10) and the specific mention of the medication RU-486 (a pill that aborts pregnancy) and its potential complications all support the idea that the clinics should be prepared for a worst-case scenario. Within this frame, he chooses not to consider whether or not current clinics are prepared for these scenarios, instead reiterating that the higher the standards of safety and preparedness, the better. The scary thought of “500 cc’s a minute” of blood from a nicked uterus makes Davis’ focus on access seem reckless—after all, more access to unsafe care is actually worse for women, in Deuell’s frame.

As the discussion turns to another aspect of the bill, the following exchange occurs:

Excerpt 4.8

1 WD: So, it may be the case that doctors that are perfectly capable, wonderful,
 2 tremendously well-educated and good doctors don’t get admitting privileges
 3 to a hospital simply because the expertise that they have is not something
 4 that the hospital needs.
 5 BD: Well, but the doctors performing abortions would have to have certain
 6 training credentials. Do you think it’s good to have abortions done by
 7 doctors who couldn’t get basic hospital privileges?
 8 WD: But that’s not why-- you’re assuming that the reason they wouldn’t get the
 9 basic hospital privileges is because they don’t have somehow adequate
 10 training or credentials in order to get it. And we know, again, based on what
 11 THA is saying to us, that there are multiple reasons why hospitals don’t grant
 12 admitting privileges to doctors.
 13 BD: Well, now, my point is that the angst about this part of the bill would be that
 14 many of these doctors would not have the credentials to be given admitting
 15 privileges to a hospital. And that perhaps this also is a safety part of the bill.
 (Mardoll, 2013, p. 148)

Here, the debate centers on a restriction of the bill that would require doctors to be certified at a hospital within a certain geographical range of the abortion clinic at which they work. Davis argues that this restricts access since “good doctors don’t get admitting privileges to a hospital simply because the expertise that they have is not something that the hospital needs” (4.8, line 2-4) or for other “multiple reasons” (4.8, line 11) which may have nothing to do with the quality of the care the doctor provides. Deuell does not clash with Davis on this point, stating only that

“doctors performing abortions would have to have certain training credentials” (4.8, lines 5-6). This does not contradict her point that there are many reasons a doctor may be *denied* admitting privileges, instead focusing on what they must do to *gain* admitting privileges. By doing so, he is able to suggest that doctors unable to get admitting privileges all fail to do so because they are unqualified and therefore cannot be trusted to provide safe care. He sums this up with “and that perhaps this also is a safety part of the bill” (4.8, line 15), suggesting that the bill once again increases safety for women by ensuring doctors are well qualified. This never answers the point Davis suggests, that well-qualified doctors will be unable to perform abortions due to being denied admitting privileges for other, unknown reasons. Here again, Davis is concerned with access: fewer doctors able to perform abortions means fewer clinics available for women to visit; and again, Deuell is willing to put aside any critique of restricted access for the potential benefit of preventing even a few unqualified doctors from practicing (regardless of how many qualified doctors are also denied that right).

The two senators manage a very civil discussion in which they reiterate their own points and that they disagree with each other. The fact that their argumentative frames clash makes it unlikely for them to consider each other’s arguments thoroughly. Deuell never addresses the question of access, should clinics close due to SB5’s requirements, instead dismissing this outcome as unlikely. He also never provides an answer to the question Davis poses again and again, namely what specific medical research suggests that ASC regulations are necessary for the safety of women during abortion procedures. On the other side, Davis rarely gives specifics about the current safety standards at abortion clinics, nor does she address Deuell’s concerns regarding a worst-case scenario. Within the access frame, this worst-case scenario speculation is fruitless given how excessively the bill would restrict access for seemingly no gain.

Despite the agreement on the situational frames, the contrasting argumentative frames facilitate the lack of clash that so often typifies debate over abortion. While in other situations such as street activism, the lack of clash tends to look different—insults, threats, chants, lack of engagement, etc.—it nonetheless characterizes all forms of the abortion controversy. The very argumentative frames of the prolife and prochoice movements themselves are so radically different that there is very little opportunity for clash to occur. This conundrum is not insurmountable; Bing & Lombardo (1997) suggest that when parties operating under different (argumentative) frames acknowledge this, they open the possibility for real discussion. Instead of working within two argumentative frames that render each other's arguments unintelligible and unworthy of rebuttal, the disputants could instead discuss what underlying assumptions and ideologies have produced their clashing frames. In other words, the level of clash for a debate such as this is on the argumentative frame level, rather than on the argument level.

Without clash, the debate about SB5 looks sadly like many other, less decorous abortion debates. The same arguments are largely repeated without either side truly persuading the other. The terministic screens of the symbolic language used by each side are very strong. Each side's screens filter out the language and vocabulary of the other, making their arguments unbelievable and incredible. It is unsurprising that Senators Davis and Deuell did not successfully debate the particulars of the bill but instead kept emphasizing the importance of their own argumentative frames. For Davis, with her primary goal of curating the symbolism of the filibuster, maintaining her argumentative frame was of the utmost importance. She had to be the hero, and the hero cannot back down or appear weak when facing the villain. Thus, she kept to the script and maintained her position, engaging civilly and without much progress when questioned by Deuell. Within their frames and through their terministic screens, each senator repeated and

stood by his/her position. Though Davis and Deuell have specialized knowledge, their positions were unaltered and poorly examined throughout the course of their debate. This is a characteristic of abortion controversy discourse in general, though for most laypeople the debate is even more generalized than that between the two senators. As will be seen in the next chapter, this is largely due to the *public arguments* of the abortion controversy.

CHAPTER 5

Twitter Chimes In:

The Abortion Controversy Across Mediums

When it comes to discussions about whether or not abortion should be regulated in America, the same arguments always seem to surface. These arguments form a set of *public arguments* found within the cultural history of the abortion controversy. This draws from Debra Spitulnik's work regarding public words. In a study of Zambian vernacular, Spitulnik (1996) suggests that certain words, first used in highly contextualized, mediated settings, were so recycled and reused that they became "public words," which one must understand in order to be considered a competent member of the speech community. From this foundation, I extend "public words" into "public arguments," to explain the use of certain key words, phrases, and arguments that frequently are used and reused in the abortion debate. This moreover ties back into intertextuality and framing, as the repetition of these arguments intertextually draws on the words of similarly-ideologically-minded others. When brought up, these public arguments moreover can instantly shift the frame of a discussion, from whatever aspect of abortion politics was originally on the table back to the same, repeated and overused public topics.

In fact, in political communication scholarship, there are some who argue this is not only naturally occurring but also intentionally done to distract people from lasting, important issues. As Drews, Lyons, and Svelha (2010) point out, today's sound-bite culture can lead citizens towards conclusions that are contrary to the best available data, equalizing all positions even when those positions are empirically unequal (p. 18). New media outlets such as Twitter can as often as not contribute to this problem, since "while media outlets have increased in number and scope, audience self-selection means that these each construct their own insulated political spectacle" (Drew et. al, 2010, p. 22). This claim is supported by the research of Himelboim, McCreery, and Smith (2013), who concluded that at least on Twitter, "political talk is highly partisan, where users' clusters are characterized by homogeneous views." In other words,

exposure to ideological opinions other than one's own is infrequent and unlikely on Twitter. This is reflected within the tweets that occurred during the course of the filibuster, as well as the "debates" that follow from them. When discussion between two or more users of different opinions does occur, it rapidly degenerates from the topic on hand back to the related public arguments, or insults and dismissive language. These hashtags are very seldom used with a tweet that supports the opposite ideological stance.

However, more often than not, this discussion does not even occur. People largely avoid replying to—perhaps even avoid reading—tweets which purport an opinion contrary to their own by using hashtags that clearly declare their ideological stance. These hashtags are very seldom used with a tweet that supports the opposite ideological stance. Zappavigna (2011) argues that on Twitter, the hashtag functions as "the punctuation of ambient affiliation" (p. 803). She defines ambient affiliation as affiliating with a "copresent (Goffman, 1963), impermanent community by bonding around evolving topics of interest" (Zappavigna, 2011, p. 800). Because hashtags allow for the possibility that a user's tweet will be followed by others who share an interest in the topic delineated by the hashtag, it creates the possibility for a moment of community with those others who might then see the tweet. Ambient affiliation needs not include actual interaction, according to Zappavigna, and the momentarily affiliated people may never encounter each other again. The key is that the hashtag, because it makes a person's opinion and words visible to others who are interested, momentarily connects and aligns Twitter users. By using ideologically charged hashtags, a user is entering into a community of interest that shares that ideological stance. It is therefore natural to the interface to use hashtags that are positively correlated to a user's stance on an issue, since it is impossible to enter a community of practice that believes the opposite of a hashtag's ideological stance, even if the tweet itself uses it

as ironic or negative.

Affiliation in this sense is strikingly similar to Burke's notion of consubstantiality (1969). Burke describes substance as "an act; and a way of life is an *acting-together*; and in acting together, men [*sic*] have common sensations, concepts, images, ideas, attitudes that make them *consubstantial*" (1969, p. 21). In other words, when we engage in public acts, whether discursive or otherwise, we make known our substances to one another. When our acting reveals common goals, motives, and ideologies, our substances overlap, making us consubstantial. Thus we might see the ambient affiliation created by a hashtag on Twitter as the language of consubstantiality, the act of expressing the overlap of our substances with those who act, do, and believe similarly to us. This is what Burke calls the language of identification, wherein we do not aim to persuade but rather semi-consciously establish unity and division among those around us (1969, p. 20). The affiliation created and felt by Twitter users is a reflection of the identification that occurs in our everyday methods of talk. The language of identification is also always working to divide out those who are *not* consubstantial, and in this capacity can contribute to polarization, especially in the 140-character tweets where there is not much space to establish affiliation and users must therefore be direct and partisan.

Polarization along ideological lines is hardly new to political debate, and especially not to the abortion controversy. Adams (1997) traces the history of abortion in the two major US political parties over time. He found that although the majority of average Americans held fairly moderate views on abortion, political elites continued to nominate candidates to positions who had more extreme views. Slowly, political positions were held by people who were strongly opinionated on abortion. This led to a shift in the generally moderate opinion of ordinary citizens, who were now faced with constantly hearing about the wedge issue of abortion from

extreme party members. Party identification became partially defined by one's opinion on abortion—so much so that Killian and Wilcox (2008) found in a longitudinal study that abortion ideology can lead to party switching. Although it was not common, the authors found that party identification was occasionally switched based primarily on a person's prolife or prochoice stance.

This polarization is reflected also in Twitter. Yardi and Boyd (2010) studied the Twitter response to the 2009 shooting of George Tiller, a doctor who was killed for performing abortions. The authors determined that both prolife and prochoice Twitter users were three times more likely to respond to people holding the same view as themselves (homophily), reflecting the conclusions of Himelboim et. al (2013) as reported above. Yardi and Boyd (2010) moreover concluded that talk between like-minded individuals led to stronger and more emotional statements of belief due to corroboration, while talk between different-minded individuals led to clear in-group/out-group definition. They uncovered defensiveness, rejection of others' opinions, and impolite/rude responses, while finding very few examples of level-headed issue discussion.

The polarization of opinions and the establishment of in-group/out-group mentality have strengthened over time, but Platt (2000) suggests that we often mislabel a text or person as prochoice or prolife. In fact, his extensive statistical study suggests that abortion discussions are significantly better understood with a three-group model. He introduces gestation prolife/prochoice as a third party, so that the three groups are prolife, prochoice, and gestation prolife/prochoice. This is a superior model, he argues, because many texts labeled prochoice or prolife actually better reflect an opinion change based on gestational age, and the arguments for or against abortion at certain weeks of pregnancy are different. A prolife or prochoice text uses

the same arguments at all gestational age, while the third party shows a change in arguments used to support their stance based on the age of the fetus. By adapting our understanding of the abortion controversy to have a third major camp, it could be possible to avoid the in-group/out-group schism that has developed. Tannen (1998) has suggested that including three or more opinions while talking about divisive issues can lead to a less dualistic discussion. For abortion, though, it is unlikely that many will concede a third camp of belief, since political ideology and stance on abortion have become so intertwined. Separating political ideology from the abortion debate would be a necessary first step.

In this chapter, the data I will analyze comes from tweets that occurred right before, during, and right after Wendy Davis's filibuster of SB5 in Texas. The scope of Twitter's uses and modes of interacting make representative selection a difficult task. I've chosen two types of Twitter interactions as examples of how the abortion controversy plays out on the social medium. First, I have chosen a conversation between four specific Twitter users regarding Davis's initial announcement on Twitter of her intention to filibuster. This set of tweets primarily relies on the reply function of Twitter, wherein a person can reply to a tweet from another user and create timelines of topically linked conversation. This is usually a fairly synchronous way of communicating via twitter, and exhibits characteristics of talk-in-interaction that other usages of Twitter don't exhibit, such as an extended back-and-forth between a small group of individuals who intend for those same others to read and respond to their tweets. Second, I have chosen a set of tweets all responding to one particular tweet, but that are not replies to each other. This type of reply does not intend for specific others to see a response, but still all build from the same original tweet. It is not as synchronous, but stays focused primarily on a particular, specific topic.

Twitter Data Set

The first set of tweets comes from a conversational set of replies to a reply to a tweet by Wendy Davis, in which she announced her intention to filibuster SB5. Davis's tweet stated, "The leadership may not want to listen to TX women, but they will have to listen to me. I intend to filibuster this bill. #SB5 #txlege." Thousands of Twitter users replied, retweeted, and favorited the senator's tweet. One such reply came from Twitter user Conservative States (@CCSL_States), who answers just four minutes later, "@WendyDavisTexas – Texas women are prolife and they voted in 'the leadership.'" This reply itself received a number of replies, in which a brief debate unfolded regarding the effects of SB5. Besides @CCSL_States, the key players in the interaction are RiskyLiberal (@RiskyLiberal) and Michael LaBranche (@mdlbranche). These two users demonstrate a prochoice, liberal opinion regarding abortion, while @CCSL_States espouses a conservative, prolife opinion. Of the 49 tweets that followed @CCSL_States initial tweet, the first twelve resemble an actual conversation, with the three participants referencing each other's points and replying directly. After this, the replies become less synchronous and more inflammatory.⁹

The second dataset began with a tweet from the magazine Cosmopolitan, which read "Cosmo girls! Senator @WendyDavisTexas has to hold the floor until midnight to protect your rights: <http://cosm.ag/6012k7yy> #StandWithWendy". A large number of Twitter users who follow Cosmopolitan responded to the tweet to express their approval or outrage that Cosmo would so publically take a prochoice stance. There are many of these responses, but they are not meant to be a turn-by-turn conversation with other respondents. Rather, they are individual

⁹ See Appendix II for full data set.

expressions of opinion, linked only because they are all expressing opinions on the same tweet.

Although they have different intended audiences and purposes, are conversational, para-conversational, both datasets have the defining traits of the abortion controversy. To demonstrate this, data from the filibuster text itself will at times be used as comparison, so that the similarities between tactics and utterances can be highlighted. The filibuster data is word-for-word transcribed simply for text, without inflection or other paralinguistic markers noted. This is because it is being compared to written text, so the arguments as constructed by the words themselves are of primary importance.

Conversational responses relying on Public Argument

After Senator Davis announced her intention to filibuster SB5 at midnight on the 25th, Twitter users immediately began picking up the conversation. The following excerpt takes place from 12:07 AM to 12:29 AM. The three Twitter users here begin with the discussion of whether or not Texas women are prolife. (Here, CS stands for @CCSL_States, RL for @RiskyLiberal, and ML for @mdlbranche. All tweets are reproduced exactly as the authors wrote them.)

Excerpt 5.1

- 1 CS @WendyDavisTexas – Texas women are pro-life and they voted in “the
- 2 leadership”
- 3 RL @CCSL_States @WendyDavisTexas POLL 80% Of Texans Don’t Support
- 4 Abortion Restrictions Moving Through Legislature ...thkpr.gs/15vvka
- 5 ML @CCSL_States @WendyDavisTexas keep your bibles in church and out of
- 6 government
- 7 CS @mdlbranche – No one mentioned “Bible.” Just science.
- 8 RL @CCSL_States @mdlbranche Science says this bill will increase the death rate
- 9 of women by 24% over current. Not a “pro-life” bill at all.
- 10 CS @RiskyLiberal – Science says it will end 95% of abortions in Texas.
- 11 RL @CCSL_States Sigh ... no. It will end legal abortions. The number of abortions
- 12 will not change. The death rate will go up 24%. Science.
- 13 CS @RiskyLiberal – Wrong. The *number* of abortions will drop dramatically,
- 14 which is why liberals are staying up all night fretting.
- 15 RL @CCSL_States No.It’s very sad you are so uninformed and ignorant of the

16 subject. Three medical orgs say you're dead wrong.
 17 ML @CCSL_States science, huh? Good luck selling that. Guess you think federal
 18 law doesn't apply in Texas. Think again.
 19 CS @RiskyLiberal – Outlawing stuff reduces stuff. It doesn't get rid of all stuff, but
 20 it reduces stuff by a great amount.
 21 CS @mdlbranche – SB5 already law in other states. Soon to be law in Texas, too.

Both the original tweet by Sen. Davis and the initiating response by CS regard the relationship between Texas women and the Texas legislature, written as “the leadership.” The first reply by RL, which gives the title and URL of a political opinion poll referencing the general opinion of all Texans (not just women) and SB5, remains more or less germane by bringing in contrary evidence (albeit just as biased) to CS's original claim. ML, however, chimes in right after RL with the comment that CS should keep the Bible out of governmental debates (line 5). Taken outside of a cultural context, this makes no sense in the development of the argument. CS and RL were debating the democratic process and opinion of Texans and Texas women, but ML enters with an admonishment regarding the separation of church and state.

CS in fact points out that “no one mentioned ‘Bible’” (line 7), highlighting the inconsistency of ML's comment. Yet in the same tweet, CS mentions “science,” which is in fact just as seemingly non sequitur as religion. Just like the Bible, science had no role in the first three (including Wendy Davis's) tweets. Neither religious nor scientific reasons were given by Sen. Davis or CS, but ML brings in religion and CS responds by bringing in science. Read in a cultural vacuum, these comments are completely unrelated to one another and should be labeled as such by a rational debate participant. Instead, science becomes the rallying cry for all three participants, showing up in each of the three following tweets (lines 8, 10, 12), in altered form as “medical orgs” by RL (line 16), and again as “science” by ML (line 17). How can the topic shift from the relationship between Texas women and the Texas legislature to science and religion in

just three tweets? And why do the participants so nonchalantly bring in and orient to these new topics, without confusion or attempting to bring it back to the original topic? In fact, the discussion continues as though “science” is the original topic.

The debaters here are using public words and phrases that come from cultural knowledge of the abortion debate. Any person invested in abortion politics on either side of the opinion spectrum is well aware that in abortion debates, the topics of “science” and “religion” are contentious and nearly omnipresent. So when ML comes in at line 4 with his suggestion to keep the Bible out of government, his words reflect the subculture rule that religion is always relevant to abortion politics. CS reads “bible” and sees “religion vs. science”—another subcultural norm, made so by intertextual and historical repetition of an adversarial pairing of these two concepts. For these interactants, science and religion are *always* the topic of an abortion debate in some way, and it is therefore natural to bring them up. They are, to the subculture of abortion activists (no matter which side of the debate they fall on), *public arguments*. They are instantly understood by both sides with no contextualization needed, they are repeated *ad nauseum* within almost any abortion politics debate, and knowledge of these arguments is necessary to be an in-group member of either the prolife or prochoice groups. In a way, this is what sits at the heart of such a divisive controversy as abortion politics: public arguments that permit dismissal of other, non-public arguments. No debate actually occurs here over the majority opinion of Texas women regarding SB5, and no one is prepared to have their mind changed. Instead, the three participants instantly reach into that well of public arguments and begin to repeat what they all know and, most likely, have heard before. Both (anti-)religious and scientific arguments become default arguments, to be thrown into the mix immediately upon recognition of the umbrella “abortion politics” topic.

This same pattern is at times reflected in portions of the filibuster. As Davis reads testimonies written by citizens, the reliance on public arguments regarding choice and restriction of choice is present in almost every testimony. The umbrella argument here is that women have the right to choose, and the government should not restrict that right. While this is relevant to the abortion debate as a whole, the proponents of SB5 can easily argue that women in Texas may certainly still choose to have an abortion. Technically, nothing in the bill stops a woman from making that choice; proponents say the bill is about providing the safest possible care to women who do choose abortion, not taking that care away altogether. The testimonies, however, frequently make such appeals as “Please don't take that choice away from me” (Mardoll, 2013, p. 57), “Why don't we look at this bill for what it really is? A political maneuver that strips away the right of a woman to choose what to do with her own body and puts it in the hands of men who are more interested in fulfilling a religious, political agenda” (Mardoll, 2013, p. 56), and “if you are here as a woman who is concerned about her most deserved and protected rights, you might want to reconsider your trek down to the Lone Star State” (Mardoll, 2013, pp. 66-67). The testimonies frequently rely on the abortion trope of women's choice, and although it is a relevant issue, it is easily rebutted by the prolife proponents of the bill. Other, more specific issues such as the date of pregnancy or the ability of clinics to update to ASC status, are talked about as well, but by relying on the public argument of women's choice, the testimonies set themselves up for dismissal.

Tweets have 140 characters to make a point. The problem with public arguments, therefore, is visible in its distilled form in the tweets between CS, ML, and RL, while it is more drawn out and less traceable in the testimonies read by Sen. Davis. However, it is standard in the abortion debate to rely on these types of arguments, even with more specific and new arguments

woven in or included. This reliance is dangerous, because for each prochoice public argument there is a prepackaged prolife counterargument, and vice versa. As the Twitter data exemplifies, this results in circular repetitions that devolve quickly into thinly veiled insults regarding the other's competence (RL: "It's very sad you're so uninformed and ignorant" [line 15], or from a citizen testimony: "What gives the State of Texas using thinly veiled language the right to superimpose their narrow religious beliefs on every female in Texas? Entitlement and power" [Mardoll, 2013, p. 72]).

Affiliation and identification in para-conversational responses

The magazine *Cosmopolitan* has a Twitter account which is followed by 746,032 other Twitter users. At the time of the Wendy Davis filibuster of the restrictive abortion bill in the Texas State Senate, Cosmo tweeted the following: "Cosmo girls! Senator [@WendyDavisTexas](#) has to hold the floor until midnight to protect your rights: <http://cosm.ag/6012k7yy> #StandWithWendy". In response, prolife "Cosmo girls" responded by the dozens, indicating that this is a place where in fact, their ideologies do *not* overlap¹⁰:

Michelle Lancaster @SkiGarmisch 25 Jun
@Cosmopolitan WHAT?! She's promoting the murder of innocent babies! She's not protecting my rights.

Rachel Veronica @rachelveronica 25 Jun
 Hey @Cosmopolitan, not all your readers so easily shirk their responsibilities by killing their unborn child. Grow a pair, stand for life.

Alexa Marcus @OutOfDust 25 Jun
@Cosmopolitan @WendyDavisTexas protect the right to kill someone? WTH.

¹⁰ Here, I have chosen to not format these tweets as if a transcript as I did earlier in the chapter, with line numbers and excerpt numbers, because the tweets are not chronologically linked to each other as turns in interaction. Rather, they are individual statements of opinion, linked only in a loose sense by all being replies to the same tweet.

These women (presumably) follow Cosmo and saw the tweet about Wendy Davis. The act of following someone on Twitter is an act of consubstantiality; we follow those with whom we share some attitude, belief, or ideological stance. Thus, the women quoted above felt the need to distinguish themselves from Cosmo's prochoice stance publicly, to divide themselves from the substance of Cosmo on this topic. Their tweets, which all include the address "@Cosmopolitan," will therefore show up on anyone else's feed who follows Cosmo or is interested in seeing what Cosmo tweets. Michelle, Rachel, and Alexa all took a moment to make clear that they are resisting the prochoice ideology reported by Cosmo. There is no acknowledgement of a middle ground or possibility for discussion; instead, Cosmo is killing babies, cowardly, and promoting murder.

This type of vituperative language relies on the public arguments of the prolife camp, and once again public arguments leave little ground for a true exchange of ideas. Instead, they are used here to clearly distinguish these women from the prochoice stance Cosmo espouses—after all, everyone within the abortion activism subculture knows only prolife people use certain public arguments, and prochoice people certain others. Thus, the use of public argument is in fact related to identification and consubstantiality, as activists on both sides use them to draw lines between themselves and others in terms of where substance does and does not overlap. Notably, public argument in this case is not being used to persuade or to move the conversation forward, but instead as a tool of identification. Again we see stalemate as a norm of public controversy.

Some users found Cosmo's tweet to be so out of line with their own identity as prolife supporters that they actually broke off the possibility of future ambient affiliation by choosing to publicly denounce and unfollow Cosmo—not just on Twitter, but by canceling subscriptions:

A. @MsAngNicole25 Jun

@Cosmopolitan @WendyDavisTexas Wow. Shame on the both of you. Never buying a cosmo magazine again. RT if you won't either!! #SB5

Liz Henry @_LizHenry25 Jun

I may consider Cosmo ban: “@Cosmopolitan: Cosmo girls! Senator @WendyDavisTexas has to hold the floor until midnight to protect your rights.

AggieBarbie @AgSweety0525 Jun

@Cosmopolitan wow Cosmo promotes killing babies , cancel your subscriptions

In A.’s and AggieBarbie’s denunciation, we see not only a personal disaffiliation with Cosmo, but also a call for other Cosmo girls to disaffiliate (A. tells others to “RT if you won’t [buy another Cosmo] either!”, and AggieBarbie directs others to “cancel your subscriptions”). Thus, these women are implicitly acknowledging their consubstantiality with other Cosmo girls, who must share enough attitudes and beliefs to also want to follow Cosmo but whom they likely do not know or talk to. Yet they expect their tweet to reach this wider audience, without any hashtag being present. Simply by using the address “@Cosmopolitan,” A. and AggieBarbie expect their tweets to reach other Cosmo girls. They are at once disaffiliating with Cosmo and attempting to create a new affiliation with other Cosmo girls based on their prolife identity. Here, the polarization is so complete that there is no possibility of continued affiliation from which could stem productive conversation. In the morally charged arena that is the abortion debate, a rupture of consubstantiality can be too great to overcome (recall that the issue is so polarizing it even leads to people switching political party affiliation [Killian and Wilcox, 2008]). Either a user can support murder and continue to follow Cosmo, or she should stop associating with Cosmo in any way. Discussion is stunted immediately. Since the reply function of Twitter is para-conversational in that it allows for people to talk *at* each other but simultaneously broadcasts the conversation to many and allows asynchronous, non-topical

responses that cannot be policed, these replies are used not to make conversation but to encourage polarization, in-group/out-group schisms based on a prolife/prochoice dualism.

Of course, not all responses to the Cosmo tweet resist the affiliation. Several responses indicate that in fact, the responding user does not ordinarily affiliate with Cosmo but considers their prochoice stance a worthy one. For example:

Missy @geceosan25 Jun
 @Cosmopolitan @DrJenGunter @WendyDavisTexas thank you, Cosmo. i have many problems w/ your magazine, but this is a stand-up position #sb5

Here, Missy openly states that she does not ordinarily consider herself consubstantial with Cosmo (“i have many problems w/ your magazine”), but finds Cosmo’s position on SB5 to be “stand-up.” She identifies with the other prochoice followers of Cosmo as a member of their prochoice, Cosmo girl community, established on Twitter. Interestingly, she is one of the few responders who uses the hashtag function as well as addressing Cosmopolitan through the at-sign. As Missy is expressing her affiliation not just with Cosmo but with Wendy Davis and prochoice Texans following the filibuster, perhaps she is trying to be “louder” (Zappavigna, 2011, p. 801) in order to reach multiple audiences. In contrast, the only negatively-valenced tweet that uses a hashtag is A., who adds “#SB5” at the end of her tweet announcing she will never buy another Cosmo magazine. She, too, is accessing more than one audience by more loudly broadcasting her opinion. By using the same hashtag (#sb5), both Missy and A. belong to the same ambiently affiliated community, with a common interest in the topic not just of abortion generally, but specifically of the filibuster of SB5. This commonality ends there, however, as neither woman uses the overlap of interests to engage with others of different ideological standing.

This use of affiliation and disaffiliation to further schismatic differences between the

dualism of prolife and prochoice groups is reflected in the filibuster as well. The citizens use their testimonies to construct the senate as a prolife group that thinks and acts in a certain way, as opposed to the citizenry (represented by the citizen author, of course), as when one woman writes, “Polls show the majority of Texans do not support you... the 700 here representing the 5.7 million others are shining a light on your actions” (Mardoll, 2013, p. 62). The referenced “5.7 million others” are the nearly six million women in Texas of child-bearing age; the author groups all of these women into one big, prochoice constituency which is represented by the prochoice activists who showed up to testify. While there is occasionally acknowledgement of the prolife proponents among the citizens at large, this is typically referenced as a small, extremist group (“You are trying to pass a law to appease voters that make up a tiny sliver of our state’s population; the most conservative branch of a conservative party” [Mardoll, 2013, p. 62]). Characterizations of the citizenry tend to focus on women and their individuality, as well as the sacred relationship between a woman and her physician. The senators are explicitly excluded from having a relationship with these women:

Excerpt 5.2

1 I’ve been a patient of my ObGyn since 2000. He and I have worked through
 2 a pregnancy and birth of one of my three children. He knows my medical history
 3 and has helped me to choose my birth control. I am a grown woman, who after
 4 having borne three children knows the very real emotional, financial, and spiritual
 5 weight of having that experience. It is hard, quite expensive and scary at times
 6 -- and it is intensely personal. You are cordially not invited to share that experience
 7 with me. I am a grown woman, a voter, a citizen, and a U.S. constitutionally
 8 protected American. You are cordially not invited to treat me as though I am not.
 (Mardoll, 2013, pp. 61-62)

This woman pushes the legislative body out of any possible ongoing relationship. They are explicitly told that they have no reason to affiliate with her. While she does reference her role as a voter which inherently assumes the relationship between voter and elected official, she chooses not to focus on this role except as a way to claim protected status. The possibility of overlap

between her own interests and those of the senate exists—she is a voter, they the elected—she chooses to ignore this overlap and focus on excluding the prolife senators from her life.

Another woman lays out a suggestion for alternatives to SB5 that would, she suggests, decrease abortion rates in Texas. After doing so, she states, “I fully expect all of those points to be rebuffed with anti-choice tropes about loving babies and loving women” (Mardoll, 2013, p. 66). Here she acknowledges the use of public argument as a way of ignoring the specifics of a proposed plan of action. She groups the senators into an “anti-choice” camp that will not listen or consider any viewpoint other than their own, making them unethical representatives who fail to truly listen to their constituents. This woman, too, disaffiliates from the senators, making an out-group of the unethical, domineering politicians, as opposed to the logical citizenry who could do a better job at solving the abortion debate if given a chance (she does, after all, propose a solution just seconds earlier). At the same time, she strategically uses terms to identify with prochoice supporters; the term “anti-choice” not only characterizes the senators, but also is a term used within prochoice camps to establish solidarity and group identity.

Just as the women responding to Cosmo’s tweets use the opportunity to clearly draw the line between the “us” and the “them” of the abortion controversy, the authors of the testimonies read by Davis during the filibuster similarly draw lines between the prolife senators and the prochoice citizens. In both cases, the out-group is made to look unethical—Cosmo is cowardly and supports murdering babies, the senators are “anti-choice” and striving to appease a “tiny sliver” of the most conservative Texans. The polarizing of the in-group/out-group status precludes acknowledgement of middle ground or the possibility of a third option. The authors curate the dualism that characterizes public controversy, making compromise intolerable and impossible.

The abortion controversy plays out the same way in almost any forum and between any type of participant. Online, in person, between public or private figures, the schism of prolife vs. prochoice is not just maintained but actively augmented. People choose to engage in acts that *look* like debate, while in fact failing to clash on specific, unique topics. On Twitter, this characteristic of the abortion controversy is in fact aided by the interface of the social media site. Even replies to a specific individual are loudly broadcast on Twitter, making each tweet a possibility for creating or dispelling affiliation between oneself and possibly thousands of others. The short length of each tweet moreover makes the degeneration into public arguments, insults, and exasperation rapid, ending the possibility of forward-moving discussion in just a few tweets. Circular, angry messages or messages not meant to engage in debate at all are easy to find, while there are almost no examples of reasoned, thoughtful discourse.

As seen through the comparison to the citizen testimonies in the text of the filibuster itself, these traits are not unique to Twitter, simply exacerbated by its interface. In their testimonies, citizens were not constrained to 140 characters, and knew exactly whom their audience would be. As such, the enactment of the controversy is much more complex. Here, reasoned arguments and thoughtful discourse is easier to find, though many times it is coupled with disenchanted remarks like “I fully expect all of those points to be rebuffed with anti-choice tropes about loving babies and loving women” (Mardoll, 2013, p. 66). These types of remarks set opponents up as unreasonable, unwilling to engage. They also are fairly insulting, indicating that the author holds possible opponents in disrespect before they even speak, thus decreasing the chances that an opponent would want to speak up and try to talk through differences.

The filibuster in June, 2013, is just one more instance in a long line of political discussions regarding abortion. The history of the controversy indicates that it has polarized

over time, with the only options of prochoice and prolife becoming defining characteristics of political identification. Although studies suggest that this polarization is a result of certain types of media coverage (as with Svelha et. al's (2010) research regarding soundbites), and that the actual breakdown of opinions regarding abortion are better explained by a three-group model (Platt, 2000), there is little movement within the discourse towards a more inclusive, thoughtful mode of conversation. Social media sites like Twitter allow the general public to corroborate their own ideas and constantly reestablish a black-and-white understanding of the abortion debate.

CHAPTER 6

Conclusion

In some ways, prochoice activists might declare Senator Davis' filibuster a failure. Although delayed, SB5 passed into law just a month after Davis's extensive efforts. However, Davis's filibuster took on a symbolic status as something far greater than just a legislative ploy aimed to delay debate. Instead, it was a unique moment for the public controversy of the abortion debate, in which many voices and types of people converged to speak, argue, and be heard. This was particularly important in Texas, where the voices of prochoice activists are often *not* heard, whether because they are assumed to be the minority opinion, or because they choose not to participate due to thinking their voices do not matter. For Wendy Davis to stand up and force their voices to be heard, even when the end result is completely consistent with expectations and typical enactments of public controversy, was exactly what the prochoice movement in Texas needed. It is of little surprise then that prochoice activists across the state and nation agree the filibuster was very successful indeed. The measure of success here is clearly something other than instrumental, pragmatic accomplishment of the immediate goal of the filibuster. Instead, the filibuster is remembered fondly by prochoice proponents because of its symbolic value.

Moreover, Davis quickly became an overnight Democratic celebrity in Texas, a household name among conservatives and liberals alike. It was only a few days later that long time governor Rick Perry announced he would not run for reelection, opening the door for a regime change for the first time in fourteen years. Because of the filibuster and the timing of the announcement, it was immediately assumed Davis would run for the governorship. And indeed, just fourteen weeks after the filibuster took place, Davis announced her campaign for the position of Texas Governor. Without the symbolic success of the filibuster under her belt, she may still have decided to run (though, notably, she had for a long time denied any intention to do so), often cited as one of the only Democrats of note in Texas. Yet without that success, she

would have been a considerably worse candidate—a troubling fact indeed for the Texan Democratic Party.

It is important to note that these accomplishments within the realm of Texas politics are built and constructed rhetorically, through the discursive tactics on a sentence-by-sentence level. Davis's use of footing shifts, strategic identification, public arguments, and other linguistic choices, construct the very success of the filibuster here discussed. While context is highly relevant, it is possible to imagine an *unfitting* response in which Davis's storyline might not have caught so much attention. Had the filibuster been cut short after just an hour or two, for example, the ignition of the Texas prochoice movement and Davis's own gubernatorial campaign may have been significantly less spectacular and heeded. Davis had to carefully choose the ways to construct the filibuster discourse in order to not only maintain the floor, but also to provide the kind of symbolic kick-off that the filibuster has been in retrospect. In the details of her speech, we see the method of creating a big-picture impact.

Beyond Texas politics, the filibuster and its surrounding discourse provide ample examples of the kind of discourse typical to the abortion controversy. Public controversy looks the same across mediums and regardless of the status of the people speaking; senators, layperson Tweeters, citizen activists, medical doctors all use language that reflects the same aspects of controversy. The use of public arguments is common, wherein interlocutors rely on a standard set of arguments known to all within the prolife or prochoice community and considered standbys appropriate for any and all discussions of abortion. The use of these public arguments contributes to the schismatic nature of public controversy, characterized by the underlying assumption on both sides that prolife and prochoice mindsets are diametrically opposed and have no common ground. With this underpinning, interlocutors tend to take extreme positions and

refuse to acknowledge alternative viewpoints. Moreover, the clash of either situational or argumentative frames between prochoice and prolife discourses results in a failure for argumentative clash, contributing to the stalemate that is presupposed in debates over this controversial topic.

The Twitter datasets help to illuminate this phenomenon. The abortion controversy is an old one in the United States, and we see in the tweets how these people participate in a discourse that is actively and rigidly controlled by the history of this controversy. Moreover, their continued use of public arguments and polarizing statements of identification and division, shape future discourses as well. The very nature of Twitter's interface and affordances contributes to the ideological schisms characteristic of moral public controversies, and the tweets of activists on either side teach and suggest to future activists how to speak about this issue.

With a better understanding of how people enact public controversy through language, proponents of any viewpoint are more likely to be able to engage with and persuade opponents. For example, during the Davis/Deuell question-and-answer period of the filibuster, an acknowledgement of the clashing argumentative frames could have allowed the two senators to more fully discuss each of their concerns. Had they, for example, agreed to operate within Davis's frame for a few moments, then operate within Deuell's for the next set of questions, both senators may have found their questions more fully answered. Further, this opens the door for true argumentative clash, during which substantive and meaningful progress could be made in developing compromise or alternative options. Similarly, an agreement to avoid the public arguments that are not germane to the topic on hand would result in better clash as well. Had the conversations on Twitter, for example, avoided the topic of religion and science, the participants may have found themselves more informed on the different polls reporting public opinion among

Texan women. This could then reflect back on the democratic process and perhaps contribute to a better understanding among opponents of what would truly be best for the people of the state.

Whether people consider themselves activists or not, they always know to expect stalemate when encountering debates over the abortion controversy. This thesis endeavored to show how that expectation played into the rhetorical choices of Wendy Davis during her thirteen hour filibuster on the Texas State Senate floor. Davis knew ahead of time that her filibuster could not ultimately end the passage of SB5 in Texas. Instead, she entered the capitol building that day with a different goal in mind; namely, to construct a symbolic act of resistance around which prochoice Texans and Americans could rally in the fight to ensure reproductive healthcare is available and accessible to all women in Texas. While I do not claim to know whether or not the rhetorical effects of the filibuster were intentional, Davis successfully portrayed herself as the people's champion fighting against uncaring, extremist senators. This catapulted both the prochoice movement and Davis herself into the national limelight for a time, and more importantly for Davis, into mainstream Texas politics. With Governor Perry's formal retirement, Davis is poised to be the first real Democratic contender for the governorship in many years.

For those interested in Texas politics, it is worth noting that since the passage of SB5, Davis has been surprisingly quiet on the topic of reproductive rights. Given the filibuster as the primary cause of Davis's state-wide fame (or infamy, depending on which side of the fence you sit), this may seem unusual. However, I would posit two possible explanations, both of which stem from the fact that Davis is running for governor. First, focusing on the filibuster with the election just months away would in fact be focusing on a legislative failure. As discussed before, the filibuster did not ultimately achieve its most obvious (though I would argue, least important) goal of stopping SB5's passage. Thus, for her to talk extensively about reproductive rights at

this point would require her to explicitly argue for the symbolic importance of the filibuster. While she has done so in the past (Gambhir, 2014), this would distract from other aspects of her platform, presenting the risk that her intentions for her work as governor would be obscured. As a second (though not mutually exclusive) explanation, it is also possible Davis wishes to distance herself from reproductive rights for the time being because of its status as public controversy. The campaign trail is difficult enough without having to constantly prepare oneself for the draining and frustrating discussions that come naturally to public controversy. Moreover, she must attract many voters to win the election, and as we have seen, abortion is a very polarizing issue which can drive voters away. Thus, she may be distancing herself from the staunchly prochoice position through silence in order to make sure voters know about her entire platform and do not focus on her stance on reproductive rights. After all, prochoice voters already know where she stands on the issue and therefore do not need constant reminding, and others have a chance to familiarize themselves with her position on things they may agree with--education reform, veteran care, for example--while avoiding the schismatic topic of abortion. It will undoubtedly be an interesting race to keep an eye on, especially in relation to the filibuster. As the election unfolds, future studies comparing Davis's rhetoric in the filibuster to her campaign may provide interesting insight into the senator's intentions and political style.

This study is limited by the need to control the sheer scope of the data. I read the entire transcript of the thirteen hours of the filibuster, and hundreds of the millions of tweets published about it, and there is simply no way to cover the entirety of that information in a single project. The filibuster remains a rich resource for students of the abortion controversy and legislation, with a condensed and thorough prochoice history of abortion legislation in Texas and the dangers of restricting access to reproductive health care. Examining Twitter as a reflection of the

nation's momentary attention in regards to public controversy provides an interesting, multi-faceted approach that allows for examining not only the ratified voices, but also the more general opinion of those interested but not directly participating in a debate. In the future, I hope to see more scholars of rhetoric and communication taking up studies that put Twitter discourse in relationship to real-world events. This juxtaposition can bring to light the differences and similarities between expert and layperson discourses. A major advantage to this is that experts can learn more effective ways to communicate to layperson audiences, providing a better possibility for factual persuasion and expulsion of misconceptions.

For future research on public controversy, I think it is vital to endeavor to find ways to avoid the problems presented by moralizing, public arguments, and clashing frames. Work has been done in communication studies on ways to increase the productivity of conversations between people sitting on opposite sides of an ideological divide. For example, the Public Conversations Project (PCP) began in 2001 following the shooting of two abortion doctors. The leaders of PCP sought to find rules of interaction that would increase the productivity of conversations regarding abortion between ideologically opposed individuals (Public Conversations Project, 2001). Studies like these need to be done and applied in political arenas, in order to advise activists and politicians on better ways to advocate for their positions. With this kind of training, it may be possible to advance better legislation designed to increase both access *and* safety, without either side feeling as though the other has a hidden agenda.

As a final thought, I return to the method of this thesis. I wished to contribute another link in the chain of scholarship that strives to show the fruitful and important product of combining discourse analysis and rhetoric. While on the one hand, "pure" discourse analysis and "pure" rhetoric can and do produce useful and intelligent studies, they often have the unfulfilled

potential to inform and enlighten one another. By combining the two and striving to ask big picture questions with micro-level evidence, I believe communication and rhetorical scholars have the ability to engage much more closely with the world. Instead of studies for their own sake or high theory which informs none but the elite, we may be able to use our scholarship to actively change the kind of firmly rooted discourse that surrounds, say, the abortion controversy. With better understanding of what happens, how it happens, and why it happens during an argument over the legislation of abortion, it is possible that activists can make better forward progress in ensuring just and careful legislation.

APPENDIX I

Full Text of Excerpted Filibuster Transcript Sections¹¹

Part 001**Wendy Davis' Opening Remarks****00:00:00¹**

Video Link: <http://youtu.be/1lOijHOdx8c>

Audio Link: <http://archive.org/details/SB5001WendyDavisOpeningRemarks>

Transcribed by: Ana Mardoll

Lt. Gov. David Dewhurst: Members of the Senate will come to order. What I wanted to do before we start today is remind our members, our guests on the floor, and all of our guests in the gallery that this is a traditional parliamentary body with strict rules of decorum and Senate rules prohibit outbursts on the floor and in the gallery; so I ask you to please keep your conversations to a minimum and any applause, make it polite, so that we can hear on the floor and proceed today. So thank you. Senator Watson, for what purpose do you rise?

Senator Kirk Watson: Parliamentary inquiry, Mr. President.

Lt. Gov. David Dewhurst: State your inquiry.

Senator Kirk Watson: You may have just addressed it, but I wanted to ask a parliamentary inquiry about the rules of decorum because this is one of those days, it could be a long day; it's a matter of great passion, among all of the people that are in the gallery and all the people that are on the Senate floor, and I wanted to make sure that it was communicated, and as I indicated you may have already answered that question, but I wanted to make sure it's communicated that we ought to maintain decorum.

¹¹ The material in this appendix, and the data selections used through the body of this thesis, comes from the copyrighted transcript by Ana Mardoll. The full text here and the data selections throughout have been reprinted with explicit written permission. A full citation for Mardoll's work can be found in the bibliography under Mardoll (2013).

Lt. Gov. David Dewhurst: And I appreciate that, Senator Watson. We've had incidences in the past where people were not maintaining decorum and they had to be removed, and in extreme cases clear the galleries, so we don't want to get to that point. So thank you. Thank you. Members, one of our colleagues and one of our friends, Senator Van de Putte, her father passed away regrettably on Friday - this last Friday - and I'd like to do a memorial resolution; I know it's been signed by many of the members, but I'd like to do that later today. The Chair recognizes Senator Hegar for motion to concur in the House amendments to Senate Bill 5.²

Senator Glenn Hegar: Thank you, Mr. President. Members, as we all know, Senate Bill 5 was passed out of the Senate on June 18th with an amendment that we put on by Senator Deuell. This bill is back before us in that exact version as well as the language that was passed out of the Health and Human Service Committee on June 14th. This bill will do four things in particular.

One, it will establish a state-compelling interest in preborn children who can feel pain and ban abortion at 20 weeks threshold, with the fact that there would be exceptions for medical emergencies and those definitions would: one, protect the life-threatening of the mother, her physical life, and also substantial irreversible impairment of any bodily function, and also an exception for severe fetal anomaly which is in statute today.

It would also rise [sic] all clinics to the Ambulatory Surgical Center standard, which we had passed into law several sessions ago for any abortion that was after 16 weeks. The bill thirdly, as we debated on this floor back on June 18th, would require doctors to have secured admitting privileges at hospitals within 30 miles of each clinic at which he or she performs those abortions. And then lastly, as we debated here last week on the floor, it would also include prescribing physician must examine the patient, her records, and determine the gestational age of a child, and also require the physician prescribing - yes, sir?

Lt. Gov. David Dewhurst: I wonder if I could interrupt you just for a moment. Senator Davis, yesterday you gave me a sheet indicating it was your intention to filibuster. Is it still your intention to filibuster?

Senator Wendy Davis: Yes, Mr. President, I--

Lt. Gov. David Dewhurst: You're recognized.

Senator Wendy Davis: --intend to speak for an extended period of time on the bill, thank you very much.

Lt. Gov. David Dewhurst: Excuse me, I've just been asked by the Parliamentarian³: I'd like to make one motion on excusing Senator Eltife. Senator Whitmire moves to excuse Senator Eltife on matters of important business. Is there objection from any member? Chair has no objections; so ordered. Chair recognizes Senator Davis.

Senator Wendy Davis: Thank you, Mr. President, and thank you, members. As we began to debate this bill on the Senate floor last week, we talked about the fact that we were here on this particular motion because we had taken extraordinary measures⁴ to be here.

And I want to talk about that for a moment: how we wound up at this moment, on this day, on the Senate floor, debating this bill. And we wound up here because extraordinary measures were taken in order to assure that we would land here. We all know that the bills that are before us today, that have been folded into this one bill, Senate Bill 5, are bills that were filed during the regular, called session of the Texas legislature.

And we all know, as a body, why we did not hear this bill during the regular session. And that is because, of course, under our rules, our traditions, it takes two-thirds of the members of this body in order to suspend the regular order of business, because it is typical for a blocker bill to be filed, in order for a bill to be taken up. And we know that there were 11 members of this body⁵ who refused to allow the suspension of that particular rule.

We know that there were no real courses of action on the House side on this bill during the regular session, as well. And when the session ended, and within the hour, Governor Perry called us back. He initially called us back for another matter that also could not be heard on this Senate floor during the regular session because of that two-thirds rule and, of course, that was our redistricting bills.⁶

And now something extraordinary has happened. We were called to a special session, our presiding officer has decided - against tradition of the Texas Senate - to have us convene in order to talk about bills that could not be taken up in the regular session, and to not follow the tradition of the two-thirds rule in order to accommodate that occurring.

This bill, of course, is one that impacts many, many people. And it's one that took extraordinary measures in order for us to be here and to converse on it today. Members, I'm rising on the floor today to humbly give voice to thousands of Texans who have been ignored. These are Texans who relied on the minority members of this Senate in order for their voices to be heard.

These voices have been silenced by a Governor who made blind partisanship and personal political ambition the official business of our great state. And sadly, he's being abetted by legislative leaders who either share this blind partisanship or simply do not have the strength to oppose it. Partisanship and ambition are not unusual in the state capital, but here in Texas, right now, it has risen to a level of profound irresponsibility and the raw abuse of power.

The actions intended by our state leaders on this particular bill hurt Texans. There is no doubt about that. They hurt women; they hurt their families. The actions in this bill undermine the hard work and commitment of fair-minded, mainstream Texas families who want nothing more than to work hard, raise their children, stay healthy, and be a productive part of the greatest state in our country. These mainstream Texas families embrace the challenge to create the greatest possible Texas; yet they're pushed back and they're held down by narrow and divisive interests that are driving our state. And this bill is an example of that narrow partisanship.

Today I'm going to talk about the path these leaders have chosen under this bill, and the dark place that the bill will take us. I will try to explain the history of the failed legislation before us, the impact of that legislation, and most importantly what history tells us about these policies and the motivations behind them. They do real damage to our state, and to the families whose rights are violated and whose personal relationship with their doctor and their Creator - which should belong to them and them alone - are being violated.

Most importantly today, I will share with you what thousands of families have had to say about this legislation, and those bringing this legislation to the floor, when the majority of Texans want us working to press upon genuine business of the state of Texas.

Part 002

The History of SB5

00:10:53

Video Link: <http://youtu.be/C6sguvWti1c>

Audio Link: <http://archive.org/details/SB5002TheHistoryOfSB5>

Transcribed by: Ana Mardoll

Senator Wendy Davis: The legislation before you has a history, as we talked about a moment ago, and I'm going to go specifically through the history of this particular bill. There was ample opportunity during the special session to move these pieces of legislation, and some did move, but the will of the legislature did not propel them timely through the process; and here are the basics about what happened to each of those.

SB25 by Senator Hager was the 20-week abortion bill, filed on March the 5th. It was referred to State Affairs on March the 12th. It never received a Senate hearing. The House companion, House Bill 2364 by Representative Laubenberg was filed on March the 5th, referred to State Affairs on March the 11th, a hearing was held on April 10th, it was reported out of House State Affairs on May the 2nd. The bill was sent to House calendars on May 7th, and it was never placed on the calendar.

SB97 by Senator Patrick regarding abortion-inducing drugs and regulations on the administration of those drugs was filed on November the 12th, it was referred to Health and Human Services on January 28th, and a Senate hearing was held on February 26th. It was reported out of the Senate Health and Human Service Committee on March 28th, but it died on the Senate intents calendar, and it died for the reason that I mentioned a moment ago: because a third of the members of this Senate, who represented voices who deserve to be heard, prevented the bill from coming forward. There was no House companion to that bill.

SB537 by Senator Deuell related to the regulation of abortion facilities, requiring that they all have a standard met for Ambulatory Surgical Centers. That bill was filed on February 13th, it was referred to Health and Human Services on March 19th, excuse me, February 20th. There was a Senate hearing on the bill on March 19th, it was reported out of committee on March 26th, and it died on the Senate intent calendar; again, it died because a third of the members of this body made it so. There was no House companion filed to that bill.

SB1198 by Senator Taylor related to hospital admitting privileges and the requirement that doctors who perform abortions have admitting privileges at a hospital within a certain distance. It was filed on March the 6th, it was referred to Health and Human Services Committee on March the 12th, the Senate hearing was held on April the 16th, it was reported out of Committee on April 22nd, and it died on the Senate intent calendar for the reasons that I mentioned a moment ago: because a minority group of Senators who represent voices across the state of Texas made it so. There was a House companion to that bill: HB2816 by Representative Burkett. It was filed on March the 7th, it was referred to House State Affairs on March 18th, the House hearing was held

on March 27th, it was reported out of Committee on April 24th, and sent to House calendars on April 26th, where it died.

And how did we get here? Well, of course, we were called to a special session. And, as I said, that session did not begin with the addition of this bill, it began with redistricting.

On June the 10th Governor Perry added transportation funding to the call, and of course the Democrats in this chamber had indicated our intention that we would vote to advance that bill, were it placed before this one today. We understand that transportation is a priority. On June the 11th, these bills were filed; several bills were filed, including also a bill by Senator Huffman, SB23, a bill again that the Democrats have indicated, were it taken up today before this bill, we would have joined our colleagues in passing it, because we believe it's important.

Governor Perry, of course, on that day also expanded the special session to include legislation relating to the regulation of abortion procedures, providers, and facilities. He also spoke in support of that call, about the horrors of the national late-term abortion industry. He said that sadly some of those atrocities happen in our own state, and in Texas we value all life⁷, and we work to cultivate a culture that supports the birth of every child.

He said that we have an obligation to protect unborn children and to hold those who peddle abortions to standards that would minimize the death, disease, and pain that they cause. What he did not do was place on the call anything that would help to prevent unplanned pregnancies. What he did not do was place anything on the call that would aid women in making sure they never find themselves in need of the occasion that we meet here today to discuss.

On that same day the call was broadened again, the bills were referred and put on a fast track for hearing the following day, leaving little to no advance notice for a public hearing. But fortunately a procedural action forced the committee to wait an extra day -- a tagging of the bill -- allowing more Texans the opportunity to have their voices heard on these issues. Ultimately, the Republican leadership agreed to move only one bill on the Senate floor, and that was SB5 that is before us today.

Before bringing the bill up, there was discussion amongst the majority, and the 20-week fetal pain portion of the bill was removed by Republicans before the bill was presented to us for our consideration on the floor. As you probably remember from that night, Democratic Senators offered seventeen amendments to the bill on the Senate floor to address concerns from stakeholders. Primarily to address concerns,

again, the prevention of abortion is the surest way -- excuse me. The prevention of pregnancy is the surest way to decrease the demand for abortion.

Included in those amendments were a request that we accept Medicaid funding from the federal level, which we knew would bring down a tremendous amount of money and assistance for women's health. Included in that was a full funding of the Women's Health Program which provides a 90-to-10 match⁸ for uses of helping women who are in need of family planning services. But all of those amendments were rejected.

The bill was voted out on party lines and then moved over to the House. The bill was received by the House on June 20th, and was set for a public hearing the following day. The hearing also included HB16 which was the 20-week stand-alone bill, and HB60, the omnibus bill. Hundreds of Texans from all over the state appeared to testify at the hearing. But unfortunately the hearing -- which lasted sometime until the wee hours of the morning, 3:30 to 4 o'clock -- was halted before all of the testimony was given by those who had waited, many of them from the prior morning, to voice their feelings on the bill. And it is my intention today to give them a voice by reading all of their testimonies on the Senate floor.

In committee, SB5 was changed to include the section of the bill -- the 20-week ban -- that was removed in the Senate, also HB60 and HB61. On the House floor there was minimal engagement and participation by the House author on the legislation.⁹

House Ds offered thirteen amendments targeted at addressing concerns raised by stakeholders. All were rejected. And now we find ourselves here. This is the omnibus piece of legislation that contains these elements of bills that were filed in the 83rd session: the 20-week ban, the abortion-inducing drugs provision, the Ambulatory Surgical Center standard, and the hospital admitting privileges. The alleged reason for the bill is to enhance patient safety; but what they really do is create provisions that treat women as though they are not capable of making their own medical decisions.

They weaken standards of care because, as we all know, every member on this floor knows that the provisions of the Ambulatory Surgical Center standards will immediately place 37 of the 42 abortion clinics in Texas out of compliance. And though the arguments on the Senate floor were made that the reason for those standards was for patient safety, not a single instance, not a single instance could be demonstrated to illustrate why those Ambulatory Surgical standards were important in assuring women's safety. Not a single example was provided where women had been provided a less safe atmosphere in the existing clinical setting today than they would receive in that setting.

What this bill really does is to threaten the doctor-patient relationship. And we know that we received a great deal of information from doctor's groups, which I'll read into the record in a little while, about the intrusion on that relationship and we know that in no other instance has this legislature chosen to place itself between a woman and her doctor, or any patient and their doctor. We know that these additional standards are unnecessary, they're unsupported by scientific evidence, including unnecessary requirements that may be extremely difficult and in some cases impossible to meet, without a basis in public health or safety.

As we've been debating this issue, we have been reminded that there was a time in our country when only the wealthy could afford to access abortion services because they had the ability to travel to places that it was legal, and that women who didn't have that access to care were relegated either to carrying a pregnancy to term, or -- and very sadly -- to some unsafe methods that they turned to, to try to address that need. And we know that women lost their lives over that.

We also know, in written testimony from the group -- the National Obstetrics and Gynecologic Group -- that their fear is the same thing is going to happen. In the state of Texas, through this bill, we are asking that women be forced to step back in history, back to a time where once again wealthy women who have the ability and the flexibility in their lives and their schedules to travel for these services will be accommodated and women who will not will suffer a different, and unfortunately probably in some instances a life-threatening, consequence.

Part 011

Citizen Testimony (3)

02:02:54

Video Link: http://youtu.be/IPjSI_xuuCU

Audio Link: <https://archive.org/details/SB5011CitizenTestimony3>

Transcribed by: Rasia Virani aka rasiqra/revulva

Senator Wendy Davis: From Julie Gillis, Austin, Texas:

"Hi, my name is Julie Gillis and I am an Austin resident and a Texas native. Dawonna Dukes is my representative, and Kirk Watson is my Senator.

"My mother was born in 1928, and her childhood was marked by the Great Depression, World War II, and FDR's policies that helped America come back from economic devastation. She also witnessed massive social change in the Sixties' social justice movements she was adamantly for, but also the Pill.

"Prior to the Pill, people did indeed have sex; lots of it, to hear her tell it. Back then, unmarried women couldn't get the Pill on their own, and even married women had to get clearance from the husband so her doctor could prescribe it. She was overjoyed at the Pill and abortion rights, because she recognized that women's bodies belonged to them, and access to reproductive services meant freedom.

"She had Alzheimer's the last ten years, and so she's been shielded from the backlash on women. She'd have been horrified to see the chipping away at Planned Parenthood, sex education in the schools, and the influence of the religious right on reproductive rights. She'd also have tied that chipping away directly to the desire to have a permanent poverty class: a kind of economic slavery class, and destruction of our economic safety.

"She'd have been ashamed of our elected officials for allowing this to happen -- hell, for encouraging it. She would have said that people who are poor and kept from education wind up being desperate. They take bad jobs because that's all there is. They find themselves trapped in marriages or pregnancies. The poverty class keeps itself locked in because there aren't policies in place to help.

"That being said, she, like me, would probably want to see abortion rates drop. Abstinence-only doesn't work, because we've got eleventy-billion people on the planet. People like sex! Sex is a good thing. It's such a good thing that I help produce a story-telling series about it: smart, funny, risky stories about the human condition and sexuality. If you want to reduce abortion, take my advice and follow these three steps:

"One: teach everyone about how their bodies work. Comprehensive, age-appropriate sex-ed. is a moral issue, and a human right. Education is power. Don't deny people education.

"Two: offer many varieties of easily accessible, low-cost birth control options. Don't chip away at Planned Parenthood; make sure there are even more. Access is power. Don't deny people access.

"Make sure a social-- Three: make sure a social safety net is in place, filled with unions, workers' rights, fair wages, fair and ethical bank practices, health services, state-funded daycare services, insurance and more, so that those finding themselves

pregnant who want to proceed with the pregnancy have resources. Resources are power. Don't deny people resources.

"I fully expect all of those points to be rebuffed with anti-choice tropes about loving babies and loving women. What a strange kind of love! It's strange love to refuse to teach people about sex, and put myths of purity on young girls. It's strange love to force women to keep babies inside them that are wanted, but dying, and causing trauma for the mother. It's strange love to ask rape victims to have a vaginal probe inserted inside them against their will.

"That's not love. That's sickness. But then, it's not about love, is it? It's about economics, and a perpetual poverty class, and about keeping power from those that have the right to it. Do the right thing for Texas women. We won't back down.

Senator Wendy Davis: From Nicole Goad, Austin, Texas.

"There's a popular bumper sticker that says 'I'm not from Texas, but I got here as fast as I could!' That's me! Coming from rural Louisiana, I've always heard how great Texas is; and now that I'm here, I feel as if it's a place in which I could truly blossom.

"Our economy is strong; our unemployment is lower than national averages; and even our housing market is up. We're so wonderful that our own Governor feels compelled to recruit folks from California and New York to move to our state to create better lives for themselves. It's an exciting time to be a Texan if you're here for business.

"But if you are here as a woman who is concerned about her most deserved and protected rights, you might want to reconsider your trek down to the Lone Star State. This state has made a travesty of its handling of a woman's right to contraceptive advice, and education, and safe, medically-approved methods of abortion. We are being told that we no longer have the opportunity to make our own choices, to access healthcare wherever we may reside, and that the laws our federal government guarantees us do not count here in the state of Texas.

"Lord knows I love to brag about our breakfast tacos. But aren't we more than good food, great business, and wide-open spaces? We should be champions of a fantastic quality of life for all Texans, whether they be Aggies or Longhorns, natives or transplants, men or women, or rich or poor. I want to know that the state who holds itself up so high they want to take on the East and West coasts will protect and defend my rights to female healthcare.

"I know we can be a 21st-century, top-of-the-line state, who attracts the best and brightest talent. But we need to make sure that across the board we live in the 21st

century, and ensure that all Texans will be treated equally. I ask you to think about the Texas you want to live in. It's going to be great. But we've got to strike down this bill to get that."

Part 012

Citizen Testimony (4)

02:10:30

Video Link: http://youtu.be/Rs0_24va7Ko

Audio Link: <https://archive.org/details/SB5012CitizenTestimony4>

Transcribed by: Melanie Magnotto

Senator Wendy Davis: This from Andrea Grimes, Austin, Texas:

"My name is Andrea Grimes and I'm here representing myself, testifying in strong opposition to HB60. I am one of Representative Naishtat's constituents here in Austin. I believe the practical effects of this bill are clear. It would significantly reduce access to safe, legal abortion in the state of Texas and that scares me. And I'm a Texan lady, so not a lot scares me. I've done some barrel racing; I've seen big ol' snakes out in the hill country and bar brawls on Sixth Street. But this legislation is terrifying, and I'll tell you why.

"The so-called 'Preborn Pain Act' ignores sound, mainstream medical science supported by the American Medical Association and the American College of Gynecologists. The restrictions on the administration of medical abortions would prevent Texans in rural areas from safely and swiftly obtaining medication that would allow them to end their pregnancies without multiple unnecessary visits to a doctor's office or, if this legislation passes, an Ambulatory Surgical Center hundreds of miles from home. And I've yet to hear from a legislator who can provide any evidence whatsoever that shows abortions performed in Ambulatory Surgical Centers are safer than those performed in licensed abortion facilities.

"There is a reason you're hearing from me and women who look and sound like me today. I am an affluent, white, English-speaking woman with a flexible job who lives in an urban area. I will always be able to get an abortion if I need one, but the Texans who will be disproportionately negatively affected by this legislation are not able to take time off work, arrange child care, and drive hundreds of miles to sit in a cold,

sterile room, either in hopes of getting an abortion or in hopes of testifying at a Capitol Committee Hearing.

"But in closing, what scares me most of all is the confusing and appalling fact that some of the members of this Committee argued earlier today that intent is not important when drafting this legislation. If that is the case, I wonder why these bills include language about a compelling state interest in fetal pain in the first place. If we are legislating without intent, we are shooting blind. And as a Texas lady, I know one of the things we're real proud of here is our aim. I would like to respectfully ask that you vote to keep state government out of my uterus."

Senator Wendy Davis: And this, from Shelley Hiam from Austin, Texas:

"My name is Shelley Hiam, and I am representing myself in opposition of HB60. As a young teenager, my religious and political beliefs were that of my parents, which is to say pro-life. I was raised in Texas and went through our public school sex education program. I was taught abstinence. So was a good friend of mine.

"At age fourteen, she came to me, frightened. She was pregnant, and she saw abortion as her only option. I was conflicted. I urged her to consider other options. She looked at me and explained that she was going to do it no matter what. It didn't matter if she didn't have the money. It didn't matter if she didn't have the transportation. She was going to find a way. Then she confided in me as she had been researching ways to terminate the pregnancy on her own. Truly awful, extremely risky ways.

"It was in this moment I realized her health was more important than my beliefs, and I took her to the clinic. Later that day I confided in my mom what had happened, expecting to be grounded and severely punished. Instead, my mom shared a similar story. In 1971, her friend in college was pregnant and had a back-alley abortion. My mom was the only person she told. We shared our fears on the health of our friends facing an unwanted pregnancy.

"Although I am strongly pro-choice now, that is not what this bill is about for me. *Roe v. Wade* has not been overturned. This bill is about access and women's health. I am concerned that if this bill passes, women all over this state won't have access. I worry about my potential future daughters. I worry about women of low economic means taking severe health risks to exercise their right to choose. I think of my fourteen-year-old friend crumpled in a corner, scared, and willing to take matters into her own hands even if it meant risking her life.

"Please don't take a step back. Please don't close these doors. Please don't put your personal beliefs before the health of Texas women. Please vote 'no' on HB60."

Senator Wendy Davis: This from Ora Houston, Austin, Texas.

"My name is Ora Houston. I am speaking against HB16 and HB60 on behalf of myself and my daughter, who decided at thirty that she did not want children: her choice, her right. I am against these bills on constitutional and moral grounds. I am an active, faithful Christian in the Episcopal tradition.

"Let's be clear. The reason we are having this hearing tonight is because elected officials in power, primarily male, are attempting to control the reproductive rights of every female in Texas through legislation based on their religious dogma and preferences. In my reading of the Constitution, the State of Texas is forbidden to legislate based on religious beliefs. In front of us tonight are two such pieces of legislation.

"I am against these bills on moral grounds. As a child of God, it is my belief that every decision I make about my body, including reproductive choices, is between me and God; not me and politicians, regardless of their faith traditions. Historically, women with limited resources, unlike women of privilege, had one choice: unregulated, unsterile, back-room operations. In the years since Roe v. Wade, all females have had years of healthy and safe options, including procedures if needed.

"To seek to limit the rights of females by passing bills which are more limiting, invasive, complicated, complex, and costly is morally reprehensible. What is even more outrageous is that the same legislators who draft and pass these bills also draft and pass bills which reduce state funding for health care, education, mental health services, etcetera, for the very same babies they were so concerned about in the womb.

"It appears to me that legislators in power have extreme feelings for the unborn; little, if any, for children who are living and breathing outside of their mother's womb. The great thing about choice is that females who want to carry their babies to term have that choice and right. And those who don't also have that choice and right. What gives the state of Texas, using thinly-veiled language, the right to superimpose their narrow religious beliefs on every female in Texas? Entitlement and power."

Senator Wendy Davis: And this from Jennifer Jagielko from Austin, Texas:

"First, I would like to thank the Chair and the Committee for allowing me to testify. My name is Jennifer Jacquielco, and I am a constituent of Representative Paul Workman. I am here today to voice my opposition to the anti-abortion bills HB16 and HB60. I realize that you may have already decided how you will vote on these bills.

Nevertheless, I respectfully ask that you give me your attention and consider these points.

"First, if you enact these bills you alienate a growing number of your constituents, including me. I am a registered voter who participates in every election and I will vote against any candidate who is in favor of restricting women's access to abortion.

"These anti-abortion bills are being presented in the guise of protecting women's health. This is insulting to women's intelligence. Women realize that these bills will not protect their health. They will only reduce their access to abortion providers and limit their ability to make their own medical and family planning decisions. Women and their like-minded partners will continue to be an increasing part of your constituency. Do you really want to alienate them?

"Second, if you enact these anti-choice bills, you risk reducing the talent pool for Texas jobs. Women are a greater portion of professional job candidates than ever before, and they now outnumber males in college enrolment. Let me ask you. What young, strong-minded, independent woman with multiple lucrative job opportunities would want to move to or remain in a state where she has little or no ability to make decisions about her own body and about family planning? How will this affect Texas's ability to create and fill jobs? As you know, job creation has [sic] a point of pride for the governor and his supporters.

"Third, in order to keep its citizens healthy and productive and to attract more industry, Texas needs to have an adequate number of health care providers. Increasingly these providers are female. Women now make up nearly half of medical students, up from less than 25% in the 1970s. Females are also the majority of members in the American College of Obstetrics and Gynecology. What female physician with a choice would want to practice in a state where the law severely limits her clinical judgment and her ability to do what she believes is right for her individual patients? How will this affect Texas's ability to attract and maintain an adequate number of medical providers for its population?

"Before you vote on this anti-abortion bill, I urge you to think carefully about its potential impact on Texas, not just now but in the future. You have been warned. If you enact these harmful anti-abortion bills, be prepared for a mass exodus of talent from Texas. Thank you for your time."

Part 013

Citizen Testimony (5)

02:23:08

Video Link: <http://youtu.be/4QWX8NbOWiQ>

Audio Link: <https://archive.org/details/SB5013CitizenTestimony5>

Transcribed by: Michelle Belden

Senator Wendy Davis: And this from Jennifer Jarl McCombs, Austin, Texas:

"Dear members of the Committee: my name is Jennifer Jarl-- Jarl, I'm sorry-- Jarl McCombs. I'm a fifth-generation Austinite and a sixth-generation Texan. I am a mother, a wife, a sister, daughter, and small business owner. I appreciate the opportunity to be heard by the members of this Committee.

"I'm speaking today about the Ambulatory Surgical Centers portion of House Bill 60 that requires all licensed abortion providers' facilities become Ambulatory Surgical Centers. As with most prudent legislation, a problem is identified and a solution is proposed in the form of a bill. The premise of HB60 assumes that existing abortion facilities are consistently failing or producing poor outcomes to the women who've had an abortion procedure in the state of Texas: 'the problem'.

"With the acceptance of this premise, the argument is to mandate existing abortion clinics to transition their facilities to Ambulatory Surgical Centers: 'the solution'. But this is a solution looking for a problem. The reasoning for the creation of this bill is based on a fallacious foundation. The perceived problem is faulty, in that the current regulations to which existing abortion facilities adhere to [sic] are producing exemplary results in the health and safety of their clients.

"Abortion is one of the safest surgical procedures for women in the United States. 'Fewer than 0.5% of women obtaining abortions experience a complication, and the risk of death associated with abortion is about one tenth of that associated with childbirth.'" She quotes the Guttmacher Institute in saying that.

"The bottom line is that the current abortion facilities in the state of Texas already operate and perform to high standards. The vast majority of reputable research in patient safety relating to an abortion procedure, medical or surgical, performed in a licensed facility conclude that favorable outcomes are currently being actualized.

"Further, HB60 would create problems for women. Financial burdens: this bill would force an existing clinic to either renovate their current facility, purchase an existing ASC if there happens to be one sitting for sale in the clinic's area, or build a new ASC.

Based on the U.S. national average, ASCs have an estimated cost of approximately \$400 per square foot, including construction costs of \$300 a square foot, contractors fees of about \$75 a square foot, and architectural fees of between \$32 and \$35 a square foot.

"An ASC can vary in size from 4,000 square feet with one or two operating rooms, or to as large as 30,000 to 40,000 square feet, around 12 ORs. Assuming we go with the smallest square footage, 4,000 square feet, you're estimating a total cost to be 1.6 million for that facility. The estimate does not include the purchase of the land, permitting, local, county or state fees, or the cost to provide the additional staff and training required to operate by ASC licensing laws. This is unquestionably a severe and undue financial burden for existing clinics.

"Access: any of these unreasonable options would be cost-prohibitive. It is estimated that of the 42 existing clinics in the state of Texas, only 5 would be able to remain open. That is a greater than 88% reduction in access for women in the state of Texas. With the shuttering of these existent, proficiently-run facilities, reasonable access is denied to women, specifically from the rural areas of Texas.

"The health and safety of women are not the priority of HB60. It is with substantial historical context that one could reasonably conclude that women without or with restricted access to abortion providers will still have abortions. Unfortunately, they will have to turn back-alley abortions or self-performed abortions. This is a problem. Women in these situations are more likely to have severe complications or die. This problem has already had a solution in the safe and excellent care they receive in the existing abortion facilities as they are currently regulated across Texas.

"Simply stated, HB60's origin hinges on the unfounded and unproven proposition that a problem exists for purposes of maneuvering around a woman's constitutional right for a safe and legal abortion. I respectfully request that the members of this Committee take careful consideration to the dramatic consequences that will occur due to the passage of this bill, and vote against the passage of HB60 out of this committee.

"Please note that the data I reference to my oral testimony is cited for you in the copies of my written testimony. I mention this to contrast the authors of HB60 and authors of all the abortion restriction bills in the House and the Senate, who have yet to present a shred of factual data or peer-reviewed evidence to support their position on any portion of these bills, despite repeat requests throughout the regular and special sessions. Thank you."

And she cites the following works for the statistics that she gave in her letter:

-- The Guttmacher Institute from 2011. State facts about abortion: Texas. New York, Guttmacher Institute.¹⁵

-- RS Means, 2013, Reed construction data, retrieved June 20, 2013 from its website.

-- Physicians Capital Investment 2012, retrieved June 20, 2013 from Physicians Capital Investment website.

-- Planned Parenthood of greater Texas. 2013, February 25.

-- DSHS AB facilities as of 2/25/2013. 2013, Texas, United States of America.

Senator Wendy Davis: And this from Jayne Keedy, who lives in Representative Dawanna Dukes' District:

"My name is Jayne Keedy. I'm here to testify against HB60 and HB16. My representative is Dawanna Dukes. Lieutenant Governor David Dewhurst bent the rules to add these bills. He had his chance during the regular session. This should not be happening. Shame on him, and shame on you who support these bills. A woman's body is hers. The state has no right limiting her healthcare choices, including abortion.

"Abortion is about women's health. Ask any woman who's been diagnosed with cancer at some point in a pregnancy, who was given a choice to begin treatment for cancer and advised to abort her unborn child or to carry the baby to term with no treatment at the risk she will die before the baby's due date. Women who have an abortion do not do so lightly. No woman gets pregnant so she can have an abortion. Sometimes families end up needing to terminate a pregnancy when they thought they never would.

"These bills will inordinately affect poor and working poor women. The clinics that will have to close are not just about abortion; they provide family counseling, breast exams, PAP smears, prenatal care. And under this bill, the abortion pill, which is safe and rarely results in complications, will require a 'before' and an 'after' appointment with the doctor. It also requires a woman to take a higher dosage than necessary, which only indicates the ignorance of those who wrote these bills, since it has been shown that the necessary dosage is much less than the bill would require.

"Shame on you who support these bills. The omnibus abortion bill will be challenged in the courts, causing an enormous waste of valuable tax dollars and state resources. We have seen this in other states, North Dakota and Kansas, where hundreds of thousands to over one million dollars and counting of state taxpayer money is being

spent to defend similar legislation: these anti-women, anti-abortion bills in other states.

"The bottom line is this: these bills will make abortion harder to obtain and more expensive. As a result we will see an increase in back-alley abortions, self-administered abortions, death among women seeking abortions, and unintended pregnancies carried to term, all of which directly create negative public health outcomes and a huge financial drain on the state of Texas.

"This is not what any of us want for our state or for our women, children and families. Shame on you who support these bills. I'm sure your mamas and maybe your grandmamas uttered the old adage 'Be careful what you wish for'. This legislation has raised the ire of thousands upon thousands of women across this state, and they vote. Lieutenant Governor Dewhurst and those in the Texas legislature backing these bills need to start planning their retirement.

"Shame on you, Lieutenant Governor Dewhurst, and shame on you who back these bills."

Part 014

Citizen Testimony (6)

02:34:23

Video Link: <http://youtu.be/WuHvKXYiVJ0>

Audio Link: <https://archive.org/details/SB5014CitizenTestimony6>

Transcribed by: Joey

Senator Wendy Davis: From Lisa LeBlanc in Austin, Texas:

"I stand before you not to protect my reproductive rights. I do not need protection from you any longer. I started menopause at the young age of 27 and, at the age of 29, all my reproductive organs were removed.

"I am a rape survivor. I did not pursue the legal justice I deserved because of fear of the system, and shame and guilt. The shame and guilt I assumed to be mine, but we all-- are all well aware it is not. I did everything right. I met this male through a close friend's brother. I spoke with him for a number of hours every other day for six weeks before consenting to a date. But when I opened the door to my home, I sensed I was in

trouble. I was. I was attacked for over seven hours in my home. Now they call it 'date rape'.

"I was paralyzed by fear for three years. I was tortured nightly when the phone rang between the hours of 2 and 3 am, the same time the rapist left my house. This occurred nightly for two years after the rape. It was just a little daily reminder of what he did and could still do to me. I did turn off the phones closest to my bedroom; but I had roommates, and they did not know because of shame, and I didn't tell anyone for years. They were not aware of why their phones rang nightly, only ringing long enough to remind me who was aware.

"I stand here before you because you claim to be protecting the safety of women's health issues through passage of these legislative bills. That is a lie, and everyone in this room knows that to be true. The true intention of these bills is to attack a basic human right, the right for any woman in this American society today. And I remind you this is 2013, and any woman who lives in Texas has the ability to choose her own legal and medically safe choices guaranteed by the Supreme Court of the United States of America.

"The arguments we hear that support the intention of these bills imply scientific fact and knowledge, but these too are lies. There is no factual reason to make these changes. They are introduced, and the truth is they will harm access to tens of thousands of women, children, and men to quality healthcare clinics in their rural areas. These bills really are here to target the indigent women of color and their families, and let's be very clear about this fact. You see a room of people with very few faces of color here to represent themselves. They cannot afford to be here. That is why I am here.

"Do we, as a society, really understand all the implications of responsibility we assume if we deny a woman's basic human right to choose her own healthcare decisions? If we support HB60, HB16, SB5, then we as a society have to make sure we continue to assume the health and welfare of this woman and the life we expect her to have if these bills become law.

"Today our society does not impose or focus any reasonable responsibility on these fathers if they are unwed and single mothers. We do not require their involvement or responsibility to support the mother's position, or the infant, then the child. Our time would be better spent making sure we protect and support mothers and their child's interest, and make the fathers accountable; and not just financially, because we know that raising a child requires so much more than just money, and we all know it is

easier with supportive parents. We should be making sure that resources are in place to make this happen, not limiting a woman's basic right to choose.

"If we as a society are going to legislate and take away the basic human right to choose what happens to your own body, then we are assuming responsibility that requires us to ensure the welfare of both mother and child. We assume responsibility to treat a child's mother with dignity and trust, more trust than what we assumed she did not have in making the right medical decisions for herself; dignity that demonstrates how much we really value a life, not causing hardship and harm in the process. Tex-- Texas actually had legislation this past session concerning child care for teen parents wanting to complete their high school education, and referred to it as 'rewarding bad behavior'. When is deciding to become a parent considered bad behavior?

"The legislature seems to want it both ways: not allowing the woman's right -- human right -- to choose what happens to their bodies, then when they decide to choose what these laws intend, they are not supported, but shamed. This not only brings great amounts of shame to the parents but the child as well. It is a stigma that is created for this family by society in general when included in our written laws. Shame damages the soul. It does not create hurt feelings, it causes real damage to who and what that person is and will become. Either we support every aspect of a pregnancy or not; we cannot choose to support after 20 weeks, then the first year of life, and second, and then stop. Then we leave it up to the mother to fight for her human rights and her child's. We need to provide adequate, affordable, safe healthcare offered within their communities; not like these bills suggest, where they must travel hours to find adequate care.

"You are voting to cause, to affect, two lives here. This vote requires a lifetime commitment. They imply that more legislation will pass to support and dignify these lives through safe housing, quality health-- quality healthy food, education in all areas needing attention, affordable daycare, a good, efficient transportation system to get to work, stores, daycare, schools, health services, and any other services needed. In addition, there will be the emotional cost, to keep a child or parent from feeling 'less than', that can lead to addiction, possibly crime, then the cost of treatment. And then there are the possibilities of birth-, learning-, or mental disabilities, that continues to add more involvement and support that will be required by us as a society.

"These are just a few concerns off the top of my head. I am sure there are many other ramifications from these laws that I've not been able to address. We cannot even provide the education of the children here today that they had in 2010. It is our duty to make sure we are totally responsible for the lives that we impact through our laws.

That is the whole reasoning of why we are here. Laws are to create justice for all. It is our responsibility to take care of the lives here today. We are failing to accomplish this today. How are we possibly going to be able to include the unseen impact on the lives of tomorrow in our failing system?

"We do not provide what is needed and required as basic human rights for Texas woman and children today. They go to bed hungry and wake up hungry. They go to bed sick and wake up sick. They cannot afford shoes, diapers, daycare expenses and school supplies, or a tank of gas. Women and children struggle for daily existence and are not able to come here today and tell what they know to be true. They need support that is not coming.

"I was taught that a civilization is measured by the way they treat the most vulnerable citizens: the elderly, the sick, the hungry, their children, and their poor. We, as a society, are failing to provide these measures of basic human needs. Why do you think we're capable of adding more individuals when fiscal responsibilities are not being met today? If these are signed into law, where is the money coming from? Where is human decency going to fit? How many basic human rights are going to be left unfulfilled?"

Senator Wendy Davis: And this from a young woman named April in Austin, Texas:

"Thank you, Chair and Committee members, for allowing me to testify. My name is April, and I am a constituent of Representative Donna Howard. I am testifying today that I am against HB60. We've heard from Senators and Representatives here that this bill is to protect patient safety. But we all know, after seeing Lieutenant Governor Dewhurst's Twitter account, that isn't the goal at all. The goal of this bill is to limit access to abortion in Texas, which is in blatant obstitu-- opposition to the constitution of these United States.

"But let's entertain for a moment the idea that this bill is actually about patient safety. Humor me. Tell me this: if, after one year, three years, five years, we find that infection and complication rates fail to improve, will the legislature commit to reversing these regulations?

"Moreover, one of the components of this bill requires that physicians get admitting privileges in local hospitals. Never mind that, by law, hospitals may not refuse treatment of a patient in an emergent condition, and never mind that professional organizations like the American College of Obstetricians and Gynecologists, and the Texas Hospital Association, find this regulation egregious. Bottom line, you are asking these physicians to obtain admitting pri-- privileges in facilities where they are

unable to practice their specialty. There is no hospital in the state of Texas that will allow an elective pregnancy termination procedure to be performed.

"I am a lifelong native Texan, as are many generations of my family. I was born here, raised here, committed to obtaining a higher education here, and stayed here to work even when it might have been easier to move somewhere else where the weather is milder.

"I am appalled at the sheer audacity of my state government that has chosen to make medical decisions for the physicians and women of Texas, despite most of its Senators and Representatives not receiving any medical training at all.

"I am ashamed of my state government, who touts low taxes and small government, but has chosen to spend more taxpayer money by calling a special session in order to pass laws that have already failed to pass in the regular session.

"I am disappointed that my state government thinks so poorly of its own citizens that they don't trust them to make the right decisions for themselves, with the advice of their own physicians, their own families, and their own spiritual leaders.

"Ladies and gentlemen of the House of Representatives, thank you for allowing me to share my testimony today. Please do not pass this harmful, shameful bill."

Part 019

Citizen Testimony (11)

03:44:03

Video Link: <http://youtu.be/xXrMGNNH9Bk>

Audio Link: <https://archive.org/details/SB5019CitizenTestimony11>

Transcribed by: Debbie Notkin

Senator Wendy Davis: And this from Danielle from Austin, Texas:

"Many disagree about politics, but so many that I run into will agree, regardless of political affiliation, that it's difficult to fully love others if a person doesn't love herself. Similarly, it's hard to help or care for others without being able to do it for oneself first. That's why on airplanes they always tell the adults to put on an oxygen mask before the child. What good is the adult to the child if the adult is suffocating?"

"In December of 1973, my mother was 18 and living in Amarillo, Texas. She conceived my half-sister, Avi, with a man she did not know well, who she felt affection for but did not love. She knew she was not ready for a baby. She made almost no money and had unresolved PTSD from sexual and emotional abuse. But her family was going to disown her if she put the child up for adoption. I can only imagine Texas was similar to what it might be like if this bill passed. Abortion was technically legal, but not very accessible. She had the option to be further shunned by her family, or to have the baby.

"When Avi was four years old, she was diagnosed with leukemia, which she lived with until she was 12 years old. She passed away in my mother's arms while she was giving her a sponge bath. Avi's leukemia was a result of growing up next to a nuclear power plant and jet fuel lines from an Air Force base.

"So how are we supposed to expect mothers to not seek out abortions when our government shows no interest in stopping the contributions to toxicity in our environment? While simultaneously encouraging families to control their daughters' bodies? While simultaneously doing so little to help those who are victims of sexual violence and domestic abuse?

"My mother does not regret raising Avi, despite the trauma of eventually losing her. But she regrets that she grew up in a time where she had so little agency about a choice she needed to make herself; not her family, not her government. She believes, as a result of her struggle, and so taught me, that all women need options.

"I ask the government and people in favor of this bill why they are so concerned with the fetus, but not the four-year-olds who are in toxic environments, who may not have access to healthy food, or any food at all. Why are they so convinced that a mother can properly care for another human being when the world puts up so many barriers for her to even take care of herself?

"If you value the life of a child, you must value the life of the woman who carries it. If you value the life of a child, then you need to value their entire life, not just when they are a collection of cells in a uterus. If you want to blame a woman for not wanting to bring a child in the world, I suggest making it better-- a better, an easier world, to raise the children we already have, who are struggling to thrive because of environmental decay and economic disparity.

"However, I suggest not blaming the woman at all, for you are likely to never be in her shoes."

Senator Wendy Davis: From Jane in Austin:¹⁷

"To the Chair and Committee members: my name is Jane. I'm here to testify against HB60 and HB16. My representative is Dawnna Dukes. Lieutenant Governor David Dewhurst bent the rules to add these bills. He had his chance during the regular session and this should not be happening. Shame on him, and shame on you who support these bills.

"A woman's body is hers. The state has no right limiting her healthcare choices, including abortion. Abortion is about women's health. Ask any woman who has been diagnosed with cancer at some point in a pregnancy, who is given a choice between treatment for cancer and advised to abort her unborn child, or to carry the baby to term with no treatment at the risk she will die before the baby's due date.

"Women who have an abortion do not do so lightly. No woman gets pregnant so she can have an abortion. Sometimes families end up needing to terminate a pregnancy when they never thought they would.

"These bills will inordinately affect poor and poor working women. The clinics that will have to close are not just about abortion; they provide family counseling, breast exams, Pap smears, pre-natal care. And under this bill, the abortion pill -- which is safe, and rarely results in complications -- will require a 'before' and an 'after' appointment with a doctor. It also requires a woman to take a higher dosage than necessary, which only indicates the ignorance of those who wrote these bills, since it's been shown that the necessary dosage is much less than the bill would require. Shame on you who support these bills.

"The omnibus abortion bill will be challenged in the courts, causing an enormous waste of valuable tax dollars and state resources. We've seen this in other states. The bottom line is this: these bills will make abortion harder to obtain and more expensive, and as a result we will see an increase in back-alley abortions, self-administered abortions, deaths among women seeking abortions, and unintended pregnancies carried to term, all of which directly create negative public health outcomes and a huge financial drain on the state of Texas.

"This is not what any of us want for our state, or for our women, children, and families. Shame on you who support these bills."

Senator Wendy Davis: This is from Linnea, in Austin:

"Thank you, Chair and Committee, for allowing me to testify. My name is Linnea and I'm a constituent of Representative Dawnna Dukes and I'm here to testify against bills SB5, HB60, and HB16. Mr. Chairman, I will gladly share my personal story with you at this hearing, if you feel that it will contribute to this hearing, and that you have the

time and patience to listen to it through to the end. It is not very long, but it is longer than three minutes.

"Not too long ago, I became unexpectedly pregnant. Now, I've lived a fairly easy life. When I became pregnant, at the time I lived in a house owned by my family. I was thirty years old, married to the man I've been with for over a decade, relatively stable income, all the factors that one thinks one needs in order to raise a family. And yes, at first we decided to sustain the pregnancy; we even told our parents and some friends.

"And then the panic set in for me. I became overwhelmed with emotions. I tried to keep them at bay, but when I found myself resisting the urge to wish for a miscarriage, I knew I had made-- I knew I had to make a different choice. I could not find the strength within me, but when I went to my husband, and that wonderful man took my hand and said, 'You don't need to make this alone. I will make it with you. We will make this choice together.'

"What changed? I'm a person that loves life, honors life so much that I don't even eat animals. I wish for there to be as little suffering as possible in this world. But in those days of moving toward a choice of abortion, the reality of my situation became crystal clear, as if I were going through a near-death experience.

"You see, my family discovered when I was very-- My family divorced when I was very young. My parents, the two people who brought me into this world, hated each other. I do not remember a time seeing them show love for each other. My concept of love had been for so long related to abandonment, to loss, to hate. How could I expect my child to love in a healthy way if I did not myself know how to love?

"Three other factors were the same as this: How could I expect my child to deal with anger and negativity if I did not know how? How could I expect my child to embrace its creative expression and follow its heart if I did not know how? How could I expect my child to be physically healthy and respect their body if I did not know how? These four things were irrefutable to me. I could not be the parent that I feel every child deserves without these factors in place. Even though the idea of abortion was, and still is, heartbreaking to me, bringing up a child with these disadvantages was even more painful.

"Throughout my pregnancy, all the way through my abortion, I did not drink or take my migraine medication, my little way of showing that I valued life, even as I found myself incapable of bearing it. Even during my surgical abortion procedure, I refused any sedation other than local anesthesia. I wanted to be present in the only way in which I was capable.

"There are no words to describe the intense myriad of emotions that I went through, and I imagine that will help people understand why so few women are sharing their personal experiences of abortion here today. It's not that it's shameful, it's that it is the most singularly powerful life-changing experience they've had, and to reduce that to three minutes of half-hearted listening would be crushing.

"I have made my peace with my decision through enormous effort. Not only that, but I have worked on those other four factors. Thanks to Austin's Capital Area Counseling, I have an amazing, an absolutely amazing and gifted counselor who is helping me reshape my concept of love, anger, and how to be true to myself. I have worked hard to get fit. I have gone from obese to healthy on the BMI scale in the last year.

"I believe were I faced with that choice now that I could reach a different conclusion. Every step forward is a gift. It is empowering. And yet it always has the lining of sadness, of loss, of the choice that I made. It will always be with me. It was the hardest choice I have ever had to make and I don't wish it upon my worst enemy. Even if it made you understand, Mr. Chairman, that choosing abortion is not a choice against life, but a choice for life, I would not wish it upon you.

"I just ask you to keep in mind that number, that one in three women in our country have had, or will have, an abortion, and that it's not a choice made due to inconvenience or a simplistic disregard of human life. Quite the opposite: that when faced with a -- with such a demanding, life-altering choice, most women will face a kaleidoscope range of emotions and thoughts that many humans will, if they are lucky, never have to face.

"As you can see, my choice had nothing to do with the availability of abortion. If abortion had been too expensive, or unavailable to me, I can promise you that I likely would have tried to create a cocktail of drugs to make it happen on my own. So if a lack of available abortion providers is not a deterrent, what could you have done to prevent me from having an abortion?

"Perhaps working to remove the stigma of giving up unwanted pregnancies for adoption. Perhaps making contraception more readily available via affordable healthcare. Perhaps via affordable healthcare providing quality counseling, so I could have dealt with these issues much earlier in my life, or even so early that my parents could have had proper counseling and learned to deal with each other without so grossly perverting my concept of love and family.

"There are many ways in which to show that you value life without trying to force a choice in which you have neither responsibility nor consequences. I have to deal with my choice for the remainder of my life, and I will always work tirelessly to be a better

person in the name of that choice. How are you going to work tirelessly to empower more women and families to rise to the occasion of unexpected pregnancy?

"Thank you for your time."

Part 020

Citizen Testimony (12)

03:58:35

Video Link: http://youtu.be/BUHOP3ayQ_w

Audio Link: <https://archive.org/details/SB5020CitizenTestimony12>

Transcribed by: Lauren Nieman

Senator Wendy Davis: And now, members, I have personal testimonies that were sent to our office when people learned that we would be speaking against this bill today and asked us to be their voice in this chamber.

This is from a young woman named Erica and it's titled "My Story":

"When I was young, I knew the older sister of a friend that was violently raped and was forced to bear the child. The young woman was a college student. One night the rapist entered through her sliding glass door and raped her brutally and left her battered. And as she healed, she discovered she was pregnant.

"Because abortions were illegal she had to suffer every day with the awful memories of that night, and she eventually dropped out of school. It was a nightmare for the entire family. When she walked down the street, people would whisper about her being a rape victim. At the grocery store people would congratulate her and ask questions about her pregnancy, always reminding her that she was carrying the rapist's fetus.

"Rape can happen to anybody. As a mother I cannot imagine forcing my child to endure that hell. The idea that the Texas government-- my daughter can't decide with her doctor and family how to handle her most important decisions about her own body sickens me. Thank you," and she signed it.

Senator Wendy Davis: This is from Patricia from Bellaire, Texas:

"Dear Senator Davis, Thank you with all my heart for standing up for all of us. It has been heartening to see so many wonderful Texans fighting for Texas women these past few days. Your courage is particularly inspiring. It's way past time for Texas women to declare 'don't tread on us' and mean it.

"In 1972, about 130,000 American women obtained illegal abortions or self-induced abortions. When I was in college, one of my friends almost died of an illegal abortion. We aren't going back there. We cannot allow the extremist minority, propelled by ignorance, misogyny, hypocrisy, political showboating, and the unconstitutional desire to impose their personal religious views on others to control what women do with their own bodies.

"The hypocrisy is particularly brazen when the same fanatics who want to force women to bear babies they don't want and can't care for lose all interest once the fetus is an actual born child. These are the same people who are trying to cut funding for food stamps and further restrict Medicaid eligibility. Apparently, they don't realize that once a child is born he needs food and basic medical care.

"And what about the libertarian mantra that we need to get government out of our lives, which somehow fails to apply when it comes to the most personal and private decision a woman may need to make? The government has no right to take my guns, but does have the right to force me to have a baby I can't care for? Please.

"I believe with all my heart that the real sin is not to have an abortion, but to bring into this world a child whom you know you cannot care for properly. We've seen the tragic consequences of that all around us: children abandoned, neglected or mistreated because they were never wanted or who had parents who were simply incapable of caring for them. I have three beautiful daughters. I want them to live happy healthy lives, and to have children when the time is right for them. I want them to control their own destinies. Please keep fighting for them, Wendy. With much gratitude and respect, Patricia."

Senator Wendy Davis: From Ellen:

"Thank you so much for speaking for me and millions of other Texas women about the Republican attempt to dismantle women's healthcare.

"When I was 17, I was raped on a date. I didn't know what had happened to me, let alone what to do when I wound up pregnant. My only thought was to kill myself, because I didn't know any other option available to me. Thankfully I had a smart, wonderful mother who took me to have an abortion. The entire experience was

horrible, but I cannot imagine what it would be like under the circumstance that Texas now wants to make women undergo.

I made a decision to save a life: my own. And it was the most important decision I've ever made and will ever make. Thank you, Wendy, for allowing me to tell my story and continuing the fight."

Senator Wendy Davis: From Patsy:

"Please be my voice. I have never needed an abortion but this should be the woman's choice. Sorry, God nor government got her pregnant and therefore neither in my opinion enters into the decision. A woman's body is just that: her body. Therefore, she should be able to decide on pregnancy issues.

"It's not that I believe in abortion. I would hope women would try to prevent a pregnancy before it happens. However, hormones being what they are, pregnancies happen and it should be the woman's right to decide if she wants to give birth. One hopes that there is a good guy involved, who wants to be a good dad, but let's face it -- that's not always the case.

Thank you for what you're about to do to speak up for women in Texas."

Senator Wendy Davis: From Joyce:

"Would men want women to make the major choices about their lives and bodies for them? I don't think so. Why then do these Republican men think they are better qualified to make choices for women than the women themselves are? Men say they want liberty, why then do they want to rob women of liberty?

"These men are acting and speaking out of arrogance, serving their own narrow and possessive self-interest. Do they really think women don't know this? It is time for men to shut up and let women make their own choices about their own lives. Elizabeth Cady Stanton was right: everything that the King of England did to men during colonial times the Republican men in the Texas Senate are doing to women now, and more. Signed, Joyce."

Senator Wendy Davis: And this is from Dale:

"My story is of my first wife, who I met in my senior year at North Texas. She had a troubled childhood and was probably abused by an uncle and perhaps by her father, but for many years I did not know that. What I did know was a girl who was a talented

writer and a passionate person. I was too young to know that she was troubled by things I could not then imagine.

"After graduation I took a job in Dallas, and after awhile she came to live with me. I think I wanted to marry her then, but she did not want to commit to that and after about a year she left me and went to UT in Austin to study. For a while we were not communicating much, but we did write to let each other know where we were. She was going to classes, living in a house with a group of other students and working in a clothing store in Hancock Center.

"That was forty years ago and there was a lot of experimentation going on. She tried LSD and had flashbacks for years, and she probably had other drugs as well. At some point she was impregnated. I never knew whether she was raped or not, but I think that the odds are good that she was. By the time that happened we'd been apart for over a year and I was living in Galveston. She came to me, desperate, with the story of what happened to her and the confession that she'd had an illegal and botched abortion done by a country doctor for \$300.00. She went to work the next day and her fetus came out in a public restroom and was flushed down the toilet.

"When she got to Galveston she was ill and upset and in a few days she was anemic from internal bleeding. I didn't understand what was happening. They got her to UTMB and she survived. The good thing was that it brought us back together and I was able to care for her and marry her. I won't go into what happened next, but the point is that in those days before safe and legal abortion her story was not uncommon, and many girls who were not lucky died because of unsanitary -- unsanitary or inept procedures.

"I don't know if this story will help you in your talking. A person who did not know Marianne would write her off as a dissolute young woman who did drugs and had sex when she should not have, and perhaps not a good role model. But even then, a civilized society should have treated her better, and when abortion became legal we thought that humanity had come with it. Maybe there is no way you can tell this story to the Senate, but I want you to understand what things were like then and what happened and what happened to girls like her and why we cannot let things go back to the way they were. Good luck and many thanks for your courage, Dale."

Senator Wendy Davis: From Angela:

"I am fearful of raising my one- and three-year-old girls in an environment where the government eliminates all but five clinics in the entire state, where women aren't allowed to make the most personal of decisions about their reproductive health.

"Where is all the paternalistic faux health and safety concerns about vasectomies? Why should vasectomies be simple outpatient procedures when they pose such dire health risks to unsuspecting, uneducated men? Doesn't such an invasive procedure mandate similar restrictions on clinics and doctors? For the health of men, of course. Angela."

Part 021

Questions from Bob Deuell (1)

4:10:11

Video Link: <http://youtu.be/sIbKLMC8BSO>

Audio Link: <https://archive.org/details/SB5021QuestionsFromBobDeuell1>

Transcribed by: Angela Zhang

Senator Wendy Davis: This is from--

Lt. Gov. David Dewhurst: Senator Deuell, for what purpose does the Senator from Hunt County wish to be recognized?

Senator Bob Deuell: Mr. President, I was wondering if Senator Davis would answer some questions?

Lt. Gov. David Dewhurst: Senator Davis, will you yield to Senator Deuell?

Senator Wendy Davis: I'm happy to answer your questions, Senator Deuell, but I, in doing so, will not yield the floor. I do not give up the floor.

Lt. Gov. David Dewhurst: You'll maintain the floor for questions, Senator Davis. Senator Deuell.

Senator Bob Deuell: Thank you, Mr. President. I have no intention of taking the floor from you, Senator Davis. I think all of us share the compassion for many of the people whose testimony you have read. I wanted-- my first question is that some of the references that you've made, and some of the references that some of the people whose testimony you read talk about women being degraded, called liars, or in some way being held in contempt. I was wondering what you found in this bill that holds any disregard for a woman facing the tough decision of whether or not to have an abortion.

Senator Wendy Davis: What I find in this bill that disregards women who are confronting this decision... are numerous. But I'll start with this, Senator Deuell... the Ambulatory Surgical Center requirements have no basis in medical fact or science that necessitates the need for a woman to have an abortion procedure there. And in fact, you will probably recall numerous times I asked Senator Hegar to provide some empirical evidence for us to understand what was unsafe in the clinical setting today and how that would be made safer by virtue of this bill, and he was not able to provide any information to answer my question.

That same question I'm aware was asked in the House hearings on this particular bill and it was asked in the Senate hearings on this particular bill. And what we know -- and I think we would agree -- is that today, out of the 42 clinics that provide safe, legal abortion services for women in Texas, only 5 of those currently satisfy the conditions of the Ambulatory Surgical Center, and I understand that the response has been given "make all the others come up" and there have been statements made that somehow ... abortion doctors are getting rich off of these facilities and they ought to be willing to put this money back into them in order to assure that women have proper healthcare.

But absent any justification, any reason that demonstrates why somehow these centers would provide better healthcare, I have to ask myself the question, and I know so many other women in Texas are asking themselves the question: to [sic] what purpose, then does this bill serve? And could it be -- might it just be -- a desire to limit women's access to safe, healthy, legal, constitutionally-protected abortions in the state of Texas?

Senator Bob Deuell: I know you've referenced a certain, uh, Twitter, but do you feel that that's the same sentiment by the members in this body who support this bill?

Senator Wendy Davis: Senator Deuell, I don't want to impose upon any member an unkind ... starting point. I would hope to choose that every member on this floor shares the concern for women, men, and children... But because I've been unable to have a simple question answered that helps me understand how this leads to better care for women, I do have to question the justifying -- the underlying reasons for advancing this.

Senator Bob Deuell: Why do you think the 5 clinics, the abortion clinics, that have become Ambulatory Surgical Centers have done so?

Senator Wendy Davis: You know, I don't have the expertise to answer that question.

Senator Bob Deuell: You don't think it might be to provide better care?

Senator Wendy Davis: Well-- you know, what I think it might be is that years ago, before I was here in the Senate, a decision was made that for pregnancies of 16 weeks or longer, those needed to take place in Ambulatory Surgical Centers. Then I'm sure that there was some response to that, in terms of the growth of these 5 centers in the state of Texas to address that need.

And I, as I said, was not here at the time. I don't know if there was information provided that because terminating a woman's pregnancy at 16 weeks or longer presents a greater risk, and that there actually was some connection made between that greater standard of medical facility, and the ability to provide a safer environment for women existed. I don't know, but I would imagine that's why we have those 5.

Senator Bob Deuell: Well, do you remember the papers that I gave you about the requirements of an Ambulatory Surgical Center some weeks ago, when I spoke to the Democratic Caucus?

Senator Wendy Davis: Yes, I do.

Senator Bob Deuell: Did you review that?

Senator Wendy Davis: I browsed through it, yes. I didn't read it word for word.

Senator Bob Deuell: You compared it with-- it's comparing with abortion centers and then the Ambulatory Surgical Clinics. Why don't you have-- do you know why we have Ambulatory Surgical Clinics, why we have that designation?

Senator Wendy Davis: Well, my understanding is that it's for procedures that might require a certain amount of medical attention that wouldn't otherwise be provided in another clinical setting. But I also understand, Dr. Deuell-- Senator Deuell? That there are all sorts of outpatient procedures, some of which are more invasive than an abortion procedure, and we aren't requiring that they be delivered through the services of an Ambulatory Surgical Center.

And again, I'm yet to understand, I'm yet to hear what the specific reason is that this particular medical procedure should occur in such a facility. And I'm yet to understand how it is that we have not given thought to the impact that this will have on women's ability to access that safe, legal care. And when you layer it upon what happened in the last legislative session with the sonogram bill, I believe that in Texas a climate is being created that is slowly but surely chipping away at a woman's right to safe legal abortion; not because the right itself is being taken away, but because for some women the ability to access that right is being taken away.

Senator Bob Deuell: Well, I don't agree that this bill does that, Senator Davis. The intent of this bill by the people that helped write it, and I'm one of 'em, is to increase safety. Now you've cited evidence from ACOG and various other medical entities, but do you think that those entities who wrote you represent every physician in Texas?

Senator Wendy Davis: Well, of course they do not, and in fact I believe when I just read some of the letters from ACOG they describe themselves as a member organization, and I stated the number of doctors who are members of that organization. I can't remember what it was.

Senator Bob Deuell: Sure, and did you agree with ACOG's support of tort reform?

Senator Wendy Davis: I do believe that tort reform was an important reform.

Senator Bob Deuell: So you agreed with them there. What-- you've read a lot of testimony. Are you going to read all of the testimony that was submitted at the committee meeting, both pro and con, or are you just reading testimony from people who are against this bill?

Senator Wendy Davis: The testimony that I'm reading was from women who had signed up to speak, and who at the very late hour of about 1am were told they were not going to be able to speak.

Senator Bob Deuell: Sure, I understand that, but there were also people that were for this bill that didn't get to speak as well; is that not correct?

Senator Wendy Davis: I'm sure that is correct, and I'm sure that you have the ability to read that information yourself, if you'd like to read it and ask me a question about it.

Senator Bob Deuell: Well, I don't have that available. I was just curious if you were going to read everyone's testimony. Do you think the traditions of the Texas Senate are more important than women's safety?

Senator Wendy Davis: Of course not.

Senator Bob Deuell: And you mentioned a raw abuse of power-- could you explain that a little bit? I mean, we have a process here, we-- how do you feel that this bill is a raw abuse of power?

Senator Wendy Davis: Well, first of all, I think it's a false choice to say that we should have to choose between women's health and the traditions of the Texas Senate.

The traditions of the Texas Senate, actually, in the regular session assured that differing perspectives on women's health were made a part of the legislative decision-making that occurred here.

And when I talk about abuse of power, I don't believe that in a "little 'd'" democratic state an individual should have the opportunity and the ability to override the expressed desires, thoughts, concerns, interests of people that are represented by the 31 Senators here on the Senate floor--

Senator Bob Deuell: Well, Senate Bill 537-- [*unintelligible interruption*]

Senator Wendy Davis: Let me finish answering you -- and I believe that in the regular session, democracy, with a little 'd', worked to ensure the balance of those opinions made its way into the bills that passed into law and those that did not. But--

Senator Bob Deuell: [*unintelligible interruption*]

Senator Wendy Davis: --but, but! After we adjourned and within the hour, as you know, we were called back by a single individual exercising his executive power over the state of Texas: Governor Perry. And you know that another single individual, and we've made our concerns known to our President about this, Lt. Governor Dewhurst chose not to recognize the two-thirds rule as part of the way we would take up and consider legislation in the special session. I believe that when two individuals exercise power in that way, it abuses the power they've been entrusted with, because it denies the minority voices who are represented by Democratic Senators on this floor an opportunity to be heard.

Lt. Gov. David Dewhurst: Well, thank you!--

[*applause from the audience cuts him off*]

Lt. Gov. David Dewhurst: [*gavel*] The Senator did mention me by name; please, [*unintelligible*] if you can maintain decorum ...

Senator Bob Deuell: Well, Senator Davis, Bill 537, which was the facilities bill, which was my bill in the regular session, had 20 Senators supporting it-- that's 61.3% of the Senate. So when you speak of minorities and minority rule, and raw power, do you not think it's fair that when 60% of the Senators want that bill to be passed, that perhaps it's fair, that perhaps it should, since it probably represents a majority of the people of Texas?

Senator Wendy Davis: Well, the polling doesn't demonstrate that it represents a majority of the people in Texas, and of course you know as well as I do -- and we could have a very long conversation, Senator Deuell, about the consequences of a history of redistricting in the state of Texas.

Senator Bob Deuell: Well, I understand that but in my particular district, the last time I ran against the Democrat, I got 67% of the vote; and I've been unapologetic about being pro-life. So would you certainly not think then that my vote to be pro-life in my support of this bill would represent the majority, the overwhelming majority of my district, and that that perhaps is also true for the other Senators supporting this bill?

Senator Wendy Davis: I think that very well may be the case, Senator Deuell, but I also think that many people in your district may have voted for you for other reasons than that. And in fact, oftentimes, on both sides of the party aisle, people vote based on the letter that's next to your name on the ballot. And it doesn't necessarily reflect their individual, independent decisions on a variety of issues.

It may be the case that they feel on balance you represent their perspectives on most issues, but I would imagine there are probably people who voted for you, and people who voted for some of the other Republican Senators who are on our floor today, would disagree with taking a decision on these particular bills, even if they themselves identify as Republicans and typically vote as Republicans.

Senator Bob Deuell: You think you have constituents that voted for you that are in support of this bill?

Senator Wendy Davis: That's probably likely.

Senator Bob Deuell: Another question I wanted to ask you, Senator -- I think it was your words-- this was treating women as though they are not capable -- I think for most women who choose to have an abortion, it's the first time, although that's not always the case; but you know, women, as you've pointed out by some of the testimony, who are facing this tough decision are very vulnerable. Do you-- given what's happened in Philadelphia, and Houston, and some other abortion clinics in these squalid conditions and-- do you think, perhaps, that some of these vulnerable women should not have the state of Texas protect them by setting standards of care for their abortion?

Senator Wendy Davis: I think that the state of Texas has already established a fine standard of care. In fact, I've cited that from one of the letters that I read, a woman who works at one of these facilities talked about the variety of state agencies and municipal agencies that regulate them, and I think that we ARE doing our job.

Certainly with the passage of constitutional protections for women and their ability to choose, to make such a difficult decision, we've seen the standard of care rise tremendously because women are able to go to legal facilities that provide safe care for them.

Senator Bob Deuell: And you think all abortion facilities are adequate for these women?

Senator Wendy Davis: Senator Deuell, I'm sure just like every other clinic that treats colds, that treats geriatrics, perhaps dentists' offices, orthodontists -- I can't stand here today and tell you that every single one of them provides good care. But what I can tell you is that they have regulations in place that require that they do, and that we have the ability to respond when they don't. And again, where this particular bill is concerned, no one has said anything about the existing requirements in these facilities that is somehow creating an endangered environment for women.

I have no doubt that in one, or two, or some of them, one or two or some women may have experienced care that none of us would be happy with. But it isn't because the facility was a problem, and it wasn't because the standards in the facility were a problem, and it wasn't because the regulations of those facilities were a problem; it was because sometimes when human beings are involved, as you know, in providing care, sometimes that care isn't what we all wish it would be. And changing to an Ambulatory Surgical Center is going to do nothing to address that.

Senator Bob Deuell: Well, I would disagree. I think that if you look at the regulations and the scrutiny, if you-- you might want to go back and review this paper that I gave you, you would see that perhaps it would ensure that every woman gets a safe abortion under the best possible, possible care. You know, Senator Davis, this bill really is about women's health. It really is about abortions. Mr. President, I don't remember the opposition or our side making any snide comments as Senator Davis spoke, and I would appreciate you holding decorum in this hall to the same standard.

Senator Tommy Williams: Mr. President.

Senator Wendy Davis: I have not yielded the floor, Mr. President.

Senator Tommy Williams: Parliamentary inquiry, Mr. President. Mr. President, can you describe for the body and our guests Rule 306, and what the punishment for obstruction of proceedings here in the Senate is?

Questions from Bob Deuell (2)

04:30:00

Video Link: <http://youtu.be/PsKxZEAkck0>

Audio Link: <https://archive.org/details/SB5022QuestionsFromBobDeuell2>

Transcribed by: Leslie McBay

Lt. Gov. David Dewhurst: You're asking me to read the rule.

Senator Tommy Williams: I'm asking if -- yeah, I think that maybe we need a reminder about what the enforcement mechanism under Rule 3.06 is for this.

Lt. Gov. David Dewhurst: I'm sure everyone here is going to make best efforts to have-- good, very good decorum but our Rule 3.06 does say, "The Senate, during its sessions, may imprison for 48 hours any person not a member for violation of the Senate rules for disrespectful and disorderly conduct in its presence or for obstructing any Senate proceeding."

Senator Tommy Williams: Thank you, Mr. President.

Lt. Gov. David Dewhurst: I'm sure everyone is going to behave themselves.

Senator Bob Deuell: Thank you, Mr. President. Senator Davis, are you taking the position that if this bill becomes law, and every abortion clinic in Texas becomes an Ambulatory Surgical Center, that women would not be safer and get better care?

Senator Wendy Davis: No. I'm taking the position that if this bill becomes law, not every facility will have the capacity and the resources to become an Ambulatory Surgical Center and that women who currently are being provided care, very safe care in existing clinics today will be denied that access, because--

Senator Bob Deuell: Why do you think those clinics would close? I mean, that's been-- there's five clinics that are Ambulatory Surgical Centers and there's, I guess, three dozen or so other clinics. And what I've heard throughout this debate is that all of those clinics would close. But why do you think they would close?

Senator Wendy Davis: Well, Senator Deuell, because it's incredibly expensive to bring them up to this requirement, and in some of them quite physically-- quite literally, physically it would be impossible. It would require the closure and probably

the-- from the ground up, new building of an Ambulatory Surgical Center at great cost.

And the concern and the point that I have about that is we aren't doing that in any other arena of healthcare. We aren't saying that a vasectomy has to take place there. We aren't saying that a colonoscopy has to take place there. We aren't saying that a live birth has to take place in such a setting.

And what I'm suggesting is when we're demonstrating that we are going to put restrictions in place, rules in place, standards in place that are going to dramatically increase the cost of delivering that care, I do not doubt for a moment that there are some of those clinics who simply aren't going to have the financial capacities to accommodate that. And not only do I not doubt that for a moment, but what I fear most is that in the areas of our state that are most impoverished, that those will be the most likely areas where these will not produce, where these will not have the resources to appear.

And where women who, again, layered upon the sonogram from last session, who now have to-- have a sonogram, a 24-hour waiting period, return, make sure the same doctor who did the sonogram is the person who performs her abortion, and if for some reason that doctor can't be there the next day she's got to start the whole process over again, I'm worried that women that are already going through that--

--and it's so easy for us to disregard as we stand here, in our nice clothing, in our relatively comfortable lives, it's so easy for us to say, "Why is that a big deal?" But Senator Deuell, it's a big deal! It is a big deal! And I have been there, that has been my life. I have been to the point when I literally could not put gasoline in my car to go anywhere but from work and back because I could not afford an extra gallon of gas to make any other trips.

And these are the women who are impacted by these kinds of decisions. And shouldn't we be able to say to them that there is a reason for it, that there is absolute health reasons for it? And if there isn't, shouldn't we all agree that making sure that they have access is the best thing that we can do for their healthcare--

Senator Bob Deuell: Sen--

Senator Wendy Davis: --in the state of Texas.

Senator Bob Deuell: Senator Davis, the medical literature supports that the higher standards that a given surgical center has, the better outcomes that all women have. And you stated the legislature has never before dictated such requirements. I could run

you through my medical office in Greenville -- and, by the way, I take care of a lot of low-income women and I have-- I was at the federally qualified health clinic there and I take a lot of Medicaid patients. I understand. I've given patients gas money before so that they could get home after they saw me.

But if you look at every clinic, and you look at what's required for a family medicine clinic or a pediatric clinic or a federally qualified health clinic, government dictates safety factors all of the time. We have to have people come through and look at our ophthalmoscopes and our horoscopes and put a sticker on 'em every year, when there is very little chance for them to malfunction. We have to have a crash cart -- I mean, I could go on and on and on.

It is not unprecedented for the state or the federal government to require these requirements. And in an abortion, even in the first trimester, there are complications that can occur that can be devastating and even life-threatening. The uterus has a blood flow of 500 ccs a minute, and sometimes, even under good hands, bad things can happen. And that's what we're trying to do. The medication with RU-486, bad things can happen.

I want to quote a journal here, you've quoted some authorities, this is entitled Immediate Complications After Medical Compared with Surgical Termination of Pregnancy.¹⁸ It's been cited that the complication rate is 0.5%. This study showed-- it said "the overall incidence of adverse events was fourfold higher in the medical compared with surgical abortion cohort": 20% with medical abortions versus 5.6. And this was published in Obstetrics and Gynecology in 2009.

My point is, is it perhaps an abortion performed in a Surgical Center, perhaps all that they would have is not needed, but what about that one woman that does need it and that one life that's saved? It's already been through a lot of tragedy to make this. I mean, do you not see that this bill will provide the safest care for a woman who decides to have an abortion?

Senator Wendy Davis: Senator Deuell, first of all, I want to say that I respect you so much, I truly do. You are a good person, you are a good doctor, you are a good Senator. And I know you care about people and I do not intend to suggest that you do not. But we have a difference of opinion.

I believe that a nexus should be shown between the need to move to this sort of a standard of care and truly ensuring a better outcome for women's health. I believe that that nexus has not been demonstrated here. And I understand your point that if an argument could be made that even one woman would be made safer by virtue of it, doesn't it make sense.

But I would ask you to consider the very valid concern that there are many women who will lose their access to care as a consequence of this law. And that one woman, or that twenty women, or that three hundred women, or that three thousand women, should cause you and me and everyone else on this floor great concern.

Senator Bob Deuell: Well, and that's a big disagreement we have also, because I honestly don't see any reason for any of these clinics to close. They make a lot of money with these abortions. Look at-- you saw the list of Surgical Clinics in the state of Texas, four hundred and some of them, and many of them are in smaller towns than the smallest area of an abortion clinic. And we've exempted abortion clinics that do fifty or less procedures.

So, again, I go back to-- you know, we, I will not concede that any of these clinics have to close. I'm just, you know, we could maybe stop at this point and disagree, but I do not believe any of them have to close. I believe the money is there and I believe for the safety of women that they should do so. That's really what this debate is about. And I appreciate you too; obviously you wouldn't go through what you're going through now if you didn't believe-- believe in it.

But-- I'd like to go on. I have some more questions in other areas. I wanted to ask you, you were talking about the twenty-week, and there were some questions in some of the testimony about gestational age and I believe ACOG mentioned about the last menstrual period and how we figure that, and in the bill it references actual fertilization. I don't think that matters as long as we all know what we're talking about.

But you said that there was nothing in this bill that allowed for extenuating circumstances, but on page 5, line 21 and-- I'll read it to you. And I don't mean to be condescending, I just happen to have it and maybe you don't. But it says that "prohibitions and requirements under sections 171.043, 171.044 and 171.045b do not apply to an abortion performed on an unborn child who has severe fetal abnormalities". It seems to me that that would take care of the situations that you described where perhaps the parents didn't find out until after the 20-week period, so I wanted to clarify that or at least get your comments on that part.

Senator Wendy Davis: Well, I appreciate the clarification and I think that some of that testimony that I read occurred prior to the substitute language. Senator Deuell, I think the language previously as was cited by ACOG and some of the other expert testimony, which I think really created the reason for the change in the language, necessitated that change and put it in the terms that you just read.

I think some of the lingering questions, though, from ACOG was what that would mean and their responsibility as doctors to make this determination in terms of what

that means and whether there might be some liability or greater exposure on their part having to make that particular decision.

Senator Bob Deuell: OK, thank you. Then I wanted to address the physician privilege. You know, as a licensed physician in Texas I am required by the Medical Practice Act -- the Texas Board of Medicine oversees that -- I am required to provide for follow-up care, after-hours care of my patients. And fortunately, I have nine very understanding partners who cover for me when I'm down here.

But what I have heard from patients who have had abortions and then had complications that end up in Greenville is that they called the clinic that they had the abortion in and they couldn't reach anyone. And do you not think that a physician who performs an abortion should be responsible for the aftercare, especially for immediate complications of an abortion?

Senator Wendy Davis: I believe, and I think most women in Texas would agree, that it would make very good sense that women who've had such a procedure, or any procedure -- I've had my wisdom teeth taken out and my dentist has provided me his phone number if I had any concerns in the night, with 24-hour ability to call and let him or her know that I've had a problem arise. I don't think anyone would disagree that those sorts of regulations provide a better climate if they don't already exist in abortion clinics in the state of Texas, and I don't think that's what the disagreement with this particular bill is.

Senator Bob Deuell: Well, one thing that was mentioned I wanted to clarify that you said about the Texas Hospital Association: no hospital is required to grant privileges to a doctor, is that not true?

Senator Wendy Davis: That's absolutely true and I think that's part of the concern because where we require in law that an abortion provider be granted admitting privileges, the fact of the matter is, hospitals across the state exercise their own decision-making with regard to whether they grant those admitting privileges.

And what it would mean is fewer doctors who would have the ability to perform abortions in Texas. And so it's sort of the double whammy: the double whammy of having to have an Ambulatory Surgical Center, which [sic] there will now be fewer abortion centers in the state of Texas -- you and I will disagree over that -- but then having fewer doctors who are qualified and able to give that care.

And when we talked about this bill in the regular session and I asked Senator Hager about that woman who lives in Laredo, who, if she shows up at the Emergency Room in Laredo, obviously that hospital is going to have the ability to provide care to her. I

think it makes sense that they would be able to contact a doctor who has performed an abortion on her and ask questions if the need be, but I don't see any connection to providing better healthcare to the woman if she had an abortion all the way in San Antonio because it was the only clinic available to her, and the fact that the person who performed that doesn't have admitting privileges at a hospital near to her.

Senator Bob Deuell: Do we have any data about how far women have to travel to get an abortion? Are they-- since there are abortion centers in most of the major cities, do we know how many women have to travel those long distances?

Senator Wendy Davis: Well, under this bill, right now because only five centers would still be open, we know women would have to travel hundreds of miles. But when we debated the sonogram bill I clearly remember, although I can't cite to you the specifics, Senator Uresti making the very legitimate points about indeed how far women have to travel. And in fact that's why an exception was made to the 24-hour waiting period between the sonogram and the procedure for certain areas of our state, because --there are such long distances that women have to travel.

Senator Bob Deuell: When a hospital grants hospital privileges they require a certain amount of training and ability by the physician. Is there a concern that perhaps the physicians doing abortions wouldn't have the credentials to be privileged by a hospital in 30-mile range?

Senator Wendy Davis: I'm sorry, can you repeat that question?

Senator Bob Deuell: Hospitals set standards for getting privileges.

Senator Wendy Davis: Yes.

Senator Bob Deuell: You know, when I apply and reapply to the hospital that I practice at both here and in Greenville, they look at my medical school, they look at my residency, they look at my continuing medical education, they look at whether I'm board-certified. There's a certain standard that a physician has to make to get hospital privileges. Is there a concern that the doctors performing abortions would not meet the criteria to get privileges at these various hospitals?

Senator Wendy Davis: Well, I think that under the letter that we heard from the Texas Hospital Association, there may be indeed that problem: where the hospital may not, for whatever their reasons are, want to grant privileges to that particular doctor. They grant privileges to the doctors whose expertise they need, and if they've filled that need it's not at all atypical that hospitals choose not to simply go with an unlimited number of doctors, allowing them admitting privileges.

So it may be the case that doctors that are perfectly capable, wonderful, tremendously well-educated and good doctors don't get admitting privileges to a hospital simply because the expertise that they have is not something that the hospital needs.

Senator Bob Deuell: Well, but the doctors performing abortions would have to have certain training credentials. Do you think it's good to have abortions done by doctors who couldn't get basic hospital privileges?

Senator Wendy Davis: But that's not why-- you're assuming that the reason they wouldn't get the basic hospital privileges is because they don't have somehow adequate training or credentials in order to get it. And we know, again, based on what THA is saying to us, that there are multiple reasons why hospitals don't grant admitting privileges to doctors.

Senator Bob Deuell: Well, now, my point is that the angst about this part of the bill would be that many of these doctors would not have the credentials to be given admitting privileges to a hospital. And that perhaps this also is a safety part of the bill.

But I'd like to go on, if we can. You've mentioned about the health of the mother and you've mentioned that the mother would have-- pregnant woman would have to be brought to the point of compromise --of immediate injury or death. And yet I can't really see that in the bill. Would you explain how the bill would prevent a woman who chooses to have an abortion or the doctors having to wait until there's an immediate danger, as opposed to a danger that could be caught a little earlier?

Senator Wendy Davis: Well, in the bill-- I'm going to have to find the page. Hang on, I'm trying to mark my spot here. In the bill it speaks to--

Senator Bob Deuell: I would-- Page 2, line 2b, might address that, Senator. If you want to start there we could go through it.

Part 023

Questions from Bob Deuell (3)

04:50:10

Video Link: <http://youtu.be/bTynff6UMbc>

Audio Link: <https://archive.org/details/SB5023QuestionsFromBobDeuell3>

Transcribed by: Rebecca Morgan

Senator Bob Deuell: Well, that's--

Senator Wendy Davis: This act--

Senator Bob Deuell: Sorry, that was-- that was, uh, my mistake. What-- my point is that I don't see that in there. On page 5, line 1, um: "It does not apply to an abortion performed if there exists a condition that, in the physician's reasonable medical judgment-" we're giving that-- the judgment to the physician, we're not dictating, I might add "-so complicates the medical condition of the woman that, to avert the woman's death or serious risk of substantial and irreversible physical impairment of a major bodily function, other than a psychological condition, it necessitates as applicable--"

And then it lists 1, 2, and 3. I don't see how that forces the physician to wait until the woman is in immediate danger. Number one, it talks about the immediate abortion if her pregnancy without the delay is necessary to determine -- they're talking about not dating the baby if there's a situation; in other words, they don't have to worry what the gestational age is.

And then two, the abortion of her pregnancy even though a post-fertilization age of the unborn child is 20 or more weeks. That tells me that if there's a condition that threatens the life of the mother, you don't have to wait until --that's about to happen, that it can be done as long as they believe that it's going to happen. I don't see where you came to the conclusion that they would have to wait.

Senator Wendy Davis: Senator, I was reading from the testimony that someone provided--

Senator Bob Deuell: Yes, ma'am.

Senator Wendy Davis: What I recall, though, from the information that we received, concerns that we received, from doctors, I think, this was in something we received from ACOG, I'm not sure if it was part of the testimony that I read into the record. But they talked very specifically about exempting physicians where the procedure could be authorized if there was risk of death or substantial irreversible physical impairment of a major bodily function.

I think that the concern that they were raising, as I recall it, was putting a doctor into that decision-making role; and that where a doctor has to make that judgment call, in some instances they may not make it. They may instead force a woman, or refuse to provide a service to a woman, out of fear that somehow that broad category is going to arise. And the concern was really more one of liability, an increased liability for

doctors because of this particular provision, than it was the immediacy of them making the decision.

Sen. Bob Deuell: Yeah, well, I-- and since I'm not an obstetrician-gynecologist, and I had concerns, but I just want to point out that it says very clearly it does, it-- requirements under these sections do not apply to an abortion, and it lists those areas, so. And again, I realize you were reading testimony, and some of that testimony, if it's not a lot of it, was more anecdotal than expert. But doctors are protected under this, and there is provision as I pointed out earlier for fetal abnormality.

Senator Davis, um. The 1973 *Roe v. Wade*-- the Supreme Court said that abortions could be allowed up to the point of viability. As I pointed out in my floor testimony earlier, things have changed a lot. Are you aware that there are a lot of babies being aborted in Texas that are way past the viability age, for no other reason than it's not wanted?

Senator Wendy Davis: Than what, Senator?

Senator Bob Deuell: That it's-- the baby is not wanted, there's no medical issue, it's past the age of viability; that there are abortions occurring in Texas that are running into the third trimester.

Senator Wendy Davis: No. In fact, the information, the empirical information that I've read suggests that only, I think, 0.5-6, or 0.6% of abortions are ever performed past that 20-week period -- it might've been up to 1%, I'm sorry, I can't quite trust my memory on that.

But that in that instance, in the very low incidence rate where post-20-week abortions occur, most of those are situations where a mother's life was in jeopardy or there were very severe problems with the fetus. I don't think it's the case that women are just waiting until their third trimester and suddenly deciding now's the time to show up at an abortion clinic and have an abortion.

Senator Bob Deuell: Well, I would submit that it's probably not the greater number of abortions, but you know, dating a pregnancy is-- is hard.

Senator Wendy Davis: Yes.

Senator Bob Deuell: It's last menstrual period, it's active intercourse, it's a physical exam, it's a sonogram, there's a blood test you can do called a quantitative beta-HCG, and all of those sometimes don't add up.

And my point of bringing this up in terms of the 20-week part of this bill and in terms of the regulation of medical abortions, and having all abortion centers being Ambulatory Surgical Clinics, is that sometimes mistakes are made. And they-- well-intentioned in the sense that they're good intentions, good doctors just trying to get the right date, and the date is not always accurate.

And I would just make the point again about the Ambulatory Surgical Centers: sometimes a baby is small for gestational age, it's further along, there's questions about dates, and all that adds up. And sometimes bad things can happen with the dates, and that again is another reason that we support having all the centers being Ambulatory Surgical Clinics.

Senator Davis, I don't have any other questions at this time. I appreciate your answers and I'm glad that we could have a civil discussion here on the floor. Thank you so much for answering my questions.

Senator Wendy Davis: As am I. Senator Deuell, thank you for your questions.

APPENDIX II

Full Text of Twitter Data Set from Conservative States Set

Wendy Davis @WendyDavisTexas25 Jun

The leadership may not want to listen to TX women, but they will have to listen to me. I intend to filibuster this bill. [#SB5](#) [#txlege](#)

[Details](#)



Conservative States @CCSL_States

[@WendyDavisTexas](#) - Texas women are pro-life and they voted in "the leadership."



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) [@WendyDavisTexas](#) POLL 80% Of Texans Don't Support Abortion Restrictions Moving Through Legislature [_thkpr.gs/15zvuka](#)

[Details](#)



Michael LaBranche @mdlbranche25 Jun

[@CCSL_States](#) [@WendyDavisTexas](#) keep your bibles in church and out of government.

[Details](#)



Conservative States @CCSL_States25 Jun

[@mdlbranche](#) - No one mentioned "bible." Just science.

[Details](#)



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) [@mdlbranche](#) Science says this bill will increase the death rate of women by 24% over current. Not a "pro-life" bill at all.

[Details](#)



Conservative States @CCSL_States25 Jun

[@RiskyLiberal](#) - Science says it will end 95% of abortions in Texas.

[Details](#)



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) Sigh ... no. It will end legal abortions. The number of abortions will not change. The death rate will go up 24%. Science.

[Details](#)



Conservative States @CCSL_States25 Jun

[@RiskyLiberal](#) - Wrong. The *number* of abortions will drop dramatically, which is why liberals are staying up all night fretting.

[Details](#)



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) No.It's very sad you are so uninformed and ignorant of the subject. Three medical orgs say you're dead wrong.

[Details](#)



Michael LaBranche @mdlabranche25 Jun

[@CCSL_States](#) science, huh? Good luck selling that. Guess you think federal law doesn't apply in Texas. Think again.

[Details](#)



Conservative States @CCSL_States25 Jun

[@RiskyLiberal](#) - Outlawing stuff reduces stuff. It doesn't get rid of all stuff, but it reduces stuff by a great amount.

[Details](#)



Conservative States @CCSL_States25 Jun

[@mdlabranch](#) - SB5 already law in other states. Soon to be law in Texas, too.

[Details](#)



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) It's like banging your head against the wall ... the laws are not in effect, they are suspended due to legal challenge

[Details](#)



Conservative States @CCSL_States25 Jun

[@RiskyLiberal](#) - You wish they were "suspended." They are not.

[Details](#)



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) I suggest you use google, and check. Every state you listed has been challenged by ACLU, laws not in effect.

[Details](#)



Conservative States @CCSL_States25 Jun

[@RiskyLiberal](#) - Just checked Virginia's SB5, which is now in effect. [#sb5](#)

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@CCSL_States](#) [@RiskyLiberal](#) oh yeah!The pervs in the GOP state sponsored rape w/ unnecessary vaginal ultrasounds! [#sb5](#) Perverts!

[Details](#)



Conservative States @CCSL_States25 Jun

[@SportsPrincess](#) - Virginia has ultrasound, but they also have [#sb5](#)

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@CCSL_States](#) [@RiskyLiberal](#) and all that small government, you get to pay for the privilege of the state sponsored RAPE! [#sb5](#)

[Details](#)



RiskyLiberal @RiskyLiberal25 Jun

[@CCSL_States](#) [@SportsPrincess](#) Give up, Sports Princess - reality isn't part of this person's mental makeup. Theocratic rule apparently is

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@CCSL_States](#) and you're a bunch of PERVERTS with what you do to women. You're not for small conservative government. You ABUSE WOMEN. [#sb5](#)

[Details](#)



Conservative States @CCSL_States25 Jun

[@SportsPrincess](#) - Abortion not only abuses women, it kills women.

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@RiskyLiberal](#) [@CCSL_States](#) they make me sick. They are FUCKING PERVERTS. The obsession with shaming women in the most private way. [#SB5](#)

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@RiskyLiberal](#) [@CCSL States](#) this kind of shit is what happens to women in war. this is what the enemy does to women.shame them rape them [#sb5](#)

[Details](#)



Conservative States @CCSL States25 Jun

[@SportsPrincess](#) - Laws are just laws. Don't get scatterbrained.

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@CCSL States](#) YOU abuse and kill women. you hide behind your little twitter handle, but you subjugate WOMEN. you don't pay them equal [#sb5](#)

[Details](#)



Michael LaBranche @mdlaboranche25 Jun

[@CCSL States](#) [@SportsPrincess](#) you don't want or believe in abortion, don't get one. Your influence and opinion ends there. With you. Period.

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@CCSL States](#) you don't treat them equally. you don't protect them from abusive spouses. these are HILLBILLY states that ABUSE WOMEN. [#sb5](#)

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@CCSL States](#) then you top it off by demanding the make new babies for you to keep them poor and unable to get out of poverty PERVERTS [#SB5](#)



[Details](#) **RiskyLiberal** [@RiskyLiberal25 Jun](#)

[@SportsPrincess](#) [@CCSL States](#) The obsession with dictating to other families government-forced childbirth is beyond strange.

[Details](#)



SportsPrincess [@SportsPrincess25 Jun](#)

[@CCSL States](#) NO you asshole. these are not JUST LAWS. There is nothing JUST about paying women less.

[Details](#)



SportsPrincess [@SportsPrincess25 Jun](#)

[@CCSL States](#) there is nothing JUST about forcing women to give birth when YOU SAY. [#sb5](#)

[Details](#)



Conservative States [@CCSL States25 Jun](#)

[@SportsPrincess](#) - Having babies is part of life on earth. It's just what all creatures do.

[Details](#)



SportsPrincess [@SportsPrincess25 Jun](#)

[@CCSL States](#) there is nothing JUST about putting a wand in a woman's vagina when SHE DOESN'T WANT OR NEED IT. [#sb5](#)

[Details](#)



SportsPrincess [@SportsPrincess25 Jun](#)

[@CCSL States](#) I'm not a fucking creature. At least we finally have proof from you that is how you see women. creatures. [#sb5](#)

[Details](#)**Conservative States** [@CCSL_States25 Jun](#)

[@SportsPrincess](#) - Doctors are required to perform all manner of medical practices *by law.* Why can't you think before you type?

[Details](#)**SportsPrincess** [@SportsPrincess25 Jun](#)

[@CCSL_States](#) MEDICALLY NECESSARY. the GOP is legislating procedures not medically required. It's called state rape. PERVERTS. [#sb5](#)

[Details](#)**Anastasia Blackwell** [@AnastasiaB3325 Jun](#)

[@CCSL_States](#) [@SportsPrincess](#) So does childbirth. In fact, it kills more women than abortion.

[#sb5](#)[Details](#)**Conservative States** [@CCSL_States25 Jun](#)

[@SportsPrincess](#) - Then you must *hate* obamacare, which is filled with mandatory medical practices that people don't want or need.

[Details](#)**Anastasia Blackwell** [@AnastasiaB3325 Jun](#)

[@SportsPrincess](#) [@CCSL_States](#) LOL, where's "RapeWand" "Rapists Have Rights" Ryan when we need him? [#PUKE](#) [#sb5](#)

[Details](#)**Conservative States** [@CCSL_States25 Jun](#)

[@AnastasiaB33](#) - Insane. 1.5 million dead kids annually from abortion in U.S. How many moms die in child birth? Not 1.5 million annually.



[Details](#) **SportsPrincess** @SportsPrincess25 Jun

[@AnastasiaB33 @CCSL States](#) you gotta wonder about the pathology obsessed with women's vaginas gay man sex, bestiality, the GOP is sick [#sb5](#)

[Details](#)



Anastasia Blackwell @AnastasiaB3325 Jun

[@SportsPrincess @CCSL States](#) Small government, indeed. [#Sarcasm #GOPGOAWAY #sb5](#)

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@AnastasiaB33 @CCSL States](#) now that's what I'm saying [#gopgoaway! #sb5](#) perverts

[Details](#)



Anastasia Blackwell @AnastasiaB3325 Jun

[@CCSL States](#) How many GROWN WOMEN die from abortion? How many from childbirth? Look it up.

[Details](#)



SportsPrincess @SportsPrincess25 Jun

[@RiskyLiberal @CCSL States](#) don't back away from your legislative agenda! pervert [#sb5](#)

[Details](#)



SportsPrincess @SportsPrincess25 Jun

Ladies. If we're so stupid, then we need to legislate the penis. Men need to take more responsibility. Viagra only promotes promiscuity. [#sb5](#)



[Details](#) **Anastasia Blackwell** [@AnastasiaB3325 Jun](#)

[@SportsPrincess](#) Viagra is unnatural and evil. If men couldn't get it up, no pregnancy! Problem solved. [#sb5](#)

[Details](#)



TeaParty TrollHunter [@viktoryasecret27 Jun](#)

[@CCSL States](#) [@RiskyLiberal](#) i guess you know next to nothing about women's history. Your argument has already been proven wrong.

[Details](#)



TeaParty TrollHunter [@viktoryasecret27 Jun](#)

[@CCSL States](#) [@SportsPrincess](#) seriously, get yourself a history book before opening your mouth. You've been proven wrong repeatedly.

[Details](#)



RiskyLiberal [@RiskyLiberal1 Jul](#)

[@CCSL States](#) The countries with the least abortions are those where abortions are free and easily accessible.

[Details](#)

APPENDIX III

Full Text of Twitter Data Set from Cosmo Set



Cosmopolitan (Verified account) @Cosmopolitan

Cosmo girls! Senator [@WendyDavisTexas](#) has to hold the floor until midnight to protect your rights:

[_cosm.ag/6012k7yy](https://www.cosmopolitan.com/6012k7yy) #StandWithWendy

7:51 PM - 25 Jun 13



Ryan Stephens @rstephensx8725 Jun

[@Cosmopolitan](#) [@WendyDavisTexas](#) Your right to commit murder?

Details



Michelle Lancaster @SkiGarmisch25 Jun

[@Cosmopolitan](#) WHAT?! She's promoting the murder of innocent babies! She's not protecting my rights.

Details



Rachel Veronica @rachelveronica25 Jun

Hey [@Cosmopolitan](#), not all your readers so easily shirk their responsibilities by killing their unborn child. Grow a pair, stand for life.

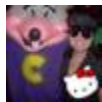
Details



Alexa Marcus @OutOfDust25 Jun

[@Cosmopolitan](#) [@WendyDavisTexas](#) protect the right to kill someone? WTH.

Details



A. @MsAngNicole25 Jun

@Cosmopolitan @WendyDavisTexas Wow. Shame on the both of you. Never buying a cosmo magazine again. RT if you won't either!! #SB5

Details



Will Neville-Rehbehn @willneville25 Jun

@Cosmopolitan @morgmeneshets @WendyDavisTexas Holy shit!

Details



Missy @geceosan25 Jun

@Cosmopolitan @DrJenGunter @WendyDavisTexas thank you, Cosmo. i have many problems w/ your magazine, but this is a stand-up position #sb5

Details



Liz Henry @_LizHenry25 Jun

I may consider Cosmo ban: “@Cosmopolitan: Cosmo girls! Senator @WendyDavisTexas has to hold the floor until midnight to protect your rights.

Details



StandWithWendy @StandWithWendy25 Jun

@Cosmopolitan @WendyDavisTexas STREAMING <https://www.youtube.com/watch?v=2Q8Hr0...> ...
#StandWithWendy

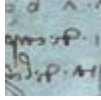
Details



AggieBarbie @AgSweety0525 Jun

@Cosmopolitan wow Cosmo promotes killing babies , cancel your subscriptions

Details



Geoff Burling @llywrch25 Jun

@stefstuff And how many people threatening to cancel their @Cosmopolitan subscriptions for supporting @WendyDavisTexas actually have one?

Details



N LeAnne Davis @qualitygeek25 Jun

@Cosmopolitan @WendyDavisTexas bovine excrement! She is not representing me! Women who need to wait past 20 weeks to abort are plumb stupid!

Details



marilyn maupin @marilynmaupin26 Jun

@Cosmopolitan @WendyDavisTexas So long as we've been born. If it's a woman that's not yet born, well, not so much. #deadbabiesaregreat

Details

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