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FOR A
PRO-LIFE
SOLUTION TO THE
ABORTION PROBLEM

Christian Action Council

422 C St. N.E. Washington, D.C. 20002

(202) 544-1720

February 15, 1982

Mr. Morton Blackwell
Assistant to the President for Public Liaison
The White House
Washington, D.C.

Dear Mr. Blackwell,

I wish to extend my thanks to you for the invitation to meet with President Reagan on January 22. The opportunity was a genuine privilege, and I hope from your own perspective, the meeting was a success.

Also, I wish to acknowledge the materials you have recently sent to me. They are very relevant to my concerns, and I appreciate them.

Sincerely,

Curtis J. Young
Executive Director

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FOR A
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SOLUTION TO THE
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Christian Action Council

422 C St. N.E. Washington, D.C. 20002

(202) 544-1720

September 9, 1982

President Ronald Reagan
The White House
Washington, D.C.

Dear President Reagan,

We are so pleased to learn that you are contacting a number of Republican Senators urging their support for cloture on Senator Helms' pro-life amendment to the Debt Limit bill.

Your action has encouraged us greatly. Mr. President, your support undoubtedly will spell the difference between victory and defeat in the current battle to restore protection to unborn children.

Because of your leadership and that of Senator Helms, pro-life citizens around the country are rallying in greater numbers than ever before, in support of the current effort to amend the Debt Limit bill.

We look forward to joining in victory for the unborn with you and millions of our fellow Americans. We are most grateful for all your efforts to protect the right to life.

May God bless you and keep you in His care.

Sincerely,

Nellie J. Grey
March for Life

Judie Brown
American Life Lobby

Curtis J. Young
Christian Action Council

John P. Mackey, Esq.
Ad Hoc Committee

Helen DeWitt, R.N.
Kansas Director
National Right to Life

Paul Brown
Life Amendment P.A.C.

Margie Montgomery
Member, Exec. Committee
National Right to Life

Kenneth Van Derhoef, Esq.
Washington Director
National Right to Life

Theresa Van Sambeek
South Dakota Director
National Right to Life

E.E. McAteer
Religious Roundtable

file

HUMAN LIFE STATUTE COALITION

Conservative Caucus	U.S. Coalition for Life
Louisiana Right to Life Federation	Life Advocates
Bible Morality, Inc.	Lutherans for Life
California Family Women	Methodists for Life
Catholic Parent Teacher Groups	League of Catholic Laymen
Catholic Pharmaceutical Guild	Libertarians for Life
Catholic Physicians Guild	Life-PAC
Catholic Truth Society	Life Issues in Formal Education
Catholics for Christian Political Action	Mothers Organized for Morality
C.A.U.S.E. for Positive Education	National Federation for Decency
Chicago Life (Youth)	Odessans for Life
Christian Civic Education League	Parents and Children Together
Christian Family Renewal	Parents Rights
Christian Legal Defense and Education Fund	Parents Rights Organization
Christian Voice	Pro-Life Action League
Christian Womanity	Pro-Life
Citizens Advisory Group for Family Life/Sex Education	Pro-Life Council of Connecticut
Coalition for Decency	United Parents under God
Committee to Protect the Family	Up with Families
Concerned Christian Mothers	Sanctity of Life Foundation
FAM-PAC	Texas Doctors for Life
Family Life Coalition	U.S. Coalition of Concerned Parents
For Life, Inc.	Valley Christian University
Human Life International	Women's Committee for Responsible Government
	Young Parents Alert

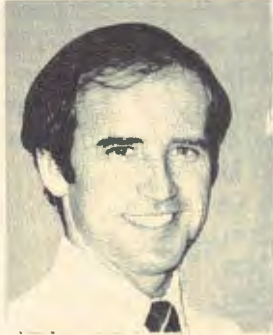
Markon Blackwell

Action Line

Christian Action
Council Newsletter

Volume VI, No. 3

March 22, 1982



"I do not think there is a chance in the world this amendment will pass as is. I cannot imagine (2/3) of the Senate...passing (this amendment) as is...Let us have this Year of Abortion and vote on it and get it up or down...Reserving the right to vote...against the entire thing...I am going to vote it out of committee so we get it to the floor and get it done with." --Senator Joseph Biden

The Senate Judiciary Committee narrowly approved a compromise constitutional amendment on abortion sponsored by Senator Orrin Hatch (R-Ut.) on March 10, amid pledges by some committee members to change it to a states' rights measure on the floor and predictions by others that it is destined to die there. The 10-7 committee vote, which split largely along party lines, followed a debate in which several Senators who eventually voted for the measure voiced grave concerns about it and hinted that they might oppose it on the Senate floor.

"Reserving the right to vote for or against the amendments offered [to the Hatch amendment] or voting against the entire thing,...I am going to vote it out of committee so we can get it to the floor and get it done with," Senator Joseph Biden (D-Del.) told his colleagues. Biden was joined in supporting the Hatch amendment (S.J. Res. 110) by Arizona Democrat Dennis DeConcini and eight Republicans--Committee Chairman Strom Thurmond (S.C.), Paul Laxalt (Nev.), Orrin Hatch, Robert Dole (Kans.), Alan Simpson (Wyo.), John East (N.C.), Charles Grassley (Ia.) and Jeremiah Denton (Ala.). Five Democrats--Edward Kennedy (Mass.), Minority Leader Robert Byrd (W.V.), Howard Metzenbaum (Oh.), Patrick Leahy (Vt.) and Max Baucus (Mont.)--and two Republicans--Charles Mathias (Md.) and Arlen Specter (Pa.)--opposed the measure. Howell Heflin (D-Ala.) did not vote.

Despite the favorable vote, it was evident throughout the committee's discussions that most Senators who voted for the Hatch amendment did so with misgivings. Even pro-life Republicans, who without exception supported the proposal, paid it only qualified praise. Typical of their number was Iowa Senator Charles Grassley who said, "I am going to cast my vote in favor of the Hatch amendment, but I want to make perfectly clear that this is not my ideal choice of an amendment on this subject."

John East indicated that the amendment had, in his view, both a "positive" and a "negative" side. "On the negative side of the proposed amendment is that it does not address the fundamental problem of the right to life of the unborn and whether that life ought to be protected," East said, but added, "In defense of this amendment, it does get us out from under the constitutional rubble that [Roe v. Wade] created."

By far the coolest support the measure received from a pro-life Senator came from Robert Dole. "As far as I'm concerned," the influential Kansas Republican told the committee, "I am voting to report it without recommendation. I think there are some serious problems that it raises."

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"I am going to cast my vote in favor of the Hatch amendment, but I want to make perfectly clear that this is not my ideal choice of an amendment on this subject."

--Sen. Grassley

noted that enforcement of a uniform federal anti-abortion standard under the Hatch amendment would be cumbersome, if not impossible. "If [federal] enforcement...were to be a reality, it would have to be through some type of federal law enforcement agency," he writes. "To advocate such federal enforcement is to confirm the prediction of pro-abortionists that there will be some sort of "FBPI"--a federal bureau of pregnancy investigation. Under no other proposed amendment (nor the HLB) has such an option ever been considered. But under Hatch, such an agency would be the only method of ensuring enforcement of the federal standard. Ironically--if not prophetically--Hatch contains provisions for concurrent state-federal enforcement similar to the Eighteenth (Prohibition) Amendment...The failure to consider the ramifications and limits of enforcement alone doomed Prohibition, and gave an unjustifiably bad name to all subsequent legislation with any moral connotation. Why risk the historic failures of enforcement under Prohibition?" Baker asks.

Cognizant of these failures, Simpson suggested that Hatch be turned into a "pure" states' rights amendment. Hatch resisted this suggestion, and in the process explained why he thought Congress should have "concurrent power" with the states in the area of abortion. "Congressional authority would exist in at least one important aspect, and that is to allow whatever consensus develops in the states to be ratified through minimum national standards. Other than that," Hatch said, "what Congress will do is probably deal with the question of federal funding of abortion."

Thus, according to Hatch, a federal anti-abortion law would be enacted only after most states had passed such laws on their own. Pro-life backers of the measure have argued that the primary restrictions on abortion would be set by Congress, with the states having power, if they chose to use it, to write stricter laws. But Hatch told the Judiciary Committee that it is just the other way around. It is the states that would be expected to move first against abortion. Federal standards would not be established unless the states themselves had arrived at a consensus. "The most important reason for including Congress as well as the states in the amendment," Hatch said, "was to insure that if any consensus developed in the states, that that consensus would be capable of being protected by the federal government. If, for example, 40-45 states were in fundamental agreement on some aspect of the abortion issue, I would hate to see that particular consensus undermined."

Simpson argued that such a consensus would not be forthcoming. "How are we possibly ever going to see a consensus in 40 or 45 states? Each state is going to have to have its own separate way. I do not think you will find any two of them that will have the same language," Simpson argued. "I am willing simply to leave it to the state legislatures."



"As far as I am concerned, I am voting to report it without recommendation. I think there are some serious problems it raises."

--Sen. Dole

Wyoming Republican Alan Simpson was quick to raise one of the proposal's serious problems: its grant of concurrent power to Congress and the states. The only amendment to the Constitution which established "concurrent power" was the Eighteenth (Prohibition). It also is the only amendment ever repealed.

Patterning an anti-abortion amendment on Prohibition troubles not only Senator Simpson but many pro-life attorneys as well. Pro-life legal authority John Baker, Associate Professor of Law at Louisiana State University, has

Committee Chairman Strom Thurmond then entered the fray. "The Senator from Wyoming has expressed my views," Thurmond said, then indicated that he would move immediately to amend it to a states' rights amendment.

But after a brief exchange with his aides, Thurmond changed his mind. "I have been requested not to offer an amendment here," he said. "I will reserve my rights [to do so] on the floor."

With an up-or-down vote on the measure about to occur, ranking minority member Joseph Biden advanced a most peculiar defense of the Hatch amendment. In a rambling soliloquy delivered largely to give time for Senator Byrd's proxy to arrive, Biden levelled a litany of criticisms against the measure, then voted for it, saying it offered a means of getting the issue "done with." "If we are going to use this amendment in a law school class of legislation," he began, "I think it may be used as one to explain that there are often discrepancies in legislation [that] make it difficult for courts to know what they mean. For example, I do not think this, in fact, overrides Roe v. Wade...I am not sure at all that this clears the way for the Human Life Bill. I am not sure it does not create abortion havens."

The one thing Biden seemed sure of was that the Hatch amendment would fail in the Senate. "I do not think there is a chance in the world this amendment will pass as it is. I cannot imagine [2/3] of the Senate...passing [this amendment] as is." Nevertheless, Biden suggested, the amendment should go to the floor. "Let us have this 'Year of Abortion' and vote on it and get it up or down," he said. "Reserving the right to vote for or against the amendments offered [to the Hatch amendment] or voting against the entire thing,...I am going to vote it out of committee so we get it to the floor and get it done with."

The Hatch amendment is well-suited to getting the issue "done with." As the most diluted formulation of the pro-life position--too diluted, we believe--its defeat on the Senate floor could do the movement great harm. If pro-lifers haven't the clout to pass so weak a measure, it will be argued, then our political strength has been vastly overstated. The abortion issue indeed will be "done with."

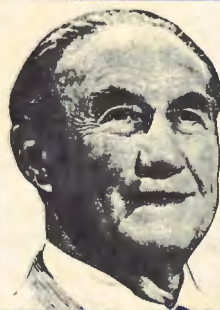
Some pro-lifers have maintained, however, that more than 2/3 of the House and Senate want to pass the Hatch amendment this year and so relieve Congress of the issue by placing the measure before state legislatures for ratification. The Democrats, they say, long ago determined to send an anti-abortion amendment ("as weak as possible, but as strong as necessary") to the states before the 1982 elections. The committee vote may have laid this theory to rest. For one thing, three Democratic committee members standing for election this year (Kennedy, Metzenbaum and Byrd) voted against the amendment in committee. Byrd's opposition to the measure is particularly significant since he serves as the Senate's Democratic leader. For another, the plain thrust of Biden's remarks were that the Senate could be "done with" the abortion issue by defeating the Hatch amendment, not by passing it.

Perhaps the most vexing problem for the Hatch proposal which surfaced in the course of committee debate was the assurance that an attempt will be made on the floor to convert it to a "pure" states' rights amendment. Such an effort will be tough to beat, doubly so if it is led by Judiciary Committee Chairman Strom Thurmond. Many Senators find the measure's federal component unappealing, not only because it is reminiscent of the disastrous Prohibition Amendment, but also because, as Alan Simpson pointed out, it would permanently "saddle" Congress with the abortion issue. If the Hatch amendment were ratified in its present form, Simpson said,



"I think the negative side of the proposed amendment is that it does not address the fundamental problem of the right to life of the unborn."

--Sen. East



"I will vote for the amendment with the opportunity to amend it on the floor."

--Sen. Thurmond

"this issue will continue to come back here again and again and again."

But what if efforts to make Hatch a "pure" states' rights amendment are rebuffed? At that point, many who advocated the states' rights approach would be likely to oppose final passage of the Hatch amendment. Would that make them pro-abortion? Not consistent with the standards set by groups who back the Hatch amendment. Simply put, if a vote for the Hatch amendment is pro-life, then a vote for a states' rights amendment is pro-life.

To understand why, we need first to recall that the essence of the Hatch strategy is to "cut the question" in our favor. Those who conceived the strategy are quick to note that it does not prohibit a single abortion. Unlike a Human Life Amendment, the Hatch amendment does not concentrate on what our nation's abortion policy should be, but on how that policy should be formulated. So long as the legislatures--and not the courts--set the policy, it doesn't matter how permissive it is. Proponents of the amendment believed that this approach would enable them to steer public debate away from the "hard cases," such as whether abortion ought to be permitted for women who become pregnant as a result of rape. Events seem to have proved them wrong. A Planned Parenthood ad assailing the amendment, which appeared in the Washington Post on March 16, stated that the measure "will allow Congress and the states to outlaw all abortions. Even if your pregnancy is the result of rape. Or incest."

But while shifting from an amendment which gives the unborn the right to life to one which gives elected officials the right to legislate hasn't finessed the "hard cases," it has made it infinitely easier for politicians to claim that a vote in favor of a states' rights proposal is pro-life. This is so because backers of the Hatch amendment contend that a vote to remove the issue from the courts and place it before the legislatures is pro-life. A states' rights amendment meets this criterion. Hatch supporters cannot brand as pro-abortion a Senator who votes for a states' rights amendment but against the Hatch amendment in its present form. Such Senators can--and will--proclaim themselves "pro-life," since their vote to authorize states to restrict abortion is a vote against abortion on demand.

Proponents of the Hatch amendment thus appear to have set in motion a chain of events that they cannot control. The measure now is in the hands of the politicians, who will use it to solve their own political problems, not the abortion problem. One opportunity to achieve a pro-life solution to the abortion problem yet remains: S. 2148, a bill sponsored by Senator Jesse Helms (R-N.C.) to end federal subsidy of abortion on demand and to force the Court to reconsider Roe v. Wade (see March 12 Action Line). With an all-out effort to pass this measure, the pro-life movement can assure that the 1980 elections will not go for naught.

Action Line

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Washington, D.C. 20002

"DONE WITH"
(Details inside...)

Volume VI, No. 3
March 22, 1982
