RESOLUTION

BE IT RESOLVED that the Board of Directors of the National Right to Life Committee at its meeting of August 15-16, 1981, reaffirms its efforts and support in achieving the ultimate goal of the pro-life movement: the passage and ratification of a mandatory Human Life Amendment.

The Board of Directors of NRLC endorses and supports the statutory concept to protect the unborn child as embodied in S.B. 158 and H.B. 900. We urge immediate consideration and passage of this legislation by the full Senate Judiciary Committee and the Congress of the United States.

The Board of Directors of NRLC further urges consideration of the following concepts for inclusion within such statutory provisions to further strengthen the protection of the unborn child:

1. Removal of the provision to limit lower Federal Court review;
2. To provide for direct Federal protection for the life of the unborn child;
3. That a statutory basis be established emphasizing the concept that Congress can independently interpret the Constitution and that the Constitution protects the lives of unborn children as persons;
4. That the concept of conception should be defined as fertilization.

BE IT FURTHER RESOLVED that the Chairman of the Board of NRLC promulgate this resolution to every member of Congress and to the President of the United States.

BE IT FURTHER RESOLVED that immediate passage of a Human Life Statute is urged upon the U.S. Senate and the U.S. House of Representatives recognizing the necessity of continued effort necessary to secure the passage of a Human Life Amendment.

national right to life committee, inc.

Suite 341 National Press Bldg. 529 14th Street, N.W.
Washington, D.C. 20045 (202) 638-4396

MEMO

TO: Pro-Life Groups

FROM: Geline B. Williams
Chairman of the Board

J.C. Willke, M.D.
President

DATE: August 26, 1981

On the weekend of August 15-16, 1981, the National Right to Life Committee Board of Directors held a special meeting in Chicago, Illinois.

The Board passed a resolution reaffirming its long-standing policy of support for a Human Life Amendment.

In a new development, the Board stated that while preferring the strengthening features listed in the resolution, it does support S.158/H.R.900 (the Human Life Bill) as presently written.

We urge your favorable consideration.

Please see reverse for the text of the resolution.

WHO'S WHO -- THE LEADERS, THEIR ORGANIZATIONS, THEIR STANDS

BARRETT, Joseph. LIFE Political Action Committee. Washington, D.C.

Mr. Barrett has a wide-spread and well-deserved reputation for political acumen in his work to elect pro-life candidates to state-level offices. He has been particularly effective in developing and encouraging pro-life candidates within the Democratic party.

BROWN, Judie. American Life Lobby. Stafford, Virginia - Washington, D.C.

Mrs. Brown, after working as Public Relations Director for the National Right to Life Committee for 3 years, left and founded A.L.L. Her group has grown rapidly in two years to become the largest grassroots pro-life, pro-family organization in America with nearly 100,000 donor/supporters. She is nationally recognized for her expertise in the Government's anti-life, anti-family programs, their funding, and on the insidious effects of Planned Parenthood's pro-abortion counseling and programs.

BROWN, Paul. Life Amendment Political Action Committee. Washington, D.C.

Mr. Brown founded LAPAC after seeing the ineffectiveness of the pro-life movement's political efforts prior to 1977. Primarily as a result of his leadership and LAPAC's training seminars and programs, the pro-life movement made significant gains in 1978 and 1980 elections. His political savvy is well-known as is his ability to motivate the traditionally Democratic, Catholic, ethnic voter to switch parties for a pro-life candidate.

DUGAN, Rev. Robert. National Association of Evangelicals. Washington, D.C.

As Director of the Office of Public Affairs for the NAE, Rev. Dugan has supervised the distribution of educational materials on government and legislation to ministers and churches and works to assist churches and church groups on matters pertaining to the Federal government.

ENGEL, Randy. U.S. Coalition for Life. Export, Pennsylvania.

Internationally recognized expert on U.S. Foreign Policy and U.S. Aid promotion of population control and financing of abortions and sterilizations, etc., in the third world. She is also the President of the Michael Fund, which provides grants for research into birth defects with a positive, pro-life alternative.

GERSTER, Carolyn. National Right to Life Committee. Washington, D.C.

As Director to the National Board of the NRLC and Past President of the organization, Dr. Gerster has worked within the organization building support for the Human Life Statute. Gerster is also well known for her involvement in the O'Connor nomination struggle.

HOTZE, MARGARET. Life Advocates. Houston, Texas.

Founder of Life Advocates in 1970, she has worked and built the organization into the only state-wide group with complete statewide representation. Their newsletter has a wide national distribution due to her excellent reputation for thoroughness and accuracy.

MACKEY, JOHN P. Ad Hoc Committee in Defense of Life, Washington, D.C.

An attorney, he gave up his law practice to work full time in the pro-life movement. He has more experience working and lobbying on Capitol Hill than any other member of the pro-life movement, and is known by Members of Congress to be politically astute and pragmatic.

MARX, FATHER PAUL. Human Life International. Washington, D.C.

As a pioneer in the field of Natural Family Planning, Father Marx is known and respected all around the world for his work. Fr. Marx founded the Human Life Center at St. Johns University and has now moved to a new foundation to better reach his international audience.

NORRIS, MURRAY. Christian Family Renewal. Clovis, CA - Washington, D.C.

One of the first national leaders in the pro-life, pro-family movement, Dr. Norris began the first totally pro-life newsletter in 1971. He has a world-wide reputation and following. Well known lecturer.

PHILLIPS, HOWARD. Conservative Caucus. Vienna, Virginia.

Known as the 'father of the New Right,' he runs the largest grass-roots organization in the conservative movement. He is well known for his political acumen and has been a candidate for the U.S. Senate.

SCHEIDLER, JOSEPH. Pro-Life Action League. Chicago, Illinois.

He is the President of the largest coalition of pro-life organizations in Illinois and founder of PLAL, the leading group involved in non-violent direct action. Supported the HLS from its inception.

WILDMON, REV. DON. National Federation for Decency. Tupelo, Mississippi.

Founded, in 1976, the largest media-monitoring group in the U.S. Is a nationally recognized spokesman for the organizations involved in the "Better TV" movement, working with ad agencies and network reps.

WILLKE, DR. J.C. National Right to Life Committee. Washington, D.C.

Long recognized as one of the outstanding educators/lecturers in the pro-life movement, he became President of the NRLC in 1980. Because of the structure of NRLC, however, no President can speak totally for the group. NRLC supports the HLS.

YOUNG, REV. CURTIS. Christian Action Council. Washington, D.C.

Became Executive Director of the CAC in 1978 and has spearheaded a drive for the establishment of crisis pregnancy centers in the Protestant community. Is a consistent supporter of the HLS.

WHO'S WHO -- SUPPORTING THE HUMAN LIFE STATUTE:

PARTICIPATING GROUPS IN THE HUMAN LIFE STATUTE COALITION

ABBOT LOOP CHRISTIAN CENTER. Anchorage, Alaska.

A center devoted to the care of unwed mothers and families in distress, with statewide contacts, representatives and counselors. They are the pre-eminent Christian service and counseling service in Alaska.

ALABAMA CITIZENS CONCERNED FOR LIFE. Mobile, Alabama.

The only state-wide pro-life organization in Alabama serving primarily as an educational and information-distribution center, coordinating state-wide pro-life activities and major liaison with national groups.

BIBLE MORALITY, INC. Elmwood Park, New Jersey.

A conservative Christian group, similar in its approach to that of Moral Majority, with its focus on state and local issues. It has a large state-wide following and affiliated organizations in many Eastern states.

CALIFORNIA FAMILY WOMEN. San Jose, California.

Its state-wide organization encompasses more than 10,000 concerned Christian women. Focus is on state pro-family issues.

CATHOLIC PARENT TEACHER GROUPS. Hillsborough, California.

A loose coalition of local activists throughout Southern California working primarily on the elimination of value-free, a moral, sex-instruction programs.

CATHOLIC PHARMACEUTICAL GUILD. Buffalo, New York,

A nationwide organization of Catholic Pharmacists with educational and action activities designed to promote the proper use of drugs, pharmaceuticals and medical devices in the treatment of all members of the Human family. Estimated membership: 10,000.

CATHOLIC PHYSICIANS GUILD. Buffalo, New York.

A national group comprised of over 50,000 Catholic doctors dedicated to the strict interpretation and implementation of the Hippocratic oath. Their impact within medical circles is significant beyond their numbers.

CATHOLIC TRUTH SOCIETY. Washington, D.C.

A recently organized group with only a small constituency at this point dedicated to the proper explanation and interpretation of Catholic doctrine by the mass media.

CATHOLICS FOR CHRISTIAN POLITICAL ACTION. Washington, D.C.

Headed by Gary Potter, this group disseminates legislative and political reports through its national, monthly newsletter.

C.A.U.S.E. for POSITIVE EDUCATION. Salem, Virginia.

The largest group, with contacts working in nearly every community, in Virginia dedicated to the improvement of health and sex-education curricula throughout the state.

CHICAGO LIFE (Youth). Chicago, Illinois.

A state-wide pro-life youth network with representatives and organizations on nearly every college and university campus in Illinois. Its newsletter circulation is in excess of 10,000.

CHRISTIAN CIVIC EDUCATION LEAGUE. McLean, Virginia.

This newly-formed national organization has as its goals the promotion of Christian ideals within the public education system. It publishes a newsletter; circulation unknown.

CHRISTIAN LEGAL DEFENSE AND EDUCATION FUND. Washington, D.C.

A small group of lawyers and educators from all across America who become involved, through amicus curiae, etc., in widely scattered court cases concerning Christian education issues.

CHRISTIAN WOMANITY. Walnut Creek, California.

Founded and led by the well-known Pat Driscoll, this group specializes in the preparation and publication of materials for youth, focussing on Christian approaches to sex-education, dating, and family life.

CITIZENS ADVISORY GROUP FOR FAMILY LIFE/SEX EDUCATION. San Jose, Calif.

An organization comprised of over 4,000 families in the immediate San Jose community working to provide Christian alternatives to permissive sex education programs.

COALITION OF PRO-LIFE UNIVERSITY STUDENTS. Oaklawn, Illinois.

A national coordinating organization serving pro-life groups on a majority of college campuses throughout the United States. Publishes a sporadic newsletter during the school year.

COMMITTEE TO PROTECT THE FAMILY. Alexandria, Virginia.

A recently-formed coordinating organization working with other groups state-wide to further pro-life, pro-family legislation within the Virginia legislature.

O.A. 12,450
"Pro-Life Coalitn"

CONCERNED CHRISTIAN MOTHERS. Miami, Florida.

A state-wide organization of Christian families reaching throughout Florida with a primary purpose of securing passage of pro-life, pro-family legislation in Florida and at the Federal level also.

CONCERNED CHRISTIANS FOR GOOD GOVERNMENT. Atlanta, Georgia.

Statewide organization with over 1,000 'legislative leaders' throughout Georgia working mailing with the State legislature, but also with the Georgia Congressional Delegation, for pro-family legislation.

CRISWELL CENTER FOR BIBLICAL STUDIES. Dallas, Texas.

The center has a tremendous national following due in part to its three-times-weekly radio programming.

EPISCOPAL RIGHT TO LIFE. Phoenix, Arizona.

A national group working with the Episcopal Church in America to advance and strengthen pro-life doctrine within the Church.

FAM-PAC. Sunnyvale, California.

One of the largest pro-family political action committees in California working to elect qualified pro-family, pro-life candidates to both State and Federal offices within the state.

FAMILY LIFE COALITION. Skaneateles, New York.

A state-wide organization with a large following. Its purpose is the monitoring and influence ofpro-family legislation within the State.

FOR LIFE, Inc. Minneapolis, Minnesota.

A center designed to produce and distribute pro-life educational materials which is known throughout the world for the quality and number of its works.

HUMAN LIFE INTERNATIONAL. Washington, D.C.

An international organization with outreach to over 55 nations worldwide, specializing in the teaching and promotion of Natural Family Planning techniques and practices, particularly in Third World countires.

IOWA PRO-LIFE ACTION COUNCIL. Des Moines, Iowa.

The state-wide pro-life organization for Iowa, with local organizations in nearly every community and boasting a total membership of over 50,000.

LAPAC of SOUTH DAKOTA. White, South Dakota.

A state-wide pro-life political action committee with local chapters all across the state. Its effectiveness was proven in 1980 when it was the deciding factor in the election of GOP Senator James Abdnor.

LEAGUE OF CATHOLIC LAYMEN. Clovis, California.

Affiliated with Valley Christian University, LCL is dedicated to training young Catholic men and women in the basic tenets of the faith. It is developing an outreach program which will shortly include chapters in every state of the union.

LIBERTARIANS FOR LIFE. Wheaton, Maryland.

An organization within the Libertarian Party to preserve and promote the basic Libertarian party principles on life issues. It has a membership exceeding 5,000.

LIFE ADVOCATES. Houston, Texas.

The largest pro-life organization in Texas with local chapters in every community and a nationally-recognized newsletter with a circulation of over 100,000.

LUTHERANS FOR LIFE. Torrance, California.

A national organization dedicated to the propagation of pro-life informational and educational materials in order to reinforce life tenets within the Lutheran Church in America.

METHODISTS FOR LIFE. Wheaton, Maryland.

A national organization with a paid newsletter circulation in excess of 5,000 with emphasis not only on national legislative issues but also in the areas of counseling, care and concern for troubled families.

MOTHERS ORGANIZED FOR MORALITY. Millbrae, California.

A statewide organization in California with over 200 chapters seeking to monitor and improve local and state legislation with a view toward improving educational curricula within the state.

NEBRASKA COALITION FOR LIFE. Gretna, Nebraska.

The statewide pro-life organization it represents over 200,000 Nebraska families and has chapters in every major community.

ODESSANS FOR LIFE. Odessa, Texas.

A small group with a number of highly-motivated and effective leaders who have succeeded in overcoming Planned Parenthood's activities in their own city and assisted in the effort in neighboring counties.

PARENTS AND CHILDREN TOGETHER. St. Davids, Pennsylvania.

An organization dedicated to research in the field of educational and curriculum materials, the potential detrimental effect on children and means for their improvement.

PARENTS RIGHTS. St. Louis, Missouri.

A state-wide organization with over 3,000 families active in educational activism at the local level as well as providing leadership and information on abortion and related pro-life, pro-family issues.

PARENTS RIGHTS ORGANIZATION. Cincinnati, Ohio.

With over 4,000 family subscribers, it is the largest pro-life organization in Ohio. It has a national constituency through its excellent newsletter. It works for the preservation of parents' rights in education, concerning abortion and in the distribution of contraceptives.

PENNSYLVANIANS FOR HUMAN LIFE (Potter County). Coudersport, Pennsylvania.

This is a county chapter of the statewide organization numbering over 400 families in the area surrounding Pittsburgh. Its local programs are a model for others to follow in local activism.

PRO-LIFE CD 11. Belmont, California.

A local organization serving the 11th Congressional District of California, publishing a newsletter for its 400 family members that is widely distributed throughout the district.

PRO-LIFE COUNCIL OF CONNECTICUT. West Hartford, Connecticut.

The state-wide pro-life organization in Connecticut with chapters in every major community and over 6,000 members. It is actively seeking passage of the Human Life Statute, the Paramount Human Life Amendment as well as pro-life pro-family legislation in the State House.

RIGHT TO LIFE OF KANSAS. Wichita, Kansas.

With membership in excess of 10,000 families, RTLK is the state-wide pro-life organization in Kansas. It has an excellent newsletter, 'alert' system and telephone tree which are effective in its state-wide legislative efforts.

UNITED PARENTS UNDER GOD, INC. Belmont, California.

Founded more than 12 years ago, UPUG is one of the oldest pro-life, pro-family groups in the country. It effectively involves families and youth in combatting permissive sex-education and abortion laws in California.

UNITED PRO-LIFE COUNCIL. Torrance, California.

A state-wide organization with a widely-read monthly newsletter, the main focus of UPLC is to combat the influence of Planned Parenthood on youth in the schools and in the communities.

ST. JOSEPH'S CHURCH. Bluffton, Indiana.

Monsignor Conroy, pastor of St. Joseph's Church, is extremely supportive of the Human Life Statute and has been working to distribute information on the HLS within the structure of the Catholic Church in the U.S.

TEXAS DOCTORS FOR LIFE. Austin, Texas.

A state-wide organization numbering over 1,000 Texas physicians dedicated to the preservation and adherance to the Hippocratic oath.

VALLEY CHRISTIAN UNIVERSITY. Clovis, California.

With both a campus and an extensive correspondence instruction program, VCU through its student body and its widespread publishing activities has been a major force in the pro-life, pro-family movement.

WOMEN'S COMMITTEE FOR RESPONSIBLE GOVERNMENT. San Mateo, California.

A state-wide organization with primary emphasis on the researching, introduction and passage of pro-life, pro-family legislation within the State of California.

YOUNG PARENTS ALERT. Lake Elmo, Minnesota.

A state-wide organization with a small national following working on the preparation of model legislation designed to counter permissive sex education programs and the protection of parental rights.

CATHOLICS FOR LIFE. (Washington County) Providence, Rhode Island.

A county wide chapter of the state organization, numbering over 100 active families and over 300 additional families within the county area.

PUBLIC HEALTH WORKERS FOR LIFE. Washington, D.C.

A national organization "related" to the American Public Health Association, working to promote pro-life goals and ethics within the parent organization.

October 23, 1981

TO: Human Life Statute Coalition Members

FROM: Doug Badger, Legislative Director
Christian Action Council

Doug

RE: Reintroduction of the HLB

In a development which will have a profound impact on the course of pro-life legislation in Congress, Sen. Jesse Helms (R-N.C.) on October 15 deftly used the Senate rules to pave the way for a full Senate vote on the HLB. Helms' move enabled HLB supporters to circumvent the Senate Judiciary Committee which has bottled up the bill since July.

The maneuver Helms used is an intriguing, two-part process. He began by reintroducing the Senate subcommittee version of the HLB as S. 1741. He then blocked an attempt to assign the measure to the Judiciary Committee. This second step is the key to the process. Senate rules require unanimous consent to refer newly introduced bills to committee. Normally, this is a formality. But from time to time an individual Senator will exercise his prerogative to object to a particular bill's referral to committee. When such an objection is lodged, the bill is "held at the desk" until the next legislative day. (Senate legislative days do not correspond to calendar days, but are changed periodically.) On the ensuing legislative day, unanimous consent once again is requested to send the bill to committee. If an objection is heard at this point, the bill is placed on the Senate calendar. Bills on the calendar can be called up for floor debate at any time.

At this writing, the HLB (now S. 1741) is being "held at the desk" awaiting the next change of legislative day. When that occurs, Helms once again will object to sending the bill to Judiciary and it will go on the calendar, where it will become eligible for full Senate action.

Helms' move sent shock waves through the pro-abortion ranks, who have largely had their way in Congress since early summer. At that time the Senate Judiciary Subcommittee on Separation of Powers voted to report favorably on the HLB to full committee, but to delay further action on the measure until Sen. Orrin Hatch (R-Ut.) could complete constitutional amendment hearings. Marguerite Beck-Rex of NARAL hailed this arrangement as "a victory," and it soon became apparent why: it made the HLB hostage to constitutional amendment hearings.

Sen. Hatch waited three months before starting those hearings and may continue them into next year. The protracted hearings are

JESSE HELMS
NORTH CAROLINA

United States Senate

WASHINGTON, D.C. 20510

October 23, 1981

Dear Human Life Statute Coalition Members:

Let me take this opportunity to bring you up to date on recent developments concerning the Human Life Statute, S. 158.

As you are aware, S. 158 was reported out of the East Subcommittee to the full Judiciary Committee, pending hearings on the Hatch Subcommittee on Human Life constitutional amendments. By October 15, it was apparent that the work load of the Judiciary Committee and the Hatch Subcommittee was such that S. 158 might not receive final Committee action during this session of the Senate.

On October 15, I took the necessary parliamentary action to place S. 158, as amended by the East Subcommittee, directly on the Senate's Legislative Calendar. Technically this was done by re-introducing S. 158, as amended, in the form of a new bill, S. 1741, and asking for its immediate consideration. Under Senate Rules, such consideration is automatically denied, but the bill goes on the Senate Calendar (the Calendar lists all bills available for action on the Senate Floor). The bill can then be taken up for debate at the will of the Senate Majority Leader, Senator Howard Baker, at a time of his choosing, without waiting for a full report from the Judiciary Committee.

This was done to emphasize the fact that full and complete hearings, and a subcommittee markup have been held on the bill. The bill can be debated directly on the Senate Floor when the time is ripe, or it can be offered as an amendment to another piece of legislation. Thus there is a good prospect of debate on the Human Life Statute either late this year, or early next year.

This means that a lot of work must be done in the immediate future if we want to be ready to bring up this bill in the Senate. As you know, passage of a bill requires only a simple majority of both Houses of Congress, while passage of a Constitutional Amendment requires two-thirds of both Houses. In my judgment, the requisite two-thirds majority does not now exist for any Constitutional amendment. But I believe that the votes for a legislative initiative can be assembled in this Congress, if we all work very hard.

Sincerely,

Jesse Helms

JESSE HELMS:mb

focusing on an amendment Hatch intorduced on September 21, and which, to date, has garnered little support. Hatch told the Associated Press that anti-abortion activists regard his amendment as a "sell-out," and conceded that the disagreement over his proposal is mainly due to the lack of 2/3 support to pass an amendment in this Congress.

But despite Hatch's professed inability to get his amendment through the Senate, the hearings dragged on, and the HLB continued to languish in committee--until Helms' bold move.

Now that the HLB is about to go onto the Senate calendar, the whole picture has changed. The bill is on the move. A Senate vote may be imminent. It's time for pro-lifers to press for passage of this critical legislation.

At this point, two actions are needed:

- o Write Sen. Helms and thank him for reintroducing the HLB as S. 1741 (Address: The Honorable Jesse Helms, 4213 Dirksen Senate Office Bldg., Washington, DC 20510).

- o Generate mail to your Senators, alerting them to the fact that the HLB will soon be on the Senate calendar and asking them to vote for the measure (Address: The Honorable _____, United States Senate, Washington, DC 20510).

Your letters are crucial. Senator Helms has made a Senate vote on the HLB possible. It's now up to us to tell our Senators that we want the bill passed.

•CONGRESS-SOCIAL ISSUES
BY MIKE SHANAHAN

WASHINGTON (AP) -- SENATE MAJORITY LEADER HOWARD BAKER JR. IS CLEARING THE WAY FOR FLOOR ACTION ON SUCH ISSUES AS ABORTION, SCHOOL PRAYER AND BUSING FOR RACIAL DESEGREGATION.

FOR NEARLY 10 MONTHS, BAKER CONFINED SENATE DEBATE TO PRESIDENT REAGAN'S ECONOMIC PROGRAM AND SOME FOREIGN POLICY ISSUES. BUT NOW HE'S TELLING SENATE CONSERVATIVES THAT THERE WILL BE ''FREE-STANDING DEBATE'' ON SOCIAL ISSUES DURING THE LAST MONTHS OF THE YEAR, BAKER'S SPOKESMAN, TOM GRISCOM, SAID LATE THURSDAY.

BAKER COUPLED HIS DECISION WITH A PLEA TO THE CONSERVATIVES, INCLUDING SEN. JESSE HELMS, R-N.C., THAT THEY NOT TIE UP CONGRESSIONAL SPENDING BILLS DURING THE NEXT FEW WEEKS.

CONSERVATIVES HAVE FREQUENTLY ATTACHED AMENDMENTS CARRYING SUBSTANTIVE CHANGES IN LAW TO THE APPROPRIATIONS BILLS, WHICH ARE EASY TARGETS BECAUSE THEY MUST BE APPROVED IF EACH AGENCY OF GOVERNMENT IS TO CONTINUE FUNCTIONING.

HELMS AND SEN. BENNETT JOHNSTON, D-OKLA., USED THIS TACTIC EARLIER THIS YEAR WHEN THEY ATTACHED A BUSING AMENDMENT TO A JUSTICE DEPARTMENT AUTHORIZATION BILL.

THE SENATE VOTED TO PROHIBIT THE JUSTICE DEPARTMENT FROM SPENDING MONEY ON BUSING, BUT THE BILL TO WHICH IT WAS ATTACHED HAS BEEN HELD UP BY LIBERAL OPPONENTS.

OTHER MEASURES THAT WOULD END NEARLY NINE YEARS OF LEGALIZED ABORTION AND BAR SCHOOL BUSING TO ACHIEVE DESEGREGATION HAVE BEEN MOVING THROUGH SENATE COMMITTEES, BUT UNTIL NOW THERE HAS BEEN LITTLE LIKELIHOOD OF FLOOR ACTION THIS YEAR.

GRISCOM SAID THAT ONCE THE SENATE HAS COMPLETED ACTION ON REAGAN'S PROPOSED SALE OF RADAR PLANES TO SAUDI ARABIA AND THE APPROPRIATION MEASURES, HELMS AND OTHER CONSERVATIVES WILL BE FREE TO PROPOSE SOCIAL ISSUES OF THEIR CHOOSING.

THAT PROBABLY MEANS THAT THE SOCIAL ISSUES WOULD BE DEBATED BETWEEN NOVEMBER AND THE END OF THE YEAR.

OTHER ISSUES HELD BACK BY THE CONCENTRATION ON REAGAN'S BUDGET AND TAX CUTS INCLUDE PROPOSALS TO PERMIT THE DEATH PENALTY FOR CERTAIN FEDERAL CRIMES AND STRIP FEDERAL JUDGES OF AUTHORITY TO ACT IN CERTAIN AREAS LIKE ABORTION, BUSING AND SCHOOL PRAYER.

AP-WX-10-23-81 1139EDT

This story came over the Associated Press as we went to the printer. If it is accurate (and it appears to be), then the Senate vote on the HLB will occur within the next 6-8 weeks!! Please, begin generating letters today!

Dave

From Illinois' 6th District
Congressman
HENRY J. HYDE
U.S. House of Representatives
Washington, D.C. 20515

September 23, 1981

"The Human Life Statute is a positive step toward our ultimate goal of a Human Life Amendment. It will take a great deal of time to muster the support necessary for the HLA, but in the meantime the carnage goes on and we simply cannot wait. We must have the Human Life Statute Now!

This is the pro-life movement's finest hour. We can, through the statute, give the Supreme Court the opportunity to review their tragic 1973 decision in light of the Congressional hearings on personhood and the question of when an individual human life begins. We can muster support and build organizations in states across this nation that can carry this fight to state legislatures.

We can effectively take the continued killing of preborn children off of the agenda of abortionists across this land -- the Human Life Statute must be acted upon by Congress now. I applaud this coalition for its efforts to effect this dramatic change in public attitude by working for the Human Life Statute."

Congressman Henry J. Hyde

NEWS RELEASE

Jesse Helms

United States Senator

September 23, 1981

I commend the Human Life Statute Coalition for the initiative it has demonstrated in focusing attention on this vital pro-life legislation.

We have all worked long and hard over the past several years to provide protection for unborn children. This Statute provides a means for that protection now.

We must not lose sight of the fact that innocent unborn children are killed each day in this country. This tragedy must be stopped.

The Human Life Statute is by no means an end in itself, but it is a major step toward our ultimate goal of a Human Life Amendment.

Passage of this legislation can only be realized through the continued, determined efforts of all Americans dedicated to the protection of the unborn. This Coalition demonstrates the unity of that effort and reaffirms our belief in a basic right to life. This can be the final catalyst needed to insure enactment of the Human Life Statute. Together we will be successful.

Senator Jesse Helms

# # #

Republican Study Committee

FACT SHEET

RICHARD T. SCHULZE
Chairman
RICHARD B. DINGMAN
Executive Director

H.R. 900--HUMAN LIFE BILL

SCOPE: This fact sheet will examine H.R. 900 which seeks to define the beginning of human life as existing from the moment of conception. The bill was introduced by Representative Henry Hyde and Representative Romano Mazzoli in the House and Senator Jesse Helms in the Senate.

Executive Summary

This bill defines human life as existing from the moment of conception. It thus brings life from the moment of conception under the protection of the Fifth and Fourteenth Amendments. It prevents the courts from interfering with the enforcement of this provision by State law or municipal ordinance.

Status

This bill was introduced on January 19, 1981 and was referred to the House Judiciary Committee. No hearings or action have been scheduled.

Background

The controversy on abortion has occupied a large role in American political debate during the past decade.

Abortion is most generally defined as the expulsion of the human fetus from the womb prematurely. There are various classifications of abortions (e.g., induced, natural, therapeutic). The usual accidental or natural cause of abortion (e.g., "miscarriage") does not come under consideration in the political debate. Focus is on what might be termed aborticide--the act of destroying the fetus in the womb by direct use of instruments or the use of a chemical (e.g., "medication") that kills the fetus and/or causes it to be expelled.

Prior to the middle 1960's, the abortion question played a minor role in legislative debate. The general pattern of the laws in the individual states was a prohibition on abortion to preserve the life of the mother. During this time period, certain groups (e.g., Planned Parenthood, World Population, the

ROOM 433, CANNON BUILDING, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. 20515 (202/225-0587)

American Civil Liberties Union) began pushing for the introduction of "liberal" legislation on abortion which would relax restrictions on abortions in the states.

On January 22, 1973, the U.S. Supreme Court in a decision (e.g., Roe v. Wade, Roe v. Bolton) struck down state restrictions on abortion. The decision prohibited the states from any compelling interest in the protection of the fetus until it was "viable" or "capable of meaningful life". The significance of the decision was to allow "abortion on demand" during the first six or seven months of pregnancy. The states were effectively excluded from protecting the life of the unborn.

Supporters of the rights of the unborn strongly criticized the Supreme Court decision on constitutional as well as moral grounds. A movement began very soon to seek support for a constitutional amendment protecting the right to life of the unborn and overturning the Supreme Court decision. Organizations such as Planned Parenthood and the National Organization of Women defended the decision maintaining that it upheld "freedom of choice," gave the woman the right to control her own body, and would prevent unwanted children from coming into the world.

When the federal government allowed Medicaid funds to be used for abortions, Representative Henry Hyde offered an amendment to the Department of Health, Education and Welfare Appropriations bill prohibiting such funds to be used for abortions under Medicaid. Medicaid paid for about 250,000 abortions a year. Former HEW Secretary Joseph Califano established that the Hyde Amendment had cut abortions by ninety-nine percent. (About sixteen states continued to use their own funds to pay for abortions once the federal funds were restricted). The restriction only allowed federal funding for abortions if the life of the mother was in danger. Present law allows such funding except if the life of the mother is in danger, or if there is a case of rape or incest that has been promptly reported to a law enforcement agency or public health service.

Since the Supreme Court decision in 1973, it has been estimated that eight million abortions have occurred in the United States.

On January 15, 1980, U.S. District Judge John F. Dooling, Jr. ruled that Congress had no right to place limits on the use of federal funds for abortions and thus declared the Hyde Amendment unconstitutional.

On June 30, 1980, the U.S. Supreme Court in Harris v. McRae, ruled 5-4 reversing the ruling by Judge Dooling and declared that the Hyde Amendment did not violate the Fifth Amendment's guarantee of freedom from discrimination in governmental activity. Although the effect of the Hyde Amendment is principally on the poor (e.g., women receiving Medicaid funds), this action, the Court said, does not constitute discrimination as long as it is relevant to the achievement of a legitimate government objective, namely that of protecting potential life.

Pro-abortion groups strongly criticized the decision as limiting the right of abortion and penalizing poor women who would not be able to exercise the right of having an abortion without the assistance of federal funds.

Proponents of the right to life hailed the decision as a blow to abortion on demand but stressed the necessity of eliminating abortion on demand by constitutional amendment. Dr. John Wilke, President of the National Right to Life Conference, stated at that time:

> The Supreme Court has given its sanction to what the Congress of the United States, the several states and the people of this nation have believed all along: The expenditure of public funds for abortion on demand is a choice that citizens in a democratic society must remain free not to make. It is a victory for the poor, who will not now be subjected to the bleak rationale that abortion is less expensive than caring for their children.

Dr. Mildred Jefferson, then President of the Right to Life Crusade, declared the decision as a victory for "poor people who have had no defense against the social planners who are carrying on a class-war against the poor with the government funding of abortion."

While proponents of the right to life have made gains in both houses of Congress proponents and opponents generally agree that as of now the necessary two-thirds vote for a constitutional amendment would not be available. President Ronald Reagan and Secretary of Health and Human Services Richard S. Schweiker have endorsed a constitutional amendment to protect the right of the unborn. President Reagan met with leading opponents of abortion after the March for Life on January 22, 1981.

One of the problems pro-life advocates have with the 1973 Supreme Court decision is that the Supreme Court did not treat the unborn as "persons" and thus focused on a woman's right to privacy as the major thrust in declaring state restrictions on abortion unconstitutional. One theory holds that, until a constitutional amendment is passed by Congress and ratified by the States, the future harm caused by the Supreme Court decision could be limited by a statutory definition declaring that life begins at conception. This would mean that an unborn fetus would be, by law, a "person" and abortion would then constitute "the taking of human life." Abortion would thus lose its constitutional protection.

This theme is pursued in a recent article in Human Life Review (Spring, 1981) by Stephen H. Galebach. In noting the protection of human life in the Fifth Amendment ("No person shall be...deprived of life, liberty, or property without due process of law" and the Fourteenth Amendment "...nor shall any State deprive any person of life, liberty, or property without due process of law") he states:

> These provisions reflect the belief, expressed in our Declaration of Independence, that the right to life is sacred and inalienable. Whether unborn children enjoy those rights to life already contained in the Constitution depends on how life is defined. If life begins only at birth, unborn children enjoy no protection from the Constitution as it now stands. The beginnings of life thus pose a crucial question for those branches of the federal government that enforce the Fifth and the Fourteenth Amendments.

Galebach asserts that determining when life begins is an inappropriate task for the courts but an appropriate task for the Congress. He writes that the result of the 1973 abortion decision by the U.S. Supreme Court would have been entirely different if any government had been able to examine constitutionally when life begins and to resolve that question in favor of unborn children. Thus, he reasons, if any branch of the federal government had been able to declare

that the unborn are human beings, then any state could use that declaration as a compelling state interest for prohibiting abortions. Since Congress has the power to enforce the Fourteenth Amendment, he advocates that Congress can legislate protection for the unborn by defining the unborn as human life subject to the protection of the Fourteenth Amendment. He concludes his argument:

> All the constitutional considerations suggest that Congress would be well within the bounds of its authority were it to pass a Fourteenth Amendment enforcement statute defining "person" and "life" to include the unborn. The relative competence of the courts and Congress to decide when life begins suggests that Congress not only can do this, but should...By taking this initiative Congress could put an end to the great anomaly of our country's abortion policy since Roe v. Wade, a national policy founded on a non-answer to the most fundamental question underlying any abortion policy.

(Congressional Record, January 19, 1981, S287- S294)

Provisions

1. Addition of Chapter 101 to Title 42 of the U.S. Code as an amendment.

2. Change declares Congress "finds that present-day scientific evidence indicates that a significant likelihood that actual human life exists from conception."

3. In addition, Congress finds that "the fourteenth amendment to the Constitution of the United States was intended to protect all human beings."

4. Congress declares that for the purpose of enforcing the obligation of the States under the Fourteenth Amendment not to deprive persons of life without due process of law, a definition is given of human life as existing "from conception, without regard to race, sex, age, health, defect, or condition of dependency;"

5. The term "person" shall include all human life as defined in the bill (e.g., from conception).

6. Courts are prohibited from issuing any restraining order, temporary or permanent injunction or declaratory judgement in any case which might result from a State law or municipal ordinance which:

(A) protects the rights of human persons between conception and birth, or
(B) prohibits, limits or regulates
  (1) the performance of abortions, or
  (2) the provision at public expense of funds, facilities, personnel, or other assistance for the performance of abortions.

7. If any provision of the act or the application to any person or circumstance is determined by the courts to be invalid, this decision shall not affect the validity of the remainder of the act.

Political Significance

The legislation has been criticized by pro-abortion groups as a legislative means to destroy the rights granted in the Supreme Court decision permitting

abortion. Some pro-abortion groups have gone so far as saying that the measure could eliminate the use of birth control devices. While some see it as too specific, others see it as too vague (e.g., Would an abortion be a violation of civil rights laws and thus be prosecuted by the Department of Justice?).

Some pro-life people have been critical of the statute approach feeling it will divert time and energy away from the major legislative goal of the pro-life movement--a constitutional amendment to prohibit abortion.

However, in defense of the statute, it is clear that the law would protect a certain class now unprotected by the law (e.g., the unborn) and it would be up to the courts to determine more complex applications of the law. If these problems of vagueness are an issue, it could also be sufficiently amended in committee or on the floor to clear up uncertainties.

The bill avoids the debate over "fertilization" versus "conception" by using conception as it seeks to eliminate abortion on demand. It would turn further action on the abortion question to the state legislatures but would define life in a federal statute so that states could not permit by law abortion on demand. (Abortion by private groups would still be allowable unless the state in its own capacity decided to act against private groups; the state or city could not promote abortion as part of their public policy).

There are certain things the human life bill will not do. It <u>will not</u> affect the policies of the Food and Drug Administration on new drugs. It <u>does not</u> outlaw any birth control device. (It should be noted that Representative Hyde, the chief sponsor of the Human Life Bill, in the Hyde Amendment added to the appropriations bills for HEW, now HHS, an exception in these cases: "nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum."). It <u>will not</u> imprison women seeking abortions since women in the law would not be treated as criminals but as victims. It is designed to prevent surgical abortions or abortions on demand. It <u>will not</u> affect miscarriages which are not considered abortions.

Rather than divert attention from the move to adopt a constitutional amendment prohibiting abortion, this statute could highlight and bring into the public forum the crucial question in the whole right to life/abortion debate--the question of the value of life. The end result of the pro-life movement is to end abortion. It would be easier to do so by statute (a majority vote in both houses) than by a constitutional amendment (two-thirds vote in both houses and ratification by three-quarters of the states). The debate over the human life bill is likely to highlight interest in the whole question of the value of human life and whether abortion is the deliberate taking of human life and should be banned as part of public policy.

<u>Conservative Concerns</u>

1. Members of Congress supporting the protection of human life have also been concerned with the strong efforts of groups like the National Organization of Women and Planned Parenthood to promote abortion on demand. Conservatives see this trend as destroying human life and weakening the family structure by lowering the value of human life and respect for the human person. A definition of human life would assist in battle against abortion on demand. Representative Hyde in introducing the bill noted:

> "This statutory solution for the dilemma of abortion on demand in America is not the only method of reversing the horrendous constitutional errors of Roe v. Wade and Roe v. Bolton. I hope that, before Tong, a constitutional amendment will be proposed by the Congress for eventual ratification by the States. But in the meantime we here in Congress can exercise our powers under the 14th Amendment, and by statute establish the right to life of the unborn child. I am convinced we have a duty to do so. (Congressional Record, January 19, 1981, E95-E96).

2. While opponents of the right to life maintain that the fetus is not a human life, some supporters of abortion have recognized that the fetus is a human life. Dr. Bernard Nathanson, one of the founders of the National Association for Repeal of Abortion Laws (presently the National Abortion Rights Action League or NARAL) wrote in the New England Journal of Medicine (November 28, 1974):

> There is no longer serious doubt in my mind that human life exists within the womb from the very onset of pregnancy, despite the fact that the intrauterine life has been the subject of considerable dispute in the past...We must courageously face the fact---finally---that human life of a special order is being taken. (Congressional Record, January 19, 1981, E95-E96).

3. A co-sponsor of the Hyde bill is Democratic Representative Romano Mazzoli of Kentucky. Senator Jesse Helms, the sponsor of a similar measure in the Senate (S. 158) stated:

> ...I have repeatedly stated on the floor of the Senate that I would withdraw from the debate on abortion if I could be convinced that abortion was not the deliberate taking of an innocent human life. Year after year, my challenge has been met with resounding silence. To date, no one has dared to assert during the Senate debate that abortion is not the taking of a human life. (Congressional Record, January 19, 1981, S287).

4. On dealing with the question of whether a human life is involved in a pregnancy during the pregnancy, Representative Hyde has responded:

> I suppose the basic issue between us is whether or not a pregnancy involves a human life or not. If one believes that a human life does not exist until birth, then it is logical to evaluate other considerations in reaching a judgment as whether to terminate the pregnancy or carry it to term. If one believes, however, as I do, that at pregnancy a new and unique genetic package is created, and as the hours and days go by this new entity develops a heartbeat, a circulatory system, brainwaves, and its own sensitivity to sound, light and other stimuli, then it is a human

> life rather than animal or vegetable. It is not a tumor; it is not a chicken; it is not a diseased appendix, but it is a human life of a very fragile and vulnerable sort. Given time and nourishment which the mother's body provides it will become a little boy or girl and ultimately an adult person...Once fertilization has occurred all of the "ingredients" are present for this human being other than, as I have said, time and nourishment. Birth really is just a change of address.

5. The definition of life would keep the issue in the hands of the Congress, the representatives of the people, rather than allowing the courts to make such judgments.

6. Fundamental issues of American society and the future of the United States are involved in whether the U.S. should have a policy which allows abortion on demand or leaves vague the question of when life begins. In defending the right of life philosophy, Representative Henry Hyde made these points in his thoughts on the pro-life movement in a speech at Georgetown University (October, 1979).

> The Issue of the Right to Life deals with the most defenseless, voiceless, and vulnerable of human beings: the unborn.
>
> Abortion doesn't really happen to a woman, it happens to an unborn child, and every abortion is over somebody's dead body.
>
> Pro-choice? There is no choice at all for the victim. The choice is how we shall kill the unborn child...A lot of babies die by chance, but I don't know of any that ought to die by choice.
>
> I am going to use logic and science and persuasion to let people know that it is the business of law to protect the weak from the strong.
>
> Those who are in favor of abortion suffer from a failure of imagination. I wonder if any of them ever wake up at three in the morning and think about what they are doing, think about what they have done, think about the ineffable waste of human life and its enormous potential.
>
> Alchemy used to be taking a base metal and turning it into gold. Now we have taken what used to be a crime and turned it into a moral right.
>
> Child abuse reached its ultimate in abortion.

We think a lot more of animals than we think of unborn children. The snail darter is protected by law as one of the endangered species. The dolphin, the white whale, the furbush lousewort are too, and yet, the unborn child hasn't got any protection at any time during the nine months of gestation, should the mother desire an abortion.

But the child has a moral right to live, and, getting on firmer ground, a civil right to be treated as a human being before birth.

* * * * * * * * * *

Donald J. Senese
April 24, 1981

COMMENT ON SEPTEMBER 21, 1981 NATIONAL COMMITTEE FOR A HUMAN LIFE AMENDMENT NEWSLETTER ANALYZING HATCH AMENDMENT F.J. RES. 110.

Submitted by American Life Lobby

The headings of the September 14, 1981 comment sheet are reproduced herein and A.L.L. comments are made on the N.C.H.L.A. comments.

Heading definition:

While the Hatch Amendment is called a Human Life Amendment, it does nothing to protect human life other than give the Congress and States power to restrict abortions. Unfortunately, it does not give any affirmative protection to human life. It does not give personhood to the unborn. It leaves untouched the "right to privacy" as defined by the Roe v. Wade decision which would in practice permit abortion on demand to continue in the future no matter what laws might be passed under the Hatch Amendment.

The amendment does state that there is no right to an abortion guaranteed by the Constitution, but it leaves untouched those rights which have been used to establish abortion on demand as a constitutionally guaranteed right, and those rights, (the right to privacy and the right against self incrimination and the presumption that an abortionist is doing good when he performs an abortion) would continue to permit abortion on demand in spite of the Hatch Amendment. For this reason, it is believed incorrect to state that the Hatch Amendment would reverse Roe v. Wade.

While the amendment purports to give Congress and the States the power to restrict and prohibit abortions, since the amendment does not close the loop-holes which now permit abortion on demand, we would continue to have abortion on demand. The only difference would be a slight change in operating procedure by the abortionists to cleverly use the right to privacy and the right against self incrimination and the presumption that an abortionist is doing good when he performs the abortion to continue to give us abortion on demand.

N.C.H.L.A.: IT AVOIDS "STATES RIGHTS"

A.L.L.: The amendment does not avoid States Rights. The amendment is a states right amendment. The slightly redeeming feature is that the amendment also permits Congress to legislate in the abortion area, but this is not an avoidance of states rights.

N.C.H.L.A.: ABORTION AND PUBLIC OPINION

A.L.L.: To quote the polls which show that one-third of the people support abortion on demand, a minority oppose all abortion, and to allege that the balance of power is held by those who oppose only some abortions, is to enter a quicksand. The public is not going to vote on this amendment. The legislators are going to vote on this amendment, and the election results of the past few

years clearly show that regardless of what the public thinks, pro-life is a good issue at the polls and will ultimately, if properly used, elect enough legislators to pass an appropriate amendment. We should, of course, ignore the polls which are slanted. We have no doubt but what the vast majority of the public would oppose all abortion if the public were properly educated. As times goes on, our educational efforts continue to educate more and more of the public, and whether or not the polls will show it or not, we are going to have a larger number of people opposing all abortion in the future.

The position of opposing all abortion is far stronger than the strategy of the Hatch Amendment for this reason. Abortion either does or does not kill a human being. If abortion does not kill a human being, we are all wasting our time. If, however, abortion does kill a human being, we will win as soon as we convince the public of this scientific fact. If, however, we back any type of amendment which is not based on the concept that abortion kills a human being, we have made it harder to convince the public that abortion does kill a human being, and we have paved our way to our own ultimate defeat.

The surest way for us to win is to continue to state that human life is sacred, the unborn are human life, and neither Congress nor the States have the right to provide for the execution of innocent human life, whether indirectly by not passing legislation or directly by passing legislation.

N.C.H.L.A.: CUTTING THE QUESTION

A.L.L.: By giving up our argument that all innocent human life is worthy of protection, the Hatch Amendment guts the anti-abortion arguments. If it is difficult to pass an effective constitutional amendment now, can you imagine how much more difficult it would be after passage of the Hatch Amendment?

N.C.H.L.A.: EXCEPTION

A.L.L.: The Hatch Amendment is morally unacceptable because it establishes as constitutional law the premise that Congress and the States have the power to prevent or permit the execution of innocent human life.

N.C.H.L.A.: CONGRESSIONAL BENEFITS

A.L.L.: Should we give pro-abortion Congressmen an opportunity to cast a vote which will make it difficult to use the pro-life issues against them? In point of fact, it is unlikely that in the present Congress the Hatch Amendment could generate enough support to be passed in the absence of some sort of a deal which would sell out the future of the pro-life movement.

N.C.H.L.A.: RATIFICATION

A.L.L. This assumes that it is easier to pass a bad abortion amendment than a good one. Even if true, which is doubtful, by pushing for the Hatch Amendment to be ratified after it got out of Congress, we would probably be making it impossible to pass a really protective amendment at some later time.

N.C.H.L.A.: EFFECT

A.L.L.: As explained in detail elsewhere, the Hatch Amendment would leave us with abortion on demand in spite of any laws that might be passed by Congress or the States, because it leaves undisturbed the abortionists shield of the right to privacy, (from the Roe v. Wade case) the right against self incrimination (from the Fifth Amendment) and the presumption that the abortionist was doing good and can only be convicted if he said that he intended to break the law (United States v. Milan Vuitch [1971]).

N.C.H.L.A.: ABORTIFACIENT

A.L.L.: Under the Hatch Amendment, abortifacients will be impossible to prevent, because they will be marketed to serve other purposes and then used for abortions.

N.C.H.L.A.: SOCIAL RAMIFICATION

A.L.L.: The premise that the longer abortion on demand continues, the more acceptable it becomes, does not seem to be correct. There is no indication that abortion is more favored by the public now then previously. Certainly the momentum in elections and in the various legislatures is pro-life. It appears that something like the Hatch Amendment is the only thing that could interrupt what seems now to be a fairly constant movement in the direction of pro-life by the legislatures of the U.S.

# # #

This paper has been prepared with the guidance and direction of Robert L. Sassone, Attorney at Law, on Thursday, October 15, 1981.

(Mrs.) Judie Brown
President, American Life Lobby

Avoiding a Pro-life Dunkirk in Congress

By Martin Ward

In the 1980 elections, opponents of abortion became a major force in national politics.

Although this came as a rude surprise in some quarters, it was brought about by helping to elect a presidential candidate who supports a constitutional amendment to overturn the U.S. Supreme Court's decisions on abortion and by defeating several U.S. Senators who had been outspoken adversaries of such an amendment.

Moreover, the anti-abortion movement benefited enormously from the fact that last year's elections transformed an 18-seat Democratic majority in the Senate into a six-seat deficit, giving the Republican Party control of that body after more than 25 years of minority status.

▸A Political Advantage

The most obvious effect of this reversal was to bring the chairmanships of the Senate Judiciary Committee and its Subcommittee on the Constitution under the aegis of two Senators clearly sympathetic to pro-life goals.

Since the U.S. Supreme Court struck down the abortion law of every state in 1973, the anti-abortion movement found itself for the first time facing the possibility of a constitutional amendment being reported out of the Senate Judiciary Committee favorably—a distinct advantage that would lend such a measure important credibility prior to any vote by the full Senate itself.

After almost a decade of struggle, opponents of abortion greeted this political sea change with something bordering on euphoria. It was not anticipated even a week before the election that its outcome would remove key obstacles to the passage of pro-life legislation so quickly or decisively.

▸A Question of Strategy

Many people started to make plans, in this jubilant atmosphere, to advance a human life amendment immediately.

Such excitement, however, has tended to obscure the need for a careful and dispassionate analysis of several critical questions of strategy.

- While the anti-abortion movement may be able to get a constitutional amendment out of committee, for example, should it seek to do so?
- Does an amendment have a reasonable chance of being passed in the House and Senate?
- If an amendment were to be voted down, what are the implications of such a failure for the future?

▸Several Amendments

It is also important to note in this regard that there have been a variety of constitutional amendments introduced in Congress to reverse the U.S. Supreme Court's abortion rulings.

The strongest of these is the "human life" amendment. It would recognize the status of every human being as a legal person from the moment of conception and would mandate protection for the right to life of the unborn.

A far weaker formulation is the "states' rights" amendment, which would leave the disposition of the question of abortion completely to the legislative discretion of each state.

More recently, a "federal powers" amendment has been proposed that would vest Congress and the states with concurrent authority to try to arrive at a uniform rule or consistent national standard for regulating abortion.

It follows the line of Supreme Court holdings that the 5th, 13th, and 14th amendments do not provide a constitutional basis for guaranteeing the right to life of unborn children and that this must be settled *de novo* by Congress and the states after ratification.

Although it contains no mandate for the protection of the right to life, it is advocated on the grounds that its ratification would create a climate favorable to the enactment of increasingly stringent anti-abortion statutes and eventually of a second amendment to the Constitution providing mandatory safeguards for the unborn.

▸A New Approach

Much criticism has been leveled at this "two-step" approach, but it has the merit of addressing one of the main pitfalls that makes the traditional human life amendment favored by anti-abortionists virtually impossible to pass in the current Congress—that is, a protracted debate over the need for exceptions in such "hard cases" as danger to the life of the mother, rape, incest, and fetal deformity.

Such a debate would present the insoluble dilemma of having to load up an amendment with so many

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exceptions that it would be useless in practice and unacceptable in principle in order to attract the two-thirds majority vote necessary for its adoption.

Since a simple grant of power to Congress and the states sidesteps this problem, at least until such time as implementing legislation might be considered, its proponents argue that it has a better (if nonetheless remote) chance of being adopted by the 97th Congress.

▸On the Road Again

Several reasons are offered in defense of this contention.

It is noted, first, that the pro-life gains made in the last elections have strengthened the political base of support for a constitutional amendment in Congress.

Secondly, it is maintained that the image of the anti-abortion movement as a potent electoral force will help to make up for the lack of a two-thirds majority supporting an amendment in the House and Senate by reminding "dissident" congressmen of the ghosts of pro-abortion candidates defeated in 1980.

Many congressmen either moderately or strongly opposed to a pro-life amendment, it is felt, would be moved to change their position by the specter of their own possible defeat in the upcoming 1982 elections.

Many key Democrats are also said to believe that it was being on the wrong side of the abortion issue which led to the decimation of their ranks in 1980, and that the way to retrieve the party's fortunes in the Senate and to avoid losing control of the House is for their pro-abortion colleagues to vote for an amendment "as weak as possible, but as strong as necessary" to keep it from being an electoral liability in 1982.

> **"The strategy of seeking two amendments appears to be very plausible and appealing ... until certain specific, hard questions are asked ... [that make] its flaws apparent."**

Since the "federal powers" proposal avoids any consideration of hard cases, it is speculated that even solidly pro-abortion solons might vote for it on the grounds that the process of ratification would take several years and that the question of exceptions could be raised again if implementing legislation were ever to be framed at the state and national level.

▸A Second Look

The strategy of seeking two amendments appears to be very plausible and appealing at first glance—especially to those still flushed from their success in the recent elections—and it is not surprising that it has gotten some important backing from pro-life citizens and members of Congress.

It is reported, for example, that Senator Orrin Hatch is attempting to make it "the focus of the abortion debate in the Congress this fall" in the hope that such an amendment might be significantly advanced by "allowing reluctant Senators and House members to avoid a direct vote on abortion."

It is only if certain hard questions are asked that the flaws in this strategy become apparent.

- What specific Senators, after all, are going to change their position on abortion?
- And what is the likelihood of getting enough Senators who have favored abortion in the past to support such an amendment now for it to stand a reasonable chance of passage?

▸The Bottom Line

Speculating about the apparent attractiveness of a proposal or its possible outcome in Congress, in other words, is not a substitute for a careful appraisal of who is really likely to vote for it.

The bottom line is that any proposed amendment to the Constitution must command the support of a two-thirds majority in both houses of Congress.

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Table 1.
Senators strongly opposed to a constitutional amendment on abortion

1982*	1984	1986	
Byrd, R. (D)	*Baker (R)*	*Bumpers (D)*	
Hayakawa (R)	*Baucus (D)*	*Cranston (D)*	
Jackson (D)	*Boren (D)*	*Dixon (D)*	
Kennedy (D)	*Bradley (D)*	*Dodd (D)*	
Matsunaga (D)	*Cohen (R)*	*Glenn (D)*	
Metzenbaum (D)	*Kassebaum (R)*	*Gorton (R)*	
Riegle (D)	*Levin (D)*	*Hart (D)*	
Sarbanes (D)	*Nunn (D)*	*Hollings (D)*	
Schmidt (R)	*Pell (D)*	*Inouye (D)*	
Stafford (R)	*Percy (R)*	*Leahy (D)*	
Wallop (R)	*Pryor (D)*	*Mathias (R)*	
Weicker (R)	*Simpson (R)*	*Packwood (R)*	
Williams (D)	*Stevens (R)*	*Rudman (R)*	
	Tower (R)	*Specter (R)*	
	Tsongas (D)		
14	15	14	Total=43

*Standing for re-election to the Senate.
†Note: Senators Burdick (D) and Johnston (D) have not been included in the "opposed" category, because of some indication of support for a "states' rights" amendment. Senator Goldwater (R) has not been counted as "opposed," because he is obstensibly pro-life.

Avoiding a Pro-life Dunkirk

Continued from Page 5

At best, it is difficult to secure this support. According to the American Bar Association, the Congress has only approved 33 of the more than 10,000 amendments presented to it, and only 26 have ever been ratified including the Bill of Rights.

If any amendment were to pass in the full Senate, for instance, it would need the backing of 66 members out of the 100 present and voting. It would fail if more than 34 Senators were against it.

Yet there are at least 43 Senators and perhaps as many as 46 (see table 1), on the basis of their public statements and voting records, who are strongly opposed to *any* amendment that might interfere with the U.S. Supreme Court's decisions on abortion.

Moreover, there are at least eight Senators—and possibly as many as 10—whose stance is one of "moderate" opposition to a pro-life amendment (see table 2).

Some of these might arguably be considered "undecided" by virtue of having indicated some support for a states' rights approach (see notes to tables 1 and 2).

Assuming 49 solid votes for the federal powers amendment from "pro-life" Senators, then, it would have to attract the support of at least nine of those Senators most strongly opposed to any amendment and all eight of those who appear to be moderately opposed.

▸Re-election Chances

Since Senators up for re-election in 1984 and 1986 are less vulnerable to grassroots pressure to change their positions, the bulk of these additional votes would presumably come from those standing for the Senate again in 1982.

Such a "best case" scenario, of course, depends heavily on the idea that these Senators might face stiff re-election challenges because of their stance on abortion.

It might be noted, in this regard, that more than half (or a total of eight) of the 14 Senators strongly opposed to an amendment and up for re-election in 1982 are heavily favored to win.

Senators Byrd of West Virginia, Jackson of Washington, Matsunaga of Hawaii, Moynihan of New York, Schmidt of New Mexico, Stafford of Vermont, Wallop of Wyoming, and Kennedy of Massachusetts each fall in this category.

Some may entertain the hope of retiring several of these Senators, but it is not a prospect regarded by experienced observers as much more than a dream.

Senator Kennedy, for example, was re-elected in Massachusetts in 1976 with 70% of the vote despite his well-known support for permissive abortion.

Moreover, a professional survey of primary voters in the Bay State indicated very recently that he is favored by independents, Catholics, ıe middle-class, the elderly, and those most likely to vote by a mai gin of roughly eight to two.

Nor did the other Senators in this group face any major difficult in 1976 as a result of their positio on abortion, and they are not in any imminent danger of being de feated in 1982.

It is reasonable to conclude, therefore, that they are not likel to change their posture on abortion prior to the elections.

▸And the Others

Although six of the Senators left in this group do face difficult in their bids for re-election in 1982, it is improbable that they would vote for an amendment in any event.

Senator Hayakawa of California who may be the most vulnerable, is a case in point. He is widely expected to announce his retiremen from the Senate in the face of primary challenges from several mem bers of his own party, including pro-life Representatives Bob Dornan and Barry Goldwater, Jr.

If he were planning to retire, it is obvious that little could be done to "pressure" him to vote for a constitutional amendment.

Since the 74 year-old Hayakawa has the reputation of a maverick, it would not surprise anyone if he did stand for office again, but even so his trademark is a robust sense o independence and the ability to take politically unpopular position successfully.

And on the question of abortion he is likely to reason that voting fo a constitutional amendment would do him little good, because Dornan and Goldwater could be expected to split the pro-life vote.

A similar assessment, unfortunately, must be made of the other relevant figures.

▫Senator Williams of New Jersey, recently convicted in the string of Abscam cases, is facing censure or expulsion by his Senate colleagues and may well resign by the end of the year.

▫Senator Weicker of Connecticut has long been an outspoken defender of the Supreme Court's abortion rulings.

While he will be challenged in the Republican primary by Prescott Bush, the latter is also in favor of abortion, which does not create much leverage to persuade Senator Weicker to modify his opinions on the issue.

Although Connecticut is heavily Catholic, with adherents of the Church making up almost 45% of the population, only one of the state's six congressmen is opposed to abortion and the rest do not seem to suffer at the polls.

Senator Chris Dodd, indeed, had established a long record of voting for abortion in the House of Representatives and yet still beat pro-life former Senator James Buckley handily in 1980.

▫Senator Riegle of Michigan will have a hard race only if it is against the state's incumbent governor, William Milliken, who is also a very visible advocate of abortion and who recently eschewed interest in such a contest.

Moreover, Riegle first came to the Senate after having served as a congressman from Michigan's 7th district who had voted regularly for abortion, and the possibility of changing his mind on the question in advance of the 1982 elections is extremely remote.

▫Senator Metzenbaum of Ohio may face a tough re-election bid from pro-life Rep. John Ashbrook, but Metzenbaum is a "principled" supporter of permissive abortion laws who will not reverse himself as a matter of expedience even in a close contest.

▫Senator Sarbanes of Maryland, by contrast, is quite vulnerable and may lose his seat in the next election.

He will be confronted by pro-life Rep. Marjory Holt, a hard-driving congresswoman from the state's 4th district, who will have a large campaign chest of upwards of $2,000,000 and the possible endorsement of the Democratic mayor of Baltimore.

Since she poses a distinct threat to Sarbanes's hopes of returning to the Senate, there is an outside chance he might vote for a constitutional amendment if he thought it might help him in the campaign.

Out of the 14 Senators strongly in favor of abortion and standing for re-election in 1982, then, there is only the outside chance of picking up the vote of one for a "federal powers" amendment, which is a far cry from the minimum of nine needed for its passage.

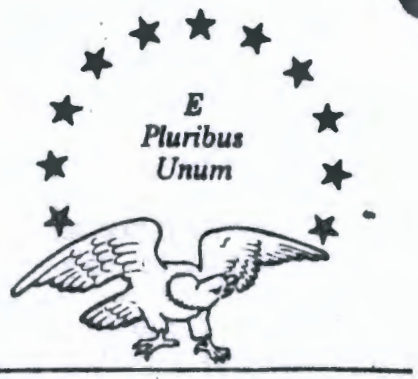
Nor is the picture any less forbidding among the decidedly pro-abortion Senators slated to go before the electorate in 1984 and 1986. If anything, it is worse.

▸What of the Eight?

Senators "moderately" opposed to a constitutional amendment on abortion will not be easy to win over either to any proposal interfering with the Supreme Court's previous decisions.

▫Senators Bentsen of Texas and Chafee of Rhode Island are the only members of this group who may have some trouble being returned to Washington in 1982.

But Senator Chafee has consistently voted against any effort to



restrict the use of federal funds for abortion, has gone on record against a constitutional amendment on abortion, and is being opposed by a pro-abortion Democrat in the 1982 race, which does not provide much leverage or hope for him to modify his stance.

Senator Bentsen, on the other hand, might change his position. He voted once in the course of his public career to restrict federal abortion funding when he ran for re-election in 1976.

Although he does not appear to be especially vulnerable in 1982, Republican congressman Jim Collins of Dallas is gearing up to run a major campaign against him.

▫Senators Byrd of Virginia, Chiles of Florida, Heinz of Pennsylvania, and Sasser of Tennessee are not seriously threatened at the polls in 1982; but it is possible that Byrd and Chiles might support a "federal powers" amendment.

Continued on Page 8

Table 2.
Senators moderately opposed to a constitutional amendment on abortion

1982*	1984	1986
Bentsen (D) *Byrd (I)* *Chiles (D)* *Heinz (R)* *Sasser (D)* *Chafee (R)*	*Biden (D)* *Warner (R)*	
6	2	0 Total=8

*Standing for re-election to the Senate.
†Note: Senators Heflin (D) and Long (D) have not been included in the "opposed" category, because of some indication of support for a "states' rights" amendment.

Avoiding a Pro-life Dunkirk

Continued from Page 7

▫Senators Biden of Delaware and Warner of Virginia do not complete their present terms until 1984.

Although Senator Biden has often voted to restrict federal funds for abortion, he made it clear during his last race that this should not be misinterpreted as any indication of support for a constitutional amendment, which he opposes for a variety of reasons.

Senator Warner, by contrast, claims that he is in favor of a constitutional amendment, but has a mercurial voting record on abortion funding.

Many people in his state doubt that he could be counted on to vote for any amendment, but feel that if there were pressure from the Moral Majority in Roanoke and the large anti-abortion contingent in northern Virginia for a "federal powers" measure he might lean in its favor.

It may be possible, in short, to persuade four of the Senators out of the eight desired from this group to back a proposed change in the Constitution.

▸A Political Appraisal

Clearly, this does not bode well for the passage of a "federal powers" amendment in the Senate.

Such a proposal, even if five anti-amendment Senators could be convinced to abet it, would still face a shortfall of 12 out of the 17 votes required for its enactment on its own "best case" assumptions.

It is not certain, of course, that every pro-life Senator would automatically commit himself to this measure, nor that it would enjoy the patronage of those Senators like Burdick, Goldwater, Heflin, Johnston, and Long who are something less than anti-abortion stalwarts.

Senator Burdick is a pertinent example. He voted against a pro-life amendment in the Senate Judiciary Subcommittee on the Constitution in 1975. A year later he was returned to office from North Dakota with 67% of the ballot. His opponent in the contest carried three counties.

▸Facing the Voters?

Some have argued, regardless of the picture presented by standard issue and vote analysis, that a predisposing factor in this otherwise discouraging equation is the desire of the Democrats to have the abortion issue behind them before the 1982 elections.

It has been intimated, publicly, that signals have been sent from the Democratic leadership in the Senate that it would stand behind a constitutional amendment "as weak as possible, but as strong as necessary" to avoid retaliation by the right to life movement at the polls.

The conclusion to be drawn from this, apparently, is that pro-abortion Democrats would vote for a "federal powers" amendment begrudgingly as a vehicle for a return to better days at the ballot box.

Such a message has also probably attracted several pro-abortion "signalmen" on the Republican side of the leadership aisle; but given the fact that only four of the 20 pro-abortion Senators up for re-election in 1982 are actually threatened politically, it has the aura of being a delicious ploy rather than of being a basis for serious legislative calculations.

any of the Senators antagonistic to a constitutional amendment, after all, *believe* that the "right to an abortion" is an important personal freedom. Since this is a matter of conscience, there is little reason to suppose that Senate Minority Leader Robert Byrd or Minority Whip Alan Cranston would even consider asking them to vote otherwise, particularly in light of their own regular defense of tax funds for abortion.

Most Democrats are also not unaware that the 1980 party platform asserted the importance of the "abortion freedom," and in any case seem to feel that the next elections will turn on other issues such as the impact of Reagan's budget cuts, threats to the Social Security program, and continued high interest rates and unemployment.

▸A Test Vote?

Although it is sometimes admitted that there is little chance of a "federal powers" amendment being passed by Congress, its most fervent supporters argue that even if it is slated to fail it should still be brought to a test vote, so that those Senators who are against it can be marked for defeat.

Since a test vote would position pro-abortion Senators firmly, it is said, this would help the pro-life movement add a few more scalps to its belt at the next election, thereby improving the odds of a *future* Congress enacting a human life amendment.

Several problems mar this line of reasoning seriously.

▫Not the least of them is that a test vote may be taken on any form of an anti-abortion amendment at almost any time under Senate rules. It is not necessary to stage a major battle in Congress to do so.

▫Similarly, a less stringent version of an amendment, like the "federal powers" one, provides more of an opportunity for a Senator to hide his policy commitments than pres-

sure to reveal them.

A stricter amendment would sort the wheat from the chaff far more effectively if a test vote were called for. But what compels such a vote?

▫Since the Congress has taken scores of roll-calls on abortion, what Senator's stance is not already known at least in broad outline?

▫At the same time, there are only four out of the 20 pro-abortion Senators seeking re-election in 1982 who are possible candidates for political retirement.

Such an approach, in brief, puts the anti-abortion movement in the slightly ludicrous position of expending great amounts of political capital on a fight in Congress over a "compromise" amendment with almost no chance of passage in order to identify pro-abortion solons whose record is already public.

Most politicians on Capitol Hill would tend to regard this as one more confirmation of H.L. Mencken's definition of democracy as the idea that "the people know what they want and deserve to get it—good and hard."

▸About the Elections

More serious than any scorn this might engender on Capitol Hill, however, is its tendency to sacrifice the substance of policy to the electoral advantages allegedly to be gained from such parliamentary maneuvering in Congress.

Apparently, the move of Senator Hatch and others to abandon a traditional civil rights approach to the question of abortion is premised on an extremely optimistic assessment of the actual ability of the anti-abortion movement to affect the outcome of future elections.

Although it had a significant influence on the last campaign by contributing as much as 10% of President Reagan's landslide vote and by defeating a great many pro-abortion congressmen, the face of the political landscape will be strikingly altered in 1982, and the pro-life movement will not enjoy some of its former advantages.

▫On the one hand, it is not an accident that all the pro-abortion Senators defeated in 1980 were Democrats, wounded by Carter administration setbacks at home and abroad.

If several leading polls are correct, President Carter was held in less esteem by the American people toward the end of his term in the White House than any other modern chief executive, including Richard Nixon.

It is unlikely that the anti-abortion movement will be aided by such a constellation of events in the future.

▫Since the general pattern of off-year elections is for the dominant party to lose seats in Congress, on the other hand, it is likely that the high tide of Republicanism which ran in 1980 will start to recede in the next election.

It is possible, indeed, that one or more of the pro-life Republican Senators will be defeated unless the economy improves noticeably. Simply holding onto pro-life gains will be difficult.

▫Moreover, it should be noted that, even in 1980, 15 Senators opposed to a human life amendment —that is, two Republicans and 13 Democrats—were elected or went back to Washington without being observably affected by the issue of abortion, some from such pro-life states as Illinois and Pennsylvania.

Many political gains were made at the polls, in other words, but it is questionable whether the electoral clout of the anti-abortion movement is so great that it can afford to be cavalier about attaining tangible policy in favor of test votes or noble defeats.

▸Defeat is Victory?

It is this last argument for the "federal powers" amendment perhaps that is most striking—namely, that as the prospects of any amendment being acted on favorably by Congress are so slim, a *narrow* defeat on the floor of the Senate would be interpreted by the general public as a victory.

Although pro-life citizens are often wrongly dismissed as quixotic simply because they are bucking a

strong trend in American society, it is impossible to describe the range of emotions with which this concept of "victory" is received in Capitol Hill cloakrooms.

The Senate Judiciary Committee may ultimately report a "federal powers" amendment to the floor for action, but it only takes 34 votes to defeat it, and there are at least 46 Senators prepared to do so.

Similarly, it would be no less than 67 votes short of the two-thirds majority required for its passage in the House of Representatives, assuming that a discharge petition would be signed by enough members to get it out of a hostile House Judiciary Committee.

▸A Political Dunkirk

Such a state of affairs is the equivalent of certain defeat. And this defeat would, in fact, be treated by the media as a victory—for the "freedom of choice."

It would be treated for a pro-life President, a pro-life majority in Congress, and the pro-life movement itself as a political Dunkirk.

Such a loss of political face, following its debut in the ruling circles of Washington, could well seal the fate of the right to life movement in the affairs of the nation for the foreseeable future. ■

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THE NEW YORK TIMES, THURSDAY, SEPTEMBER 24, 1981

Anti-Abortion Groups Repudiate Hatch Plan

WASHINGTON, Sept. 23 (AP) — Seventy-two anti-abortion groups urged President Reagan today to use his powers in behalf of a proposal to make abortion illegal by defining life as beginning at conception.

The groups said they were repudiating a new states' rights constitutional amendment proposed recently by one of their chief allies in Congress, Senator Orrin G. Hatch, Republican of Utah.

The Senator's amendment would give both Congress and the states authority to regulate abortion. He heads the Senate Judiciary Committee's Constitution Subcommittee, which plans three days of hearings next month on proposed anti-abortion amendments. The President has indicated that he will support an anti-abortion constitutional amendment.

Paul Brown, director of the Life Amendment Political Action Committee, said that, by advancing the states' rights amendment, Senator Hatch "has not been listening to the people."

United States Coalition for Life

Box 315 · Export, Pennsylvania · 412/327-7379

INTERNATIONAL PROLIFE ALERT

To: ALL INTERNATIONAL PROLIFE ASSOCIATIONS
ALL USCL SUPPORTERS

From: Randy Engel, USCL National Director

Subject: Title X of the Foreign Assistance Act and USAID Anti-Life Funding

Timing: Immediate action required during congressional appropriations debate

Primary Objective - To cut off all Title X funds to the Pathfinder Fund and the United Nations Fund for Population Activities

Contents of Mailing:

1. USCL Legislative Update on Title X of the Foreign Assistance Act
2. Information on the Eberstadt and Kasun Papers
3. The UNFPA and Global Genocide - Stop Title X funding
4. Complete Action Line on Title X
5. Sample of anti-Catholic population control materials funded and promoted with Title X funds

Special Notes:

A complete lobbying packet on Title X of the Foreign Assistance Act which includes the USCL White Paper *The International Population Control Machine and the Pathfinder Fund* and press releases, ect., is available from the U.S. Coalition for Life, Box 315, Export,Pa. 15632 at $5.00 per set. All subscribers to the Prolife Reporter will receive this packet automatically as part of their subscription.

All contents of this mailing may be duplicated freely except for the USCL White Paper which is copyrighted.

All letters coming from outside the United States in support of an immediate cutoff of funds to the Pathfinder Fund and UNFPA should be directed to Undersecretary of State James Buckley, USAID, Department of State, Washington D.C. 20523. USA. Personal accounts of USAID abuses related to Title X are critical to the battle.

In *La Trappola* the hero is a construction worker named Marco.[137] While on the job at a military base, he overhears a phone call announcing the birth of a new baby to one of his co-workers. To celebrate the event the boss invites the base commander and chaplain (in full Roman Catholic clerical garb) to have drinks at the office. They all toast the new child.

Later, Marco angrily recalls this scene and the plight of the workers, especially those who must work overtime without just wages to support extra-large families. The older men tell him that they are beyond help but he is young and has a future.

The photonovella ends as Marco points his finger at the trio—the boss, the priest, and the military commander—above the caption: "Don't you too fall into the Trap! Do not have more than one or two children! The priests and bosses want [to see] us overflowing with children—as numerous as ants in order to dominate and exploit us."

LEGISLATIVE PIN-UP SHEET

UPDATE ON TITLE X - FOREIGN ASSISTANCE ACT - FUNDING

Late in the FAll of 1981, acting upon the Administration's request for $253 million in population control funds under Title X of the Foreign AssistanceAct, Congress authorized a two-year pop-con package at the funding level of $211.3 million a year for FY 1982 and FY 1983.

During the Congressional debate on Title X, two anti-abortion amendments to prohibit funding for abortion lobbying and for abortion biomedical research were passed only to be weakened later in Conference Committee proceedings.

Ironically, at the same time Congress awarded 16% of the total Title X authorization or $33.76 million to the anti-life United Nations Fund for Population Activities (UNFPA) even though UNFPA stands in opposition to all Title X regulations and prohibitions related to abortion and voluntary population control programs.

The authrOization package for USAID was signed into law by President Reagan on December 29, 1981.

Meanwhile, at the White House, Title X funding has become a matter of great debate. In December, Director of the Bureau of Management and Budget, David A. Stockman, announced plans to eliminate all Title X funding from the FY 1983 budget. Immediately, a Title X Rescue Squad went into action headed by Secretary of State, Alexander Haig, and Vice President Bush - both long-time pop-corn allies. Following a December 16th meeting attended by Bush, Haig, James Buckley, Undersecretary of State for Security Assistance, Science and Technology, M. Peter McPherson, Administrator for USAID, Presidential Counselor Edwin Meese III, and White House Chief of Staff, James A. Baker III, the Bureau of Management and Budget withdrew its proposal to eliminate Title X funding and instead agreed to give USAID $230 million in funding for its international population control programs.

Congress is expected to take up the 1983 FY appropriations for Title X and

PHONE (412) 327-7379

U.S. COALITION FOR LIFE, P.O. BOX 315, EXPORT, PA. 15632

other USAID programs when it returns from its Easter Recess, Please follow the enclosed action line and circulate it among all prolife groups in U.S. and abroad.

THE EBERSTADT AND KASUN PAPERS

In January of 1982, the State Department reviewed two very important papers on USAID population control programs and policies which had been commissioned by Undersecretary of State James Buckley - A Consideration of the Cost Effectiveness of Population Assistance in United States Foreign Aid Programs by Dr. Jacqueline Kasun, Professor of Economics at Humboldt State University and Population Control and the Wealth of Nations: The Implications for American Policy by Nick Eberstadt, Visiting Fellow from the Harvard Center for Population Studies.

Both the Eberstadt and Kasun papers may be described as anti-Malthusian in philosophy and are critical of USAID programs, although they attack the basic issues from a different perspective since Kasun is prolife and Eberstadt is pro-abortion. Copies of both studies may be obtained from your Congressman or Senator.

According to Eberstadt, since FY 1965 the American taxpayer has poured more than $1.5 billion into Title X and the selling of the Malthusian message to developing nations even though such a policy is "unsound". He argues instead for new directions in U.S. population policies which he describes as "human development programs". While making it clear he supports abortion rights, Eberstadt is critical of population control measures such as injectionables which can be used as weapons against people by government.

He is especially critical of China's coercive population policies and notes that it is disasterous socialist policies and not demographic growth that are the cause of China's current agricultural and economic problems. (Note: USAID funds are laundered into China's programs through UNFPA and groups such as PIACT.)

Dr. Kasun labels USAID population programs as not only wasteful but also counterproductive and against U.S. national interests. Thus Title X is the perfect target for elimination from the federal budget! She provides all the necessary data to show that such Malthusian policies do not contribute to social and economic development in the developing nations.

One of the most important sections of the Kasun paper is that portion which describes USAID's current love affair with the so-called "village system" which employs all types of population control schemes including those which violate familial privacy and individual conscience. It would appear that any Congressman or Senator who votes for Title X funding should be made to participate in

programs demanded of Third World Title X recipients such as contraceptive "roll calls" by which he would be required to publicly post his sexual intensions, family size, contraceptive choice, etc.!

UNFPA AND GLOBAL GENOCIDE

Both Kasun and Eberstadt support an end to all Title X funding of the United Nations Fund for Population Activities (UNFPA). As one of USAID's favorite laundering agents for pumping tax dollars into anti-life projects abroad, the UNFPA has received twelve years of American financial assistance totaling more than $236 million.

On November 12, 1980, a comprehensive review of UNFPA policiaed and programs was ordered by the Assistant Administrator for AID's Department Support Bureau - the first such review since USAID helped to set up the agency in the late 1960's. The assessment was carried out by wiring a questionaire to State Department missions and embassies in nations where UNFPA carries out its population programs. The results of the survey were released in January of 1982.

Not surprisingly, the findings of the joint State Department - USAID survey produced a plea for continued UNFPA funding since lack of funds caused restraints on UNFPA programs. USAID, however, expressed concern that UNFPA was using some if its monies for health projects, which which many government prefer to pop-con projects.

The report however, totally ignored the fact that UNFPA has continually refused to abide by any Title X restrictions such as those on abortion funding and forced population control programs. Further, UNFPA is in violation of the United Nations Genocide Convention which provides in Article III c that the term "genocide" includes the imposition of measures intended to prevent births within a group. To criticize the UNFPA for such human rights violations, however, would be difficult for USAID since the State Department has been pursuing such a policy in the developing nations since 1965.

Since the UNFPA has refused to abide by Title X restrictions and because it is in violation of the Genocide Convention and supports governmental programs of compulsory population control when invited to do so by totalitarian regimes such as Red China, the UNFPA along with the Pathfinder Fund is the major target of this special USCL mailing. (See USCL Action Line for Further instructions).

ACTION LINE

1. Study the enclosed USCL White Paper The International Population Control Machine and the Pathfinder Fund. Extra copies of the report are available for $4.00 each. A complete kit with attachments is available for $5.00.
2. Review the enclosed Title X legislative update.
3. Contact your Congressman and Senators especially if they are on key Congressional and Senate Committees related to Foreign Aid Authorizations or Appropriations. Letters and mailgrams should also be directed to The White House and the State Department. (See Attached sheet for names and addresses).
4. Stress the following points:
   a) Current USAID population programs funded under Title X of the Foreign Assistance Act are wasteful and operate against U.S. interests abroad.
   b) Title X funds should be immediately cut off from both the Pathfinder Fund and UNFPA. Be sure and include copies of the enclosed anti-Catholic photonovellas promoted by the Pathfinder Fund along with some information on the Pathfinder Fund's abortion programs.
   c) Title X prohibitions against the use of funds for abortion, abortion research and lobbying, and for non-voluntary population control programs are not enforceable, especially with the USAID laundering mechanism of using Third World nations.
   d) Title X funds should not be used for the financing and promotion of fertility control experimentation on poor people in developing nations, especially the dangerous use of the injectionable Depo-Provera.
   e) Anti-life groups should be removed from the USAID payroll and forced to compete in the international marketplace without American tax dollars.
   f) Any vote for Title X appropriations or authorization will be considered an anti-life vote.
5. Reprint and circulate enclosed press release on USAID.
6. Join the silent Procter and Gamble boycott. See product card enclosed.
7. Communicate the information contained in this alert to other prolife groups in the U.S. and abroad and encourage churches and other agencies with prolife concerns to join us in the Title X battle.
8. Observe Friday as a day of fast and prayer for the success of the Title X battle and as a day of atonement for the thousands of people - born and unborn - who have been killed and maimed by USAID's population control programs and policies.

United States Coalition for Life

Box 315 · Export, Pennsylvania · 412/327-7379

SPECIAL INTERNATIONAL PROLIFE ALERT

To: ALL U.S. AND FOREIGN PROLIFE ASSOCIATIONS
ALL USCL INTERNATIONAL ADVISORY BOARD MEMBERS
PROLIFE REPORTER SUBSCRIBERS

FROM: Randy Engel- USCL National Director

SUBJECT: Title X of the Foreign Assistance Act and USAID Anti-life Funding

TIMING: Immediate Action Required

PRIMARY OBJECTIVE: To cut off all Title X funds to the Pathfinder Fund and the United Nations Fund for Population Activities (UNFPA).

MAILING CONTENTS

1. USCL White Paper *The International Population Control Machine and the Pathfinder Fund* - a double issue of The Prolife REPORTER.
2. A Legislative Update on Title X of the Foreign Assistance Act.
3. An Action Line Sheet with lobbying instructions.
4. Listing of key Congressional Committees connected with Title X authorizations and appropriations and White House and Department of State addresses and phone numbers.
5. Sample press release for newsletters and secular press.
6. Sample of anti-Catholic propaganda promoted and funded by the Pathfinder Fund with Title X money.
7. A Prolife Shopper's Guide for P&G products.

Special Notes: All letters, mailgrams ect. should zero in on Title X funding of the Pathfinder Fund and the UNFPA. These are the first of 12 selected anti-life agencies which have been selected by the U.S. Coalition for Life as the Dirty Dozen of the International Anti-Life Movement to be eliminated from the Title X feeding trough filled with American tax dollars. Foreign prolife comments should zero in on specific USAID abuses.

For Immediate Release
April 26, 1982

COALITION WHITE PAPER DOCUMENTS AMERICAN PRELATE'S CHARGES

AGAINST USAID POPULATION CONTROL PROGRAMS

Export, PA ..... The U.S. Coalition for Life has released a White Paper documenting earlier charges made against the Department of State's Agency for International Development by Cardinal Terence Cooke of New York at the Vatican's World Synod on the Family in October of 1980. Charging that USAID's population control programs abroad involved "coercion and pressure", the American prelate later faced counter-charges by pro-abortion advocates of speaking out in an "intemperate" and "irresponsible" manner. The USCL White Paper titled The International Population Control Machine and the Pathfinder Fund, which backs the Cardinal's accusations, is expected to reopen White House and Congressional debate on the funding of anti-life activities under Title X of the Foreign Assistance Act.

According to USCL National Director, Randy Engel, USAID has developed an elaborate, bureautic maze designed to circumvent Congressional prohibitions related to abortion and sterilization funding. "The primary purpose of our investigation," Mrs. Engel said, " was to document in explicit detail exactly how USAID manages to illegally "launder" American tax dollars into anti-life projects in developing nations through the use of third party agents."

"We selected the Pathfinder Fund as a prototype USAID anti-life conduit because of its special commitment to abortion and coercive means of population control," the USCL director explained. "Also, we felt sure that our documents linking the Pathfinder Fund with the birth control battle in Italy and with anti-Catholic propaganda in the form of soap opera booklets called "photonovellas" would send shock waves right through Congress to the White House," Mrs. Engel stated.

ADD 1/USCL

According to the USCL White Paper, by 1984, the Pathfinder Fund will have received more that $76 million in Title X funds from USAID despite the fact that the Pathfinder acts in violation of all Title X regulations and prohibitions including those related to abortion, forced sterilization and the sanctity of personal conscience and religious freedom. "No one is fooled, except, perhaps, Congress and the American people," Mrs. Engel warned, "when the Pathfinder, which receives between 90 - 98% of its funding from USAID, tries to pass itself off as a private agency."

The USCL demand for a Congressional investigation of the Pathfinder Fund and similar agencies such as the United Nations Fund for Population Activities (UNFPA) is directed at re-opening the Title X - Foreign Assistance Act debate both in Congress and at the White House.

"We intend to mount an international campaign using all of our resources around the world to bring the USAID international population control machine to a screeching halt," Mrs. Engel concluded, "beginning with an immediate cut off of funds to the Pathfinder Fund and UNFPA - two of USAID's biggest anti-life launderies."

Copies of the USCL White Paper with accompanying documents are available from the USCL, Box 315, Export, PA 15632 - $5.00 per set.*

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* These materials are available to members of the press at no charge.

Contact person: USCL Director, Randy Engel
(412) 327-7379 or 327-8878

Human Life Statute Coalition

6 Library Court, S.E., Washington, D.C. 20003 (202) 546-2256

BRIEFING BOOK ON THE HUMAN LIFE STATUTE -- STATUS REPORT

TABLE OF CONTENTS

Human Life Statute Coalition

6 Library Court, S.E., Washington, D.C. 20003 (202) 546-2256

October 30, 1981

Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of all the participating organizations of the Human Life Statute Coalition, we, the undersigned, are pleased to present you with this 'status report' on the Human Life Statute (HLS) and a summary of the aspects which need to be considered for its passage and a Presidential endorsement of it.

The HLS Coalition was founded last month as a recognition by leaders of the pro-life movement that there is not sufficient support in the U.S. House of Representatives nor in the U.S. Senate for the passage of any version of a Human Life Amendment.

The impetus for the formation of the HLSC came with the introduction of the Hatch "compromise" HLA. It is the sentiment of the members of the HLSC that the Hatch proposal is nothing but a resurrection of a long-abandoned "states' rights" approach to the abortion problem--one which would immediately set the pro-life movement back eight years! Since there are not enough votes for any real HLA, any Senator who feels he can obtain enough votes for passage apparently must be willing to "compromise" an HLA into meaninglessness so as to attract the unscrupulous votes of those who would normally vote pro-abortion.

If progress is to be made toward the protection of the preborn child, the best immediate hope is in the passage of the Human Life Statute. The recent parliamentary maneuver by Senator Jesse Helms, which will allow the U.S. Senate to bypass the Judiciary Committee and consider the HLS directly, is extremely encouraging and certainly sets the stage for a renewed effort for the HLS. (See CONGRESSIONAL REACTION at Tab D.)

At the time of the Coalition's "announcement" press conference, the number of participating organizations had reached 70. As of this writing the list has grown to over 80 and is still growing. The list includes all but three of the large, well-known, pro-life organizations: the National Right to Life Committee's Board of Directors has unanimously endorsed the HLS, but NRLC has not as yet joined the Coalition; Nellie Gray of the March for Life has two remaining reservations about the wording of the bill; and, National Pro-Life Political Action Committee, which is currently favoring the Hatch proposal. (See WHO'S WHO -- SUPPORTING THE HLS; NOT SUPPORTING THE HLS, at Tabs B and C.)

Of the politically-oriented organizations, within the New Right and elsewhere, none have endorsed the Hatch Amendment while a few have announced their support for the HLS.

Since pro-life goals are essentially secondary (or lesser) to these political groups, their leadership tends to align with their personal sentiments. Thus, Howard Phillips of the Conservative Caucus and Richard A. Viguerie of the Viguerie Company support the HLS wholeheartedly, while Paul Weyrich of the Committee for the Survival of a Free Congress favors the Hatch proposal. CSFC has not taken an official organizational position, however, and Mr. Weyrich is pledged not to oppose the HLS, nor you, Mr. President, should you decide to publicly endorse the bill.

On Capitol Hill the reactions to a Presidential endorsement of the HLS are easily foreseen. Senator Jesse Helms, who has endorsed the HLSC (See CONGRESSIONAL REACTION at Tab D), has long said he will lead the floor debate and deliver passage for the HLS when the time was right. Certainly Representative Henry Hyde, who has also endorsed the HLSC, will do likewise in the U.S. House of Representatives. Other members of the Congressional Pro-Life Caucus would gladly follow.

Undoubtedly a Presidential endorsement of the HLS would provide the initiative for prompt Congressional action!

On a vote, both houses of Congress would split along traditional pro-life vs. anti-life patterns. Senators Edward M. Kennedy, Howard Metzenbaum, et. a., would lead the opposition.

Opposition from the media would arise immediately, led by the National Organization of Women (NOW), National Abortion Rights Action League (NARAL), and a loose coalition of ultra-liberal groups and leaders such as ex-Senator George McGovern, Norman Lear and his People for the American Way, etc. These groups have never supported the GOP, nor you, Mr. President, so there is no potential for political loss.

Within the ranks of the majority of Americans who believe in the sanctity of human life, and especially among those actively involved in and/or supporting the pro-life movement, a Presidential endorsement of the HLS would be seen as a reapproachment...a promise fulfilled, not abandoned!

As you are undoubtedly aware, nearly every active, aware, pro-life person was shocked at your nomination of Sandra D. O'Connor to the Supreme Court. Many felt the nomination indicated you had discarded the principles of life and the support you and your party received from the pro-life movement along with it. We, and they, seek this reapproachment!

In summary, Mr. President, there is everything to be gained by an initiative for the Human Life Statute being launched in the immediate future with your Presidential endorsement as the impetus. There is nothing to be lost, politically or otherwise, from such an action.

On behalf of all the organizations within the Human Life Statute Coalition, the Washington-based leaders undersigned, anticipate your announcement at an early date. We stand ready to be of assistance in any way possible.

WHO'S WHO: SUPPORTING THE HUMAN LIFE STATUTE

CHARTER ORGANIZATIONS OF THE HUMAN LIFE STATUTE COALITION

AD HOC COMMITTEE IN DEFENSE OF LIFE. Washington, D.C.

One of the oldest pro-life organizations in the nation, the Committee has over 50,000 individual and group members and is well known for its bi-weekly newsletter LIFE LETTER and its legislative effectiveness.

AMERICAN LIFE LOBBY. Stafford, Virginia - Washington, D.C.

A.L.L. has grown rapidly over the past two years and is the largest grass-roots based pro-life organization in the United States with nearly 100,000 donor/supporters.

CHRISTIAN ACTION COUNCIL. Washington, D.C.

CAC is the largest national Protestant pro-life organization with affiliates in all of the 50 states. Its newsletter is widely distributed and its goals include the passage of the HLS, a Human Life Amendment and the establishment of Crisis Pregnancy Centers within Protestant organizations nationwide.

CHRISTIAN FAMILY RENEWAL. Clovis, California - Washington, D.C.

One of the largest national groups with over 150,000 supporters nationally, CFR works for pro-life, pro-family and pro-God solutions to permissive sex education, easy availability of abortions, and related family issues.

CHRISTIAN VOICE. Washington, D.C. - Pacific Grove, California.

A registered political lobby with a national membership exceeding 187,000 it seeks conservative Christian political goals including educational and family issues such as abortion restriction and the return of prayer to public schools.

COALITION FOR DECENCY. Mobile, Alabama.

Founded by now-Senator Jeremiah Denton, the Coalition publishes a newsletter reaching over 50,000 subscribers nationwide. The Coalition seeks to remove objectional programming from public media.

CONSERVATIVE CAUCUS. Vienna, Virginia.

One of the largest "new right" political organizations, it serves over 380,000 supporters nationwide and has affiliates in all 50 states with field directors covering all of the U.S.

WHO'S WHO -- CHARTER ORGANIZATIONS OF THE HUMAN LIFE STATUTE COALITION

LIFE AMENDMENT POLITICAL ACTION COMMITTEE. Washington, D.C.

The oldest and largest pro-life political action committee, it is well-known for its campaign effectiveness, winning in 9 out of 10 U.S. Senate races in which it was involved in 1980.

LIFE POLITICAL ACTION COMMITTEE. Washington, D.C.

As the second-largest pro-life PAC, it concentrates on state-wide elections for both Cabinet and Legislative posts and has a national membership in excess of 20,000.

LIFE ISSUES IN FORMAL EDUCATION (L.I.F.E.) Stafford, Virginia.

The youth division of the American Life Lobby, with contacts in all of the 50 states, working to instill and promote respect for life not only on college campuses but within high schools as well.

NATIONAL FEDERATION FOR DECENCY. Tupelo, Mississippi.

With over 150,000 members, NFD is far and away the largest and most influential organization in the field working to remove objectionable programming from the public media.

PRO-LIFE ACTION LEAGUE. Chicago, Illinois.

A national organization with a following exceeding 50,000 dedicated to countering the influence of Planned Parenthood and the closing of abortion clinics through pro-life activism.

UP WITH FAMILIES. Clovis, California.

National organization with a newsletter circulation of 80,000 designed to work with youth within the family group to combat the effects of value-free sex instruction and lax moral standards in the schools and communities.

SANCTITY OF LIFE FOUNDATION. Washington, D.C.

A newly-formed national organization with the purpose of distributing a parish bulletin insert on the life issues each month. Insert circulation currently exceeds 100,000 copies monthly.

U.S. COALITION FOR LIFE. Export, Pennsylvania.

An international research orgaization dedicated to the elimination of funding for abortion from U.S. and other sources of foreign aid, and to expunge anti-life population planning from U.S. Foreign policy. It is the research arm of the international pro-life movement.

O.A. 12,450
"Pro-Life
Contd."

PROTECT AMERICA'S CHILDREN, Inc.

Education Research and Publications

ANITA BRYANT
Founder

BOBBIE AMES
Research & Publications

April 1, 1982

Office of Adolescent Programs
Dept. of Health & Human Services
Humphry Building
200 Independence Ave.
Washington, D. C. 20201

Gentlemen:

We have read about the new title 10 regulations, and we are encouraged regarding your new regulations to involve parents in the crucial matters relating to their teenagers. However, we would be much happier if the notification were not *after the* fact. We do not take lightly either the giving of prescription drugs, or the use of birth control devices. It seems to us that to notify parents ten days after such decisions have been made is still usurping the rights of parents.

We would like to see the regulations stronger and more specific.

Sincerely,

Bobbie Ames

Bobbie Ames
Director of Research

BA:sh

cc: President Ronald Reagan
Senator Jeremiah Denton

BCC: Mr. Howard Phillips
Kitty Reickenback

P. O. Box 899 • 5266 Citizens Parkway • (205) 875-4567 • Selma, AL 36701

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

room 194

Meeting for April 27, 1982, Tuesday - ~~3:00~~ PM 10:00 am

Paul Brown

INVITEES (h)

ok Jack Willke 638-4396 or 97 - Sandy Faucher

ok ~~Judie Brown~~ - 690-2049 (VA) off Gary Curran (54-5550)

ok Peter Gemma - 536-7650

ok Father Fiore 608-233-2599 (6) (608) 271-2681

ok 785-8061 Mark Gallagher - Natl Comm for Human Life Amendment

ok Ernest Ohlhoff -

312-263-5386 Pat Truman - Americans United for Life or Tom Marzen - no

ok John Mackey - ~~347-3245~~ / 347-8686 - call

ok Douglas Johnson, Leg. Dir. Natl Right to Life Comm.

Lucy ok Marjorie Mecklenburg - 472-9093 HHS

ok Gary Bauer - 235

ok Don Devine - 632-6111 OPD

OPM

? Veronica Dave Swoap - 245-7431 Thurs response Carl Anderson HHS

Bill Gribben - 224-3621 Rep Policy

This meeting was requested by Father Fiore. During the Jan. 22 meeting of the pro-life leaders in the Cabinet room there were a number of cases where it became clear that the Administration could not take pro-life steps. Don Devine's problems with the Combined Federal Campaign being a good example.

This meeting is to discuss the possibility of changes in the law which might be made for incremental gains in the area of pro-life.

Rick Valentine - E. D. Americans United for Life

REQUEST FOR APPOINTMENTS

To: Officer-in-charge
Appointments Center
Room 060, OEOB

Please admit the following appointments on April 27, 1982

for Morton C. Blackwell (NAME OF PERSON TO BE VISITED) of Office of Public Liaison (AGENCY)

WILLKE, John
CURRAN, Gary
GEMMA, Peter
FIORE, Charles
GALLAGHER, Mark
OHLHOFF, Ernest
FAUCHER, Sandra
MACKEY, John
JOHNSON, Douglas

MECKLENBURG, Marjorie
DEVINE, Don
BROWN, Paul
SWOAP, David
ANDERSON, Carl

MEETING LOCATION

Building OEOB

Room No. 194

Time of Meeting 10 am

Requested by MORTON BLACKWELL

Room No. 191 Telephone 2657

Date of request Apr. 26, 1982

Additions and/or changes made by telephone should be limited to three (3) names or less.

APPOINTMENTS CENTER: SIG/OEOB – 395-6046 or WHITE HOUSE – 456-6742

UNITED STATES SECRET SERVICE

SSF 2037 (05-78)

Zoning Adjustment from October 1978, to September 1981, 11 requests were granted. Only one was denied—by a unanimous vote of all Board members, including the Federal Government representative.

The State Department also testified that the local zoning procedure ignored national and international security needs. Yet, when pressed, the State Department gave no examples of what security needs of which Federal agency or foreign government were in jeopardy. This failure has continued to this day, where trying to draw out the State Department's "national security" concerns is an experience in shadow boxing.

The State Department further testified that the local zoning procedure made it impossible for the United States to meet its international treaty obligations. Yet, the Vienna Convention agreements, article 21(1), Vienna Convention on Diplomatic Relations, specifically states that:

The receiving State shall either facilitate the acquisition of its territory, in accordance with its laws . . . or assist the latter in obtaining accommodation in some other way.

Let me emphasize again, in accordance with its laws. In other words, our international obligations are to respect local laws.

Finally, the State Department testified that other nations do not place the same kind of restrictions on chancery locations that the District procedure places on nations operating here. Yet, a survey by both the Congressional Research Service of the Library of Congress and the State Department itself revealed that in 25 overseas capitals, local zoning procedures were adhered to in all but the State-controlled nations. Particularly, in the western, democratic countries, the local zoning procedures often appeared to be more restrictive than those employed in the District of Columbia.

In my view, the Governmental Affairs Committee report candidly reflects the mindset behind section 206. The Committee asserts, without a shred of documentation, that

Currently, municipal decisions are taken without fully balancing foreign policy and national security questions.

The Committee goes on to say that

Washington, D.C. * * * as the Nation's Capital, has special and unique obligations involving the Federal Government. * * * Consequently, the rationale behind the mechanism in section 206 is not based on an analysis of particular cases. The need for Federal participation in decisions concerning foreign missions in the United States is fundamental * * *

(S. Rept. 97-329, pp. 3-4) (emphasis added)

In other words, mere assertion of "foreign policy" or "national security" concerns is enough to warrant dispensing with all competing considerations, without any evidence that the State Department's request is reasonable or that the present balance created by the Home Rule Act is unduly restrictive. My colleagues may recognize a familiar pattern at work here: Over the years we have been asked, at various times, to set aside congressional prerogatives, fiscal restraint, civil liberties, and countless other important values in response to talismanic references to "foreign policy" of "national security." The 11 Senators on the Foreign Relations and Governmental Affairs Committees who opposed section 206 were neither indifferent to, nor myopic about, this country's foreign policy interests. Rather, they simply found that the current arrangements under the Home Rule Act fully and adequately protected the Federal interest. They rejected the notion that we should create still another Government bureaucracy estimated to cost $1 million in additional staff and resources and superimpose it over the several existing agencies which have been dealing effectively with these problems.

The dangers which arise when Congress accepts without questioning the State Department's assertions of national interest are not limited to serious damage to the Home Rule Act. When the Subcommittee on the District of Columbia analyzed S. 854 in detail, it discovered that another section of the bill—section 207—could be construed to permit an open-ended State Department preexemption of the decisionmaking process in the 213 cities in every State in the Union which have foreign chanceries in them. Serious concerns have been expressed about this problem by the U.S. Conference of Mayors, the National League of Cities, and other authoritative representatives of State and local interests.

Mr. President, having reviewed the State Department's proposal for yet another District of Columbia Zoning Commission, and having thoroughly studied the State Department's arguments for such a Commission, I can find nothing that justifies changing the current procedure. In fact, I remain baffled as to why this unjustified, wrong-headed proposal has made it to the floor of the Senate. However, it has. And I must therefore, urge my colleagues to respect both home rule in the District and the autonomy of all local jurisdictions and vote for the Mathias amendments to sections 206 and 207 of S. 854.

Mr. President, I yield such time as I may have left to the Senator from Maryland.

Mr. MATHIAS. Mr. President, is there time remaining under the Senator from Missouri's unanimous-consent request?

The PRESIDING OFFICER. There is time remaining of 50 seconds.

Mr. MATHIAS. Mr. President, I think the record should reflect that the consulate in Rock Springs, Wyo., is the consulate of the Republic of France, and it just shows how pervasive the influence of this bill, which appears to be a local bill in the District of Columbia, can be throughout the country.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, during which Senators may speak for not more than 5 minutes each.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

S. 2372—FEDERAL ABORTION FUNDING RESTRICTION

Mr. HATFIELD. Mr. President, I send a bill to the desk.

THE PRESIDING OFFICER. The bill has been received and will be appropriately referred.

Mr. HATFIELD. Mr. President, I ask unanimous consent to have the bill read a second time under Senate Rule XIV so that I may put the bill on the calendar.

The PRESIDING OFFICER. It will be read the first time.

The legislative clerk read as follows:

A bill (S. 2372) relating to Federal abortion funding restriction.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the bill be dispensed with.

Mr. President, this is basically a bill that has to do with the question of abortion. As the Senate knows, we have some constitutional amendments being considered by the Judiciary Committee. This in no way impinges upon that action.

Mr. President, I ask unanimous consent to have the bill read for the second time so that it can be held on the calendar rather than being referred to the committee where the hearings have been held on this subject.

I do not want to complicate this whole controversial and emotional issue that much more. That is the procedure under rule XIV that I am asking for.

Mr. LONG. Mr. President, reserving the right to object, may I ask the Senator, has that request been cleared on this side of the aisle?

Mr. HATFIELD. No, I do not believe that we have made that clearance.

Mr. LONG. Mr. President, I do not think that I personally have any objection, but in view of the fact that I am at this moment representing the minority leader, who is necessarily absent at the funeral of his grandson, and I have not had the opportunity to alert any other Senator to the request, I hope the Senator will at least withhold that request until it can be cleared with the leadership of this side.

Mr. HATFIELD. I will withhold the request, Mr. President. I can wait until the next legislative day when it is read

the second time and give notice that I will at that time object to it being referred to committee, which is the other procedure I can use.

Mr. LONG. I thank the Senator.

Mr. HATFIELD. Mr. President, I am introducing today a bill whose purpose is to affirm the fundamental principle of American law that all human life has intrinsic value. And in light of this, that the Federal Government not kill innocent human beings or assist others to do so through Federal abortion funding. The denial of that life is no less abhorrent than killing by terrorist violence, the suffering of our elderly and poor, or our mutual threat by nuclear destruction. Affirming this principle is no small step should the Senate pass this legislation.

The Supreme Court has stated that, while the Government may not prohibit abortions, it is not under any statutory or constitutional obligation to aid or encourge a woman's decision to have an abortion. Whether to provide such assistance is a policy matter that is strictly for determination by Congress. We have been struggling over the abortion funding issue for over 6 years with dozens of votes being taken by both Chambers on this matter. The result has been to impair, if not cripple, the appropriations process that funds the Federal Government and provides for the Nation's defense and welfare. In several instances the Government has been placed in the position of not being able to assure its employees that they will get their pay. As chairman of the Appropriations Committee, I have not only struggled with this issue in committee, but have also had to deal with the countless delays it has placed on Senate floor action on appropriations bills. It is time for us to make the current restrictions on Federal funding of abortions a permanent statute.

We cannot compromise our commitment to the sanctity of life. We must recognize the needs of the poor and the oppressed in our Nation and the world. Our society is more willing to provide assistance for the poor to have abortions than to provide adequate assistance for the needy families that find a new mouth to feed in their midst. Abortion as a solution to poverty only further entrenches society's oppression, paternalism, and racism toward the unfortunate. If we are to be for life, then we must work to assure that no human life ever need be threatened with extinction because of society's negligence in providing for the needs of all its citizens. I do not believe that abortion is a solution to those needs or that it should be a part of our Nation's social welfare system and financed by the Federal Government.

Based on the constitutional power to appropriate Federal funds, this legislation insures that the Federal Government will not advocate, promote, or fund abortions in any manner. It addresses only the funding of surgical abortions and will not impair funds for family planning. This bill does not attempt to address the difficult question of when human life begins but it does make a finding that unborn children subject to abortion are living members of the human species, bringing the Federal Government into compliance with this finding.

For me the compelling model of the effective approach to change when a law or a condition is onerous is the method that William Wilberforce used from 1786 until his death in 1833 in combating slavery in the British Empire. When he first took up the banner of abolition he expected and predicted that slavery would soon end. It quickly became apparent that the evil was deeply ingrained in Britains economic system. So he patiently spoke to the issue here and passed modifying amendments and educational resolutions there year after year. His faithfulness and loving patience with his recalcitrant colleagues, and indeed society, bore fruit even after he retired from Parliament in 1825. It was not until 3 months after his death in 1833 that slavery and trade-in humankind was finally outlawed. By a happy coincidence the House of Commons passed abolition several weeks before his death so that he knew that his lifelong goal was going to be attained. But the application for us here today is clear.

In regard to abortion we must in like manner attack this evil by degrees. We are not likely to get "abolition" in this session of Congress. But we can make a meaningful beginning in an effective way with this approach. I urge your support and invite close examination from colleagues on the various sides of the question. It is, indeed, time to reexamine our polarized positions on this far-reaching and deeply moral issue. History demands close attention to this 20th century parallel to slavery.

This bill does not attempt to take the place of other pro-life bills before the Senate. It does not attempt to overturn the much criticized Supreme Court decision of Roe against Wade and does not address the constitutional question of whether unborn children are persons under the law. It does, however, provide an orderly and expeditious manner for the issues of Roe against Wade to come up before the Court for reconsideration.

I am introducing this legislation today and objecting to its being referred to committee since extensive hearings have already been held in various pro-life measures before the Senate, and since the issue of Federal funding for abortion has been repeatedly debated and decided in this Chamber.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point, along with a section-by-section analysis, a document entitled "Questions and Answers on the Hatfield-Hyde Federal Abortion Funding Restriction Bill," and document entitled "The Inadequacies of Roe v. Wade."

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

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42 of the United States Code shall be amended at the end thereof by adding the following new chapter:

"Chapter 101

"SECTION 1. The Congress finds that:

"(a) It is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life;

"(b) Unborn children who are subjected to abortion are living members of the human species;

"(c) There is an urgent need to bring the Federal Government into compliance with the principle of the intrinsic value of all human life, regarding all matters affecting the lives of unborn children.

"SEC. 2. In light of the above findings, and pursuant to the duty of Congress to ensure that the Federal Government not kill innocent human beings or assist others to do so,

"(a) No agency of the Federal Government shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

"(b) No funds appropriated by Congress shall be used to perform abortions, to reimburse or pay for abortions, to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

"(c) No funds appropriated by Congress shall be used to give training in the techniques for performing abortions, or to finance experimentation on aborted children.

"(d) The Federal Government shall not enter into any contract for insurance that provides for payment or reimbursement for abortions other than when (1) the life of the mother would be endangered if the child were carried to term, or (2) by means of a special rider financed by the employee.

"(e) No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, medical student, or applicant for admission as a medical student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

"SECTION 3. Any person may commence a civil action, on his own behalf or on behalf of unborn children, against any party, including a recipient of federal funds, who is alleged to be in violation of Section (2) (a), (b), (c), (d) above. Any person or class which alleges it is aggrieved by conduct in violation of Section 2(e) may commence an action for appropriate redress. The district courts shall have jurisdiction, without regard to the amount in controversy, to enforce compliance with the provisions of Section 2.

"SECTION 4. In light of the above findings, and to expedite Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction, if any State enacts legislation which prohibits or restricts abortions and which is expressly based on the findings in Section 1 of this Act, and such legislation is invalidated by final order of any court of the United States, any party to such case shall have a right to direct appeal to the Supreme Court of the United States, under the same provisions as govern appeals pur-

suant to 28 U.S.C. Section 1252, notwithstanding the absence of the United States as a party to such case.

"SECTION 5. If any provision of this Act or the application thereof to any person or circumstances is judicially determined to be invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected by such determination."

SECTION-BY-SECTION ANALYSIS

SECTION I

The Congress finds that unborn children who are subjected to abortion are living members of the human species. Because the intrinsic value of human life is to be recognized and affirmed, the Congress must bring its policies into compliance with this finding. These Congressional findings are based upon the legislative power that is granted to the Congress in Article I of the U.S. Constitution.

These findings do not define the term "person" under the law nor does it expressly overturn *Roe* v. *Wade*. It does, however, affirm for the first time that Congress recognizes the value of all human life.

SECTION II

Sections (a) and (b) enact into permanent law the prohibition of federal funding for abortion. Four separate versions of the Hyde amendment have been enacted through the appropriations process. Continuing resolutions in the 97th Congress have extended the prohibitions. Hyde language has also been enacted as part of several authorizations, including the Food Assistance Act of 1978, the Health Services and Centers Amendments of 1978, and the Nurses Training Amendments of 1979.

The courts have upheld both state and federal prohibitions on abortion funding. *Harris* v. *McCrae*, 100 S. Ct. 2671; *Beale* v. *Doe*, 432 U.S. 438; *Maher v. Roe*, 432 U.S. 464 and *Williams v. Zbarraz*, 448 U.S. 297 (1980)

Congress has exclusive authority under the Constitution to appropriate money. (Art. I., Section 9, clause 7). James Madison referred to this power as the most complete and effectual weapon which any people can arm their elected representatives with. Alexander Hamilton made the same point in Federal Paper Number 78:

"The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgment."

Section (b) also prohibits funds for the referral of abortions. The provision will ensure that the federal government does not actively promote, arrange for, or act as an agent for one who desires an abortion. Funds can be used for counselling purposes, and for the referral of a client for counseling on medical procedures such as abortion. See Voluntary Family Planning Services, Title X of the Public Health Services Act; Medicaid Title XIX of the Social Security Act; Maternal and Child Health Services Block Grant, Title V of the Social Security Act; and the Omnibus Reconciliation Act of 1981, P.L. 97-35. For a court decision holding a statute invalid where the state attempted to forbid the referrals of abortion counseling see *Valley Family Planning v. North Dakota*, 50 U.S.L.W. 2242 (1981).

(c) "No funds appropriated by Congress shall be used to give training in the techniques for performing abortions, or to finance experimentation on aborted children."

The Congress has enacted restrictions on the ability to conduct research on fetuses in the National Science Foundation Authorization Act of 1974 and in the National Research Service Award Act of 1974. This proposed legislation would apply these restrictions to every research program that is funded by the federal government. Even though the provision prohibits funds from being used for training in the techniques for performing abortions, it is not intended to eliminate funding for scientific techniques that are capable of being used for non-abortive purposes.

Although no Supreme Court decisions have been rendered on the ability of the federal or state government to prohibit experimentation on the unborn fetus, lower federal courts have upheld these statutes. See *Wynn* v. *Scott*, 449 F. Supp. 1302 (1978), appeal dismissed 439 U.S. 8 (1979), *Margaret S.* v. *Edwards*, 488 F. Supp. 181 (E.D. La. 1980).

(d) "The federal government shall not enter into any contract for insurance that provides for payment or re-imbursement for abortion other than when (1) the life of the mother would be endangered if the child were carried to term, or (2) by means of a special rider financed by the employee."

On September 24, 1981 the Director of the Office of Personnel Management, Donald Devine, announced that OPM would not approve any health benefit plan which provides for abortion coverage except where the life of the mother would be endangered if the fetus were carried to term. The American Federation of Government Employees (AFGE) sought and achieved an injunction whereby OPM had to continue its present insurance policies. *American Federation of Government Employees* v. *Devine*, 525 F. Supp. 250 (D.D.C. 1981).

Judge Gesell found that OPM acted arbitrarily because of ideological considerations and had no authority under either the Hyde Amendment, the Continuing Resolution restrictions or the Federal Employees Health Benefits Act to deny these benefits.

The court noted the fact that the House had voted to prohibit therapeutic coverage (Ashbrook Amendment) but the Senate Appropriations Committee rejected the rider in its consideration of H.R. 4121, the Treasury, Postal Service and General Government Appropriations Act of 1982. Due to the controversial nature of this Ashbrook language and to the general confusion surrounding the budget in late 1981, the Treasury Appropriations bill was funded by the Continuing Resolution, Public Law 97-51, which did not include the Ashbrook amendment.

Because this amendment will no doubt be considered again as a rider to the Treasury-Postal appropriations bill for 1983, I believe it would be prudent to enact permanent changes which would deny federal funding for abortion services in federal health plans. The only exceptions would be if the mother's life was endangered or if the employee financed the option through a special rider.

Judge Gesell's opinion was based on the lack of any federal legislation to restrict the provision of abortion services in federal health benefits. Clearly a different result would be warranted should the Congress act to deny funds for abortion services prospectively under its power of the purse.

(e) "No institution that receives federeal financial assistance shall discriminate against any employee, applicant for employment, medical student, or applicant for admission as a medical student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortion."

So called "conscience clauses" have been enacted in several federal statutes before, including the Health Services Extention Act of 1973, Foreign Assistance Act of 1973, and Nurse Training Amendments of 1979. State statutes which allow physicians to refuse to perform abortions as a matter of conscience and laws which allow private hospitals to refuse to provide abortion services have generally been held to be constitutional. *Jones* v. *Eastern Marine Medical Center*, 448 F. Supp. 1156 (D.Me. 1978).

In *Poelker* v. *Doe*, 432 U.S. 519 (1977), the U.S. Supreme Court held that the City of St. Louis could refuse to allow the performance of elective abortions in its public hospitals and could staff its hospitals with employees who were opposed to the performance of abortions. Because the conscience clauses allow individual employees and physicians to act in accordance with their ethical beliefs it is likely that the Supreme Court would find these statutes constitutional. Allowing private hospitals to set its own policies arguably does not involve "state action" or approval and therefore, should be held to be constitutional as well.

Section 3 establishes a cause of action on behalf of unborn children in order to institute a civil action against any party who is alleged to be in violation of this act. The Congress would grant standing to parties who are acting on behalf of unborn children regardless of the fact that minimum monetary damages cannot be documented.

The basis for enacting a special standing statute rests on the fundamental importance of the Congressional findings of this bill. Because Congress is affirming for the first time the intrinsic value of all human life—including the unborn—a specific enforcement mechanism needs to be put into place. Providing standing to representatives of the unborn, without regard to the amount in controversy, establishes an essential tool to enforcing this legislation. Congress has utilized this method of establishing a means to enforcing important national legislation when enacting environmental legislation. (See Clean Air Act, 42 U.S.C. Section 7604.)

Section 4 provides for the expedited review of any state legislation that is enacted on the basis of the findings of this bill in order to ensure that the U.S. Supreme Court gets an early opportunity to review its decision of *Roe* v. *Wade*. This section does not provide any new authority to the states to enact restrictive abortion statutes but it provides for an expedited review process should a federal court overturn a state statute that is enacted pursuant to the findings of this legislation. It does not, however, deny jurisdiction to any federal court to hear these cases.

QUESTIONS AND ANSWERS ON THE HATFIELD-HYDE FEDERAL ABORTION FUNDING RESTRICTION BILL

Q. What does the Hatfield-Hyde Funding Restriction Bill do?

A. First, the Bill affirms the intrinsic value of all human life and that unborn children are living members of the human species. Second, the Bill brings the federal government into line with these findings, guaranteeing that the federal government not kill innocent human beings or assist others to do so, by prohibiting:

(1) Any federal agency from performing abortions, except when the life of the mother would be endangered if the child were carried to term;

(2) Any funds appropriated by Congress to be used to perform abortions, to reimburse

or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term;

(3) The federal government from entering into any contract for insurance that provides payment or reimbursement for abortions other than (a) when the life of the mother would be endangered if the child were carried to term, or (b) by means of a special rider financed by the employee; and

(4) Any institution receiving federal financial assistance from discriminating against any employee, applicant for employment, medical student, or applicant for admission as a medical student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

Third, it allows civil action against any party, including a recipient of federal funds, who violates the above provisions. The Bill also gives the Supreme Court a new chance to reconsider its much criticized 1973 abortion decision of *Roe* v. *Wade* in the light of these findings by Congress. The Bill accomplishes this by providing for direct Supreme Court review of any federal court decision striking down certain types of state anti-abortion statutes.

Q. Why is the Bill necessary?

A. Congress has been struggling with the abortion issue for years. Dozens of votes have been taken in both chambers on the matter. The issue of federal funding for abortion has tied up such appropriations bills as Labor-HHS, Defense, Foreign Operations, District of Columbia and Treasury. This Bill ends the parliamentary infighting by setting down a clear principle of law for all time.

Q. Is this bill constitutional?

A. Yes. The Supreme Court held in *Harris* v. *McRae* that the Constitution does not require government funding of abortions. Federal taxpayers are not required to support abortions through federal agencies or federal grantees. This bill affects only the sphere of federal action, which Congress has clear power to regulate.

Q. Does this bill seek to overrule *Roe* v. *Wade*?

A. No. The bill only seeks to give the Supreme Court a chance to reconsider its *Roe* v. *Wade* decision. The bill does not tell the Court *how* to decide that case. Congress will of course expect the Court to pay attention to the findings about humanity of the unborn; but this is left to the judgment of the Court. At her nomination hearings, in the Senate Judiciary Committee, Justice O'Connor rightly refused to answer questions about *Roe* v. *Wade* because that decision was likely to come before the Supreme Court again. This bill provides an orderly and expeditious manner for the issues of *Roe* v. *Wade* to come up before the Court for reonsideration.

Q. Can we realistically expect the Supreme Court to change its mind about *Roe* v. *Wade*?

A. Yes. The Court in *Roe* v. *Wade* never considered the humanity of the unborn as discussed in the findings of this bill. It is still an open issue what the Court will do when it addresses this issue.

Q. Is this the same concept as the Human Life Bill?

A. No. This bill does recognize the principle of the intrinsic worth of all human life, but it does not take the Human Life Bill's controversial step of interpreting the Constitution by act of Congress.

Q. Does this Bill seek to deny the Supreme Court jurisdiction over cases involving abortion?

A. No. As the Bill is presently drafted, Section 4 does not withdraw from the Supreme Court the power to review this legislation and determine its constitutionality. In fact, it expedites Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction if any State enacts legislation which prohibits or restricts abortions and which is expressly based on the findings of Section 1 of this Act.

Q. Does this Bill seek to prevent lower federal courts from issuing injunctions in abortion-related cases?

A. No. The district courts shall have jurisdiciton, without regard to the amount in controversy, to enforce compliance with the provisions in Section 2. Also, any legislation which is invalidated by final order of any court of the United States, the party to such case shall have the right to direct appeal to the Supreme Court of the United States.

Q. Does this Bill make abortion a crime?

A. No. It just makes it illegal for the federal government to perform abortions or assist others through funding to do so, except when the life of the mother would be endangered if the child was carried to term. We believe, however, that by Congress recognizing and affirming the intrinsic value of all human life, the states will take an interest in passing legislation which prohibits or restricts abortions based on Section 1 of this Bill.

Q. What affect would passage of this bill have on state funding of abortions?

A. None. Each state could determine whether or not to fund abortions.

Q. Why doesn't this bill contain exceptions for pregnancy resulting from rape or incest?

A. This bill simply continues the current state of the federal law which does not provide such exceptions.

Q. What effect will passage of this bill have on poor women across the United States who will not have access to federal assistance for abortion?

A. This bill will not change the status quo since no federal funds have been available for abortion services since 1977.

Q. Would the Federal Funding Restriction Bill prohibit the federal government from supplying or distributing certain birth control techniques, such as the I.U.D. and some forms of the pill?

A. No. The intent of this bill is to prohibit federal funding or assistance in the over one and one-half million surgical abortions occurring annually in this country. The overwhelming sentiment of the anti-abortion congressmen is not to outlaw birth control drugs or devices. Federal funding will be restricted only on those measures which terminate an identifiable human life. It should be noted that under the previous Hyde language in effect in 1981 and 1982 no restriction was placed on any form of birth control drugs or devices. This bill continues the current state of law in this regard.

Q. What amount of federal funds are saved by not funding medicaid abortions?

A. Restrictions on the Federal funding of abortion has had a significant impact on the number of abortions performed under the Medicaid statute. Prior to the enactment of the Hyde Amendment, the Office of Population Affairs, DHEW, prepared very rough estimates of Federal funds expended for abortions under the Medicaid program. The Office of Population Affairs estimated that in 1974 Medicaid financed between 220,000 and 278,000 abortions at a cost of $40–$50 million. For 1976, the Office estimated Medicaid financed abortion procedures at an annual rate of 250,000 to 300,000 at a cost of $45–$55 million. According to the Medicaid data branch of the Office of Policy, Planning and Research, DHEW, from February 14, 1978 through December 31, 1987, 2,328 abortions were funded at a cost of $777,158 to State and Federal governments.

Q. Does the bill restrict the counselling of or referrals for abortion?

A. The bill does not affect various counselling services that are available under federally funded programs but it does forbid the active promotion and referral of abortion services.

Q. Does this bill define when life begins or attempt to legally define "personhood"?

A. No. Even though the Senate Judiciary Committee has considered this controversial issue and has issued an excellent report on the Human Life Bill, this legislation does not attempt to indirectly overturn *Roe* v. *Wade* or interpret the Constitution.

Q. The Second Finding of this bill states that unborn children who are aborted are living members of the human species. What is the intent of the finding?

A. It is a fundamental principle of American law that there are inalienable fundamental rights—the right to life, liberty, and the pursuit of happiness. Under our Constitution, the government is not the ultimate source or decision maker of which human beings deserve legal protection. This important legislative finding of the Congress affirms the basic right to life for all human beings and brings the Federal Government's policies into compliance with this finding.

Q. Does this bill give states the authority to enact restrictive abortion statutes?

A. No. It does, however, provide for an expedited judicial review by the U.S. Supreme Court if a state legislature enacts a statute that is based on the findings of this legislation.

Q. Because many public and private hospitals either receive direct federal funds, or indirect benefits through the use of tax-exempt bonds, will this legislation prohibit these hospitals or clinics from performing abortions?

A. No. It only curtails the direct expenditure of federal funds for abortions, for training in the techniques for performing abortions or to finance experimentation on aborted children. The institution could not, however, discriminate against an applicant for employment, or an applicant for admission as a medical student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of an abortion.

THE INADEQUACIES OF ROE V. WADE

On January 22, 1973 the United States Supreme Court found in the 9th Amendment's reservation of power to the people or the 14th Amendment's right to liberty, a new found right to an abortion. The Supreme Court struck down dozens of statutes and substituted a new test that in practice resulted in abortion on demand.

In the first three months of the pregnancy, the Court stated that the woman's right to choose an abortion was absolute. By the fourth month, the state could regulate to ensure that the health of the mother was protected. When the fetus was "viable" or after the sixth month, the Court found that the state had an interest in protecting "potential life" unless the health of the mother dictated otherwise. In practice, the woman only need find a doctor who agrees that the abortion is necessary to her "mental health" in order to obtain the abortion. When we realize the important dimensions of this new liberty, one must conclude that the liberty was little short of unlimited.

A broad range of legal scholars have criticized the *Roe* v. *Wade* decision as an unprincipled exercise of judicial power. By invalidating state statutes in nearly 50 states on

the basis of a liberty that found no support in the U.S. Constitution nor in the traditions of our democracy, the Supreme Court acted as a superlegislature that boldly substituted its judgment for the decisions of local legislators across the nation. Any serious student of our Constitution will be hard pressed to find constitutional authority for the Court's declaration of allowable state regulations. Former Solicitor General of the United States, Archibald Cox, noted that the opinion read like a set of hospital regulations instead of being moored in the Constitution. Professor John Ely of Harvard found it incredible that the Court could not explain the constitutional foundations of the new liberty and of the elaborate judge-made regulations that were now made law.

In essence, the Supreme Court in *Roe* v. *Wade* acted in a way that was reminiscent of an earlier day when the Court was routinely striking down state and federal statutes that were enacted to protect workers, unions, and implement New Deal legislation. Based on a concept of "laissez-faire" economics, the Supreme Court struck down statute by statute because it violated the "liberty to contract." In a famous dissent, Judge Holmes stated that the Constitution did not enact Herber Spencer's Social Statics—a book which epitomized the "survival of the fittest" economic policy of the times. The Supreme Court in *Roe* v. *Wade* has made the same basic mistake of attempting to substitute its understanding of "social mores" for the judgment of local legislatures. By constructing a new found liberty that is based on a shred of constitutional authority, the Supreme Court has ignited a tinderbox that threatens to rip our social fabric apart.

Aside from the basic flaws in the constitutional basis of *Roe* v. *Wade*, the decision must also be critized for its cavalier treatment of the ethical, oral and ultimately, legal values that our democratic government gives to the unborn. It is deeply disturbing that we should sanction a rule of law that grants to the state the authority to define who is entitled to legal personhood.

In the famous *Dred Scott* v *Sanford* decision, the Supreme Court decided that a black slave could not be a "person" deserving of legal citizenship. In its exceptionally well written report on S. 158, the Human Life Bill, the Senate Judiciary committee has contrasted the "quality of life" ethic from the "sanctity of human life" ethic. By emphasizing that human beings are those lives who have a certain quality—those that consciously manage their life, that possess minimum attributes that all individuals should have, the "quality of life" ethic dramatically shifts away from individual inalienable rights. Frankly, it saddens me to find such lack of commitment to life itself, to God's creation and handiwork so prevalent in our medical ethics, our social mores and legal definitions.

I find myself ashamed of our materialistic society which grants an unlimited liberty to an abortion because an other rule would result in too many unwanted children. Perhaps we need to be reminded of Grace Olvarez' dissent from the Rockefeller Commission Report. She wrote:

"To talk about the 'wanted' and the 'unwanted' child smacks too much of bigotry and prejudice. Many of us have experienced the sting of being 'unwanted' by certain segments of our society. * * * One usually wants objects and if they turn out to be unsatisfactory, they are returnable * * * Human beings are not returnable items * * * Those with power in our society cannot be allowed to 'want' and 'unwant' people at will. * * *

"The poor cry out for justice and equality, and we respond with legalized abortion."

It is because my ethical commitment to life enhancing measures, whether a nuclear freeze initiative or meeting the needs of our elderly poor, that I am introducing this bill. Although I continue to endorse a constitutional amendment to overturn the *Roe* v. *Wade* decision, I believe this bill can generate strong support in the Congress and hopefully, set the stage for the reversal of *Roe* v. *Wade*.

Mr. HATFIELD. Mr. President, the basic thrust of this bill is to get this matter off the back of the Appropriations Committee. We have had that kind of exercise for so long that I just am compelled to make this move to provide us with a statutory alternative in case that constitutional amendment proposals offered by Senator HATCH and others fail to be adopted.

This will at least get us into the statute. This does not in any way try to overrule the Supreme Court. I want to make that clear, too, because there is pluralism among those of us who oppose abortion. We are not monolithic in our thinking.

All this bill does, Mr. President, in effect, is put the Supreme Court in a position where it may review its own past decisions. That is all we are asking, that it review its own past decisions about the question of abortion. I want to make it clear that this will be entitled and publicized as an anti-abortion bill, and it is; but by no means does it attempt to overturn the Supreme Court by legislative action. Rather, it is to get the case before the Supreme Court for a review of its past decisions.

I think we shall far more advance the cause that I have to represent in opposing abortion than getting into constitutional amendments or getting into bills trying to overrule the Supreme Court and/or denying the Supreme Court the right to rule on such issues. I do not support that type of approach. That is not basically what my bill proposes to do.

Mr. LONG. Will the Senator yield?

MR. HATFIELD. I am happy to yield.

Mr. LONG. Mr. President, I say to the Senator that I fully sympathize with his view. I agree that this matter should not be handled as an amendment to an appropriation bill. In view of the Supreme Court decision on this subject it is appropriate that Congress should act. I think the decision construed the Constitution to mean something far different from what I believe it to be, with what little legal training I had before I came to this body. This decision is different, may I say, from what the overwhelming majority of the American Bar Association, or, I even believe, the overwhelming majority of the judges across the country would have construed the Constitution to mean on that subject.

The only way Congress can act in this area is by a constitutional amendment if, under our present situation, Congress does not agree with the decision of the Supreme Court.

In view of that fact, we ought to legislate by way of a constitutional amendment and I hope that Senators and Members of the House will not impede the Senate, will not prevent the Senate from voting on this matter. It is a matter that must be passed by a two-thirds majority in both Houses. It would then have to be ratified by three-quarters of all the States of the Union. Whether a Member of Congress agrees with the amendment or not, we would then be in a position to put the matter back with the people, one might say, by referring it to the legislatures of all 50 States to see whether they can agree with what we propose here as a constitutional amendment. Otherwise, the people of the country will be confronted with the necessity of seeking a constitutional convention, if need be, to try to resolve an issue of this sort.

That should not be necessary. We ought to be willing to let the majority prevail in this body and in the other body to submit their best judgment.

While I have my own views, I think that the matter was intended to be a matter within the exclusive jurisdiction of the States. I think the States should act in this area. I would like even to pass a constitutional amendment that would breathe life back into the statutes that were there at the time the Supreme Court rendered its decision.

At the same time, I really have enough respect for the views of others that, in the end, I would be willing to accommodate them in helping to submit whatever the majority wants to submit to the States so that the States can act on it. It is an area that should be decided, not forever be in limbo.

I hope very much that the Senator is successful in what he seeks to do. He seeks to bring the matter to a decision, not by legislative rider on an appropriation bill but by an attempt to resolve by legislation.

Mr. HATFIELD. Mr. President, I appreciate the Senator's remarks very much. If this body's will is for a constitutional amendment, so be it, but I have this as a fallback position. In case a two-thirds vote is not available in the body, we can still deal with this by a statutory procedure that will still get a review by the Supreme Court and at least help alleviate the difficulties we now find ourselves in trying to confront the Supreme Court as a legislative body, as a third coequal branch of Government, and try to change some of the rules of that Court.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WHITE SANDS SPACE HARBOR

Mr. SCHMITT. Mr. President, on behalf of myself and Mr. DOMENICI, I send to the desk a bill that has been cleared on both sides and with the appropriate chairman, namely the chairman of the Committee on Armed Services, and his distinguished ranking minority member, and I ask for the immediate consideration of this bill.

The PRESIDING OFFICER. Is there objection to the immediate consideration of this measure? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2373) to change the name of the landing strip at White Sands missile range in the State of New Mexico to "White Sands Space Harbor."

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill will be deemed to have been read the first time by title and the second time at length.

Mr. SCHMITT. Mr. President, I am pleased to introduce this bill, along with my distinguished colleague, Senator DOMENICI, which would officially designate the Northrup Strip at the White Sands missile range in New Mexico as "White Sands Space Harbor."

On March 30 of this year history was made at White Sands, a beautiful dune area of this country, which has played a major role in the development of defense and space systems throughout its history as a missile range since early in World War II. Thousands of New Mexicans and other Americans witnessed the successful landing of the Space Shuttle *Columbia* and its valiant crew, Jack Lousma and Gordon Fullerton.

I was particularly happy to be able to personally welcome these two former colleagues of the astronaut program to New Mexico on their arrival in what is truly a unique transportation system.

Not only were Jack Lousma and Gordon Fullerton with me in the astronaut program for many years, but Gordon Fullerton and I first met up in the freshman class at the California Institute of Technology in 1953. We were not only in the same class but in the same section. So it was particularly personally gratifying to see them arrive in New Mexico in this unique way.

The landing of *Columbia* marked a major milestone in our space program. NASA demonstrated that, with the landing in New Mexico on the third flight of the Space Shuttle, we indeed have a very flexible flying machine, and that we have moved measurably closer to a truly operational space transportation system. We are showing the world and all users of this vehicle that the Shuttle will be a reliable carrier, that it can launch payloads on time and can land in a variety of places and conditions, whatever the weather conditions may prevail at specific places and at specific times.

The White Sands Space Harbor is an excellent facility that began its role in what will one day be a routine part of future flights for all aspects of our space program, particularly those related to national defense.

The dictionary defines a harbor as "a place of security and comfort." That is why the name "White Sands Space Harbor" is especially appropriate. The *Columbia* and its crew found safe, secure refuge in the landing site after touching the edge of space. They also felt the warmth of both the New Mexico Sun and the New Mexico people and all others who joined in welcoming them to this unique spot on our planet. It made us all proud to be New Mexicans and proud to be Americans at the same time.

I would like to express my personal appreciation to the U.S. Army, to the Air Force, to NASA, and to all the contractors involved in the Space Shuttle program, and to the employees of those institutions who together contributed to the success of a truly remarkable mission.

In the late 1940's the White Sands area served as the modern birthplace of our space program with the development and modification of the V-2 rocket systems brought over from Germany after World War II. Prior to that New Mexico had seen the development of liquid fuel rockets through the pioneering work of Robert Goddard at Roswell, N. Mex.

Throughout modern times the White Sands area has served as the testing ground for a variety of space systems, and now nearby, just north of Las Cruces, N. Mex., is located the principal ground station for the new Shuttle communications system that will serve our commercial, civilian, and defense needs for the remainder of the century.

It is, therefore, particularly fitting that the White Sands Space Harbor become a part of our new beginning in the routine use of space.

I yield to my distinguished colleague from Virginia for any comments he may wish to make.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, those interested in this matter on this side of the aisle have cleared the legislation introduced by the two distinguished Senators from New Mexico.

As for myself, I want to express approval and support for the proposal of the distinguished Senator from New Mexico, who is rendering such splendid and outstanding service to the people of New Mexico and to the people of the United States as a Member of the Senate of the United States.

There is no objection to this legislation on this side of the aisle.

Mr. SCHMITT. Mr. President, the distinguished majority leader (Mr. BAKER), the Senator from Tennessee, has authorized me to indicate that he has no objection.

The PRESIDING OFFICER (Mr. EAST). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the landing strip known as Northrup Strip, located at White Sands Missile Range in the State of New Mexico, shall hereafter be known as "White Sands Space Harbor". Any law, regulation, document, or record of the United States in which such landing strip is designated or referred to shall be held and considered to be a reference to "White Sands Space Harbor".

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

PROTECTION OF U.S. EXPORTS OF CORN GLUTEN FEED

Mr. PERCY. Mr. President, I would like to check with the acting minority leader to see whether or not we can proceed with the adoption of a resolution on corn gluten feed which has been cleared, so far as I know, on the other side.

It has been cosponsored by the chairman and ranking minority member of the Committee on Agriculture.

Mr. HARRY F. BYRD, JR. I will say to the able Senator from Illinois that I know of no problem on this side of the aisle. I would suggest that it not be brought to a final vote until the distinguished Senator from Louisiana returns to the Chamber as he, perhaps, may desire to make some comments.

Mr. PERCY. That would be fine. We will certainly proceed to do that and withhold a vote on it until such time as Senator LONG is on the floor, I hope word can be sent to him that we are proceeding on that basis. We will await a final vote until he has returned to the floor.

Mr. HARRY F. BYRD, JR. Very good.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON
August 30, 1982

FOR: MARISE DUFF

FROM: STEPHEN H. GALEBACH

SUBJECT: Synopsis of Anti-Abortion Bills Now Pending in Congress

1. S.2148 -- "Helms Super Bill" -- Includes basic provisions of Human Life Bill, S.158, which would make a finding recognizing that the life of each human being begins at conception, and would legally recognize unborn children as "persons" within the meaning of the due process clause of the 14th amendment. S.2148 also contains a proscription on federal funding and other financial support for abortions.

2. S.2372 -- "Hatfield Bill" -- Contains findings that "it is a fundamental principle of American law to recognize and affirm the intrinsic worth of all human life," and that "unborn children subjected to abortion are living members of the human race." Also contains prohibitions on all federal funding and support for abortion, similar to the Helms Super Bill. Finally, it contains a provision encouraging the Supreme Court to reconsider Roe v. Wade, by providing that if any state passes an anti-abortion law which is based on the findings of the Hatfield bill, and such law is struck down by a lower federal court, there shall be a right of direct appeal to the U.S. Supreme Court.

3. Various forms of Human Life Amendment -- Would prohibit abortions nationwide, by recognizing the personhood of unborn children from the moment of conception.

4. Hatch Amendment -- Provides that a right to abortion is not secured by the Constitution of the United States, and that the Congress and the several states are empowered to restrict and prohibit abortions.

5. Bill to provide aid for unwed mothers -- Senator Denton's bill amending the Adolescent Family Life Program authorized up to $30 million of federal funds for programs that help unwed teenage mothers. One-third of the money is earmarked for "prevention services," not to include birth control devices, and the other two-thirds of the funds are earmarked for "care services," i.e., facilities to care for unwed teenage mothers during the course of their pregnancy. This bill could provide funding for a large number of homes for unwed mothers. Congress is now considering a proposal to appropriate $10.3 million for this program.

JOHN D. KLENK
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REPUBLICAN STUDY COMMITTEE
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File - Abortion - Title X

THE REPUBLICAN STUDY COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES
433 HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
202/225-0587

October 28, 1982

MEMORANDUM

To: Ed Meese

From: Dick Dingman

RE: REFORM OF FAMILY PLANNING PROGRAM

The White House should know that the conservative movement -- in and out of Congress -- places very high priority on the administrative overhaul of the federal family planning program (Title X).

Specific needs are:

(A) Reform of Title X's blatantly proabortion regulations (to exclude abortion-related services, and thereby reconform the regulations to the original 1970 law). (See attached memo for details).

(B) Restructuring of the HHS bureaucracy (to bring the Office of Family Planning [OFP] under the Deputy Assistant Secretary for Population Affairs [DASPA], away from the Bureau of Community Health Services [BCHS]. (Note: the GAO recommended this last year)

(C) Filling of the vacancy of Director of BCHS -- and other positions in OFP and BCHS -- with prolife candidates who support the President's philosophy.

Note: All these reforms can be achieved administratively. No new legislation is required.

The White House should know that the Senate oversight Committee (Sen. Hatch's Labor and Human Resources Committee, and Sen. Denton's Aging, Family and Human Services Subcommittee) intends to push hard on this issue. There is even discussion of turning loose the investigations unit of Sen. Hatch's committee on the family planning program.

I have heard that prolife groups are so exasperated by the current state of affairs that they are planning legal action.

Clearly, hostile Senate oversight hearings, and legal action against the Administration by the President's own prolife movement would embarrass the Administration. I would therefore urge the White House to meet with conservative leaders in the near future, to plan an agenda for reform.

Jack Klenk
Republican Study Committee
October 27, 1982

TAMING TITLE X, ROUND TWO: A PROPOSAL TO PROHIBIT ABORTION-RELATED SERVICES

With its promulgation of new regulations for the Title X family planning program, the Reagan Administration has signalled its determination to take charge of a Federal program that was notoriously out of control. This change of direction is a welcome and significant improvement, important not only for its break with the abuse-riddled policies inherited from past administrations, but also for its declaration of independence from the vested interests that have both dominated and benefitted financially from the status quo ante.

The first round of regulatory reform sidestepped the all-important question of abortion-related services (i.e., counseling and referrals). Although the Administration may have considered it tactically prudent to defer this issue, the immediate result of the announced new regulations is varying degrees of dissatisfaction all around. Although the changes are relatively modest, Planned Parenthood and its allies in the family planning industry, Congress and the media correctly understand the Administration's move as a territorial challenge. As a matter of instinct and principle, they bellowed with rage at the Administration's affrontery. On the other side, the Administration's prolife constituency, while applauding both the challenge to Planned Parenthood and the substance of this initial regulatory change, generally wished the reforms had gone further.

Certainly, Planned Parenthood and the other organizations that have enjoyed free run of the Title X program since its inception will contest the initial regulatory reform in court. Ironically, the relatively modest first step may prove more difficult to defend on the basis of authorizing legislation than would an outright prohibition of abortion-related services.

This memo urges the Reagan Administration to make such a prohibition its next priority in the overhaul of Title X regulations. Legal authority already exists; the language and history of the Title X law authorizes such a prohibition, which would merely return the program to the purpose Congress originally intended for it. Without such a prohibition, the most flagrant abuses will continue. Furthermore, without this prohibition, the kind of positive groups that the Administration should encourage to participate in the Title X program will continue to be excluded from it. The inclusion of such groups may will determine the success or failure of reform over the long haul.

1. Statutory authority to prohibit abortion services already exists.

The Administration has statutory authority -- both statutory language and legislative history -- to prohibit abortion counseling and referral and to repeal current DHHS regulations and guidelines that mandate abortion counseling and referrals.

(a) Section 1008 prohibits abortion involvement

In 1970, Congress attached the "Dingell Amendment" (Sec. 1008) to the

Title X family planning program. This amendment says:

> None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

The author of the amendment, Congressman John Dingell, explained his amendment as follows:

> With the "prohibition of abortion" amendment -- Title X, Section 1008 -- the committee members clearly intend that abortion is not to be encouraged or promoted in any way through this legislation. Programs which include abortion as a method of family planning are not eligible for funds allocated through this act. . . .
>
> If there is any direct relationship between family planning and abortion, it would be this, that properly operated family planning programs should reduce the incidence of abortion. . . .
>
> Furthermore, there is evidence that the prevalence of abortion as a substitute or a back-up for contraceptive methods can reduce the effectiveness of family planning programs. . . .
>
> There is even some evidence that if the poor and uneducated -- to whom this legislation is primarily directed -- are offered the possibility of abortion along with family planning assistance, they will more readily turn to abortion. It would be ill-advised for Congress to extend a false hope to the people that rely on its leadership in a special way.*

---

* Congressional Record, Nov. 16, 1970

Rep. Paul Rogers, who presided over the subcommittee hearings on Title X until his retirement in 1978, further clarified the Dingell Amendment:

> This provision would not merely prohibit the use of such funds for the performance of abortions but would prohibit the support of any program in which abortion counseling or abortion referral services are offered. *

Douglas Badger of the Christian Action Council has drawn up a legislative history of Sec. 1008. He draws the following conclusions about the legislative intent of the Title X bill:

1. Congress intended to establish a wall of separation between pregnancy prevention and pregnancy termination.
2. This wall of separation excludes abortion counseling and referral as well as the actual preformance of abortion from public funding.
3. Programs in which abortion plays a prominent role are also ineligible for Title X funds.
4. Organizations which encourage or promote abortion in any way thereby disqualify themselves from Title X grants.

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* Letter to Mrs. Randy Engel, Executive Director of the U.S. Coalition for Life. Hearings on H.R. 2954 and H.R. 2955, House Interstate and Foreign Commence Committee, p. 260, 1975.

(b) Section 1001 does not include abortion services within the scope of Title X services

The provision of abortion-related services exceeds the authorization in the law. The opening section of the Title X law, Sec. 1001, authorizes family planning service expenditure only for "the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)."

These family planning activities do not include abortion services. The conference report that accompanied Title X was at pains to emphasize the exclusion of abortion from covered family planning services:

> It is and has been the intent of both Houses that the funds authorized under this legislation be used only to support preventive family planning services, population research, infertility services and other related medical, informational and educational activities. The Conferees have adopted the language contained in Section 1008, which prohibits the use of such funds for abortion, in order to make clear this intent."* (Emphasis added)

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* Committee on Conference, U.S. House of Representatives, 91st Congress, "Family Planning Services and Population Research Act of 1070," Report No. 91-1667.

2. Without an outright prohibition of abortion-related services, the Title X program will continue in nonconformity to the intent of Congress when it created the program.

Since 1970, Department regulations have reversed the intent of Congress. Despite the explicit prohibition of abortion in the statute enacting Title X, DHHS now requires abortion referrals, it permits abortion promotion, and it excludes from participation those agencies which refuse to make abortion referrals. This guarantees that Title X funding goes only to groups which are actively proabortion or -- at best -- neutral toward the use of abortion as a "backup to contraceptive failure." In brief, the regulations of the family planning program guarantee the Federal funding exclusively of Planned Parenthood and groups allied to the Planned Parenthood ideology. Others need not apply.

The extent to which the abortion interests use Federal money to promote abortion (and subvert the intent of the authorizing legislation) was strikingly illustrated March 31, 1981, in testimony before the Senate Labor and Human Resources Committee by Faye Wattleton, president of Planned Parenthood Federation of America (PPFA). Sen. Nickles cited a 1976 article by PPFA vice president Jeannie Rosoff, who wrote in a Planned Parenthood Journal:

> There is no basis for believing that the prohibition of Title X funds for abortion as a method of family planning was intended to prohibit the use of such funds for abortion counseling and referral or even promotion and encouragement of abortion. *

* Family Planning Perspectives, January-February, 1976.

Sen. Nickles asked the President of Planned Parenthood, "Does this statement reflect the views of your organization?"

Ms. Wattleton replied, "Not only does it reflect our views but it also reflects the policy of HHS as framed by the immediate past Secretary."

It is imperative that the Reagan Administration sever the concurrance between the Department and Planned Parenthood regarding the permissibility of Title X financing "abortion counseling and referral or even promotion and encouragement of abortion."

3. The Department has flouted the intent of Congress by writing a proabortion bias into its regulations and guidelines.

Sec. 59.5(b)(1) in Title 42 of the Code of Federal Regulations requires Title X projects to "Provide for medical services related to family planning . . . and necessary referral to other medical facilities when medically indicated." Since virtually all abortions can be considered "medically indicated," this regulation has the effect of requiring Title X agencies to make abortion referrals. Agencies that refuse to make such referrals are thereby excluded.

Although Sec. 59.5(a)(5) does say that projects may "Not provide abortions as a method of family planning" -- repeating the language of the Dingell Amendment -- the Congressionally-intended meaning of the law is missing altogether, because the Department now treats "family planning" abortions as somehow different from "medically indicated" abortions. This distinction was never intended by Congress when it enacted Title X. By reclassifying abortion away from the category of "family planning" the Department and its vast Title X empire have reversed the intent of Congress and have, in effect, amended the Sec. 1008 law in such a way as to nullify it.

This truncated policy position is stated in a DHEW legal opinion dated July 25, 1979. "A project may, consistent with sec. 1008, make 'mere referrals' for abortion, . . .where such a referral is necessary because of medical indications, abortion is not being considered as a method of family planning as all, but rather as possibly required by the patient's condition. As such, it would not come within the scope of sec. 1008 at all, since that section reaches only cases which relate to the use of abortion as a method of family planning." (Emphasis added.) The Department's legal opinion goes on to say that "medically indicated" abortion referrals are not only permissible, they are required.

Nor, according to the legal opinion, can Title-X funded agencies be excused from abortion referrals on the grounds of conscience. The opinion states that the "conscience clause" in Federal law "does not restrict the Secretary from requiring grantees to act contrary to the beliefs the grantees hold as institutions. Thus, if a grantee is staffed by personnel whose beliefs do not permit them to make referrals under the above circumstances, the grantee may be required . . . to hire persons whose beliefs will not preclude them from making such referrals."

To date, the Department has never defined "family planning" in its regulations. This has allowed the disingenuous bureaucrats to have their cake and eat it too: on the one hand, to avoid running afoul of the plain meaning of Sec. 1008, they treat abortion-related services as not included in "family planning" but rather as being "medically indicated." On the other hand, to obtain funding under what is, after all, a family planning program, they include these services within the scope of the term. The Department has the embarrassing task of explaining why services that are not family planning services must be financed from an avowedly family planning program.

Sec. 59.5(a)(4) requires the provision of services without regard to age or marital status. This mandates services to unmarried minor children. Sec. 59.11 requires confidentiality, unless the individual gives consent. If an agency will not provide abortion referrals and contraceptive devices to 11-year-old children who request them, or if the agency will provide such services only if the parents first give permission, that agency will be ineligible for Title X funding.

4. The Department has interpreted its regulations as requiring -- not merely permitting -- abortion referrals. The Carter Administration entered an Amicus brief in the Valley Family Planning v. State of North Dakota case before the Eighth Circuit Court of Appeals, which was used by the Appeals Court last October to void a North Dakota law barring the use of any Federal or state family planning funds by an organization that "performs, refers, or encourages" abortion. Incredibly, the Reagan Administration did not withdraw the Amicus brief. As a result, the Appeals Court ruled last October that the North Dakota law conflicted with the requirement of Title X and was therefore invalid under the Supremacy Clause (which provides that Federal law supercedes state law when there is a conflict). In this instance, the Department's action sould seem to have violated not only the President's abortion policy, but his position on states' rights as well.

5. Carter holdovers in DHHS issued blatantly proabortion "Guidelines" for Title X programs last summer.

These Guidelines were drawn up by a Task Force under the auspices of the proabortion American College of Obstetricians and Gynecologists (ACOG). Of six consultants selected to serve on the Task Force, at least four have ties to Planned Parenthood: the Task Force's chairman, Louise Tyrer (vice president of Planned Parenthood/World Population); Elizabeth Connell (Planned Parenthood of N.Y.C.); Fran Way (Planned Parenthood of Milwaukee); and Mary Harris (Planned Parenthood of Central Ohio).

The Guidelines reflect the bias of Planned Parenthood and ACOG, yet because they were issued as "guidelines" rather than as "regulations," they never were submitted for public scrutiny through the Federal Register. This despite the fact that they contain requirements which are de facto regulations.

The Guidelines specifically require "services related to abortion" (Sec. 7.4), "emergency contraception . . . postcoital contraception" (Sec. 8.4), and "information and counseling" on "pregnancy termination" (Sec. 8.6).

These requirements in the Guidelines can and should be repealed by the Reagan Administration.

6. The Supreme Court's upholding of the Hyde Amendment may provide additional legal authority for defunding abortion-related services.

In its upholding of the Hyde Amendment in Harris v. McRae, June 30, 1980, the Supreme Court ruled that even in the case of legal abortions which were, in the Court's, words "medically necessary," the government may withhold funding. The Court distinguished between prohibiting abortion (which would be unconstitutional under the Court's current interpretation of due process liberty) and defunding abortion. "It simply does not follow," said the Court, that a woman's freedom of choice carries with it a constitutional entitlement

to the financial resources to avail herself of the full range of protected choices . . . Although government may not place obstacles in the path of a woman's exercise of her freedom of choice, it need not remove those not of its own creation. Indigency falls within the latter category."

Sec. 1001 - Requires programs funded by Title X to offer "acceptable and effective family planning methods and services."

Does the Hyde Amendment indicate that Congress does not consider abortion to be "acceptable" and "effective"?

RECOMMENDATIONS FOR THE REAGAN ADMINISTRATION

1. Immediately review all Title X Regulations and Guidelines, and identify provisions that require abortion-related services.

2. On the authority of the authorizing legislation,
   (a) delete or revise all provisions requiring (or which have been interpreted to require) abortion-related services, and
   (b) draft new provisions that prohibit abortion-related services, except in cases where the mother's life is endangered.

3. Clearly define the scope of covered family planning services, in such a way as to exclude abortion services.

4. Revise eligibility standards, in order to permit the qualification of nonabortion agencies such as Birthright and natural family planning centers.