HB
632

MINUTES OF HOUSE

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

February 22, 1978

The meeting was called to order at 3:05 P.M. by Chairman Parr. Present was Mr. Bennett, Mr. Nakak, Mr. Chatterton and Mr. Phillips. Absent: Mrs. Buchholdt, Mr. Beirne, Mr. Cotten and Mr. Ose. Also present was Representative Mike Miller.

HB 632 was before the committee today. Representative Mike Miller, sponsor of the bill, was first to speak on it. Mr. Miller stated that the bill would not authorize euthanasia or mercy killing. The bill says that a person has a fundamental right to make a decision about the way his or her death may be handled in the case of an absolutely terminal illness where it is certifiably absolute that recovery is impossible, that extraordinary means cannot be used to keep a person clinically alive. Mr. Miller stated that he thinks the decision is one that the individual has the right to make and no one else has the right to make that decision for them. He further stated that he thinks that at any point, the individual has the right to reverse that decision.

Next to testify on HB 632 was Dr. Fraser from Division of Public Health, Department of Health and Social Services. Dr. Fraser stated that the department in general, supports the concept of this bill. Dr. Fraser addressed his testimony to the comments that were in the Position Paper provided to the committee members.

Rev. J.R. Matthews of the First Baptist Church, Juneau, was next to testify on HB 632. Rev. Matthews stated his testimony was based on several reasons, his personal experience with families and patients over the years who have been members of his church, his relationship with several physicians who were members of his church and the fact that in the last six years his mother has been operated on 20 times or more for cancer. He stated he has heard his mother express her wish not to be hooked up to any life sustaining machines if it should become necessary. Rev. Matthews is in favor of the bill.

Next to testify on HB 632 was Mr. Sid Hiedersdorf. Mr. Hiedersdorf is with Alaskans for Life. He spoke in opposition of the bill. He stated they believe it is healthy for people to think about their death and prepare for it. Their opposition of the bill is not in what the bill seeks to achieve but from the manner in which it attempts to achieve these goals. They are opposed to the bill because of the havoc it will cause in the doctor patient relationship and the potential harm that legislation in the area of death and dying may bring with it.

Discussion followed. No action was taken on this bill today as it will be taken up again tomorrow.

HB 780 was next to be discussed. Mr. Bob Cole from the Office of Alcoholism and Drug Abuse testified on this bill.

Mr. Cole stated the office had prepared a Position Paper which stated reasons why the agency, a private, non profit corporation, has experienced a budget short this year. Mr. Parr, introduced the bill. He stated that the council is out of money and that the proposed money is not for treatment but for education and prevention activities.

No action was taken on this bill today.

Meeting was adjourned at 5:00 P.M.

MINUTES OF HOUSE

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

February 23, 1978

The meeting was called to order at 1:05 P.M. by Chairman Parr. Present: Mrs. Buchholdt, Mr. Phillips, Mr. Cotten, Mr. Chatterton, Mr. Nakak and Mr. Bennett. Absent: Mr. Ose, and Mr. Beirne. Also present was Representative Mike Miller.

Todays meeting was held in the form of a teleconference. Participating in the teleconference was, video: Anchorage and Bethel, audio: Fairbanks, Nome and Ketchikan.

Mr. Peter Fromuth gave opening comments as to the order in which the teleconference would be conducted. Rep. Miller, prime sponsor of House Bill 632, spoke briefly on the teleconference.

Bethel testimony was heard first. Mr. Otto Dreydoppel was first to testify from Bethel. Mr. Dreydoppel is the District Superintendent of the Moravian Church, Western Alaska. He stated that more and more the religious sector is realizing that the important thing is not so much the quantity of life but the quality of life and they are recognizing more and more the right of an individual to allow nature or God to take its course. Mr. Dreydoppel stated that he thinks this bill is an important step forward and he supports the bill.

Dr. Carl Shumack was next to testify from Bethel. Dr. Shumack complimented the Alaska Legislature for bringing up a bill of this sort and stated he thinks it is very important. Dr. Shumack offered a paper to the Committee entitled "Personal Direction for Care at the End of Life." He had the paper telecopied to Juneau.

Anchorage was next to be heard. Testifying first was Ms. Kristine Fardig, President of the Alaska Right to Life. Ms. Fardig testified in strongest opposition of HB 632. She stated the bill was unnecessary and created problems of its own.

Ms. Sylvia Short, President of the Cook Inlet Memorial Society, stated the memorial society supports this bill by unanimous vote of its Board of Directors. She stated they very much want Alaska to join the eight states which have enacted this type of legislation. They feel it is protective not only of the individual but for his family and heirs as well.

Mr. Dick Peterson was next to testify from Anchorage. Mr. Peterson stated that he supports the bill for personal reasons. He stated that he has signed the living will and that he wants his family, friends and doctor to know that when he has been diagnosed as terminally ill and he is a vegetable, he wants to die with dignity and not be sustained by artificial means.

Mr. Bill Moffatt, Alaska Representative of the Board of Directors for the National Right to Life, spoke next on HB 632. He testified in opposition of the bill. He feels the bill is unnecessary. He stated the words "withdrawn" or "withdrawal" appear repetitously and should be eliminated because there is a distinction between withholding life supportive services. He stated the act instead of being pro-life is pro-death.

Ms. Alice Brewer was next to testify. Ms. Brewer is with Right to Life. She stated that in general she is in agreement with this bill. She also stated she thinks the bill is very carefully and narrowly written.

Rev. Richard Gay testified next. Rev. Gay spoke in support of HB 632. He stated he believed that the safeguards have been well built into the bill. He encourages passage.

Bishop Francis Hurley testified next. He stated he feels the bill is morally acceptable in his opinion and that of the Catholic church. He stated that he agrees that the individual should have the right to determine the type of medical care that he is going to receive. Bishop Hurley stated he has reservations about the need for this type of legislation. He stated we already have the right that is put forth in this legislation.

Dr. Winthrop Fish testified on HB 632 next. Dr. Fish has practiced medicine in Alaska for some 20 years. He stated the Council of the Alaska State Medical Association and the Anchorage Medical Society have considered HB 632 and some of its implications. He stated that although there is literally no favorable support for the legislation, both bodies felt it inappropriate at this time to make a formal statement in opposition. He stated they strongly urge the committee to full assess the actual problem and to assess carefully all the possible negative and possibly dangerous implications the legislation has written. He further stated that in the time of his practice in Alaska, he knows of no instance where this legislation would have altered his behavior at the time approaching death other than adversely.

Dr. Wilson was last to testify from Anchorage. Dr. Wilson has practiced medicine in Alaska for 20 years. He stated he thinks it is premature to pass a bill like this one.

Next was the audio portion of the teleconference. Representative Sam Cotten chaired the remainder of the meeting as Chairman Parr had another meeting to attend. Ketchikan was first to be heard.

First to testify on HB 632 was Dr. Johnson, Ketchikan Medical Society. Dr. Johnson stated he feels the matter should be studied further and that the legislature should move slowly before enacting upon this legislation.

Ms. Pat Rowan testified next. Ms. Rowan has been in nursing for 39 years and is a RN. She stated this bill is not very much enforceable. She thinks the intention is good but states the situation does not arise as often as we tend to think it does.

Nome was next to be heard. Testifying from Nome was Ms. Jeanette Morton. Ms. Morton stated she supports the concept of the bill but questions the need.

Fairbanks was last to be heard. Rev. Fred Walton, pastor of the Covenant Church, was first to testify. Rev. Walton stated the bill is a good one. He asks the question whether the bill should be legislated.

Judge Hugh Connelly, Fairbanks District Court Judge and Chairman of the Tanana Valley Bar Association and Legislature Committee, was next to be heard from Fairbanks. Judge Connelly stated the committee held two meetings on HB 632 and made these comments: 1) Restrictions in the directive are rather involved and should be simplified. 2) A person wants to die up until the last few days and then changes his or her mind. 3) If this bill should go through 1 of the witnesses should be a physcian in order to discuss the matter with the potential patient. 4) Only the "originals" of the "directive" should be permitted to be used in that copies could cause a problem especially in the age of xerox. 5) The directive should be acknowledged by a notary public. 7) The instrument should have a maximum duration because when someone is in the hospital in a comatose state how is the physician going to feel if it was signed 5 or 10 years ago. The committee felt where it stated that a physcian would be held in unprofessional conduct for failing to carry out the directive, this was too harsh of a punishment.

Judge Connelly stated his own personal testimony would be that if there is any type of a bill that goes through like this, he would like to see it as a straight standard document, even if it looks like a drivers license, so there could be no question as to the adequacy of that particular instrument, that it would be uniform throughout the entire state and that any physcian or anyone else would know exactly what the document was.

Mr. Chatterton asked Mr. Connelly with the almost equal division that he has within the Tanana Valley Bar Association, would that be a strong suggestion to the legislature that it is a little too early to cast anything into concrete along these lines. Mr. Connelly stated in his personal opinion, yes. He thinks they would like to see the bill re-drafted along some of the comments that have been made by them and worked from a new instrument to really fine home this bill down to where it is a practical situation.

Meeting adjourned at 4:20 P.M.

- NATURAL DEATH ACT
- LIVING WILL

PHONE	NAME	I SUPPORT HB632	I SUPPORT THE LIVING WILL CON...
77-3887	Sylvia Stuart	yes	yes
✓	Jacques Stuart	✓	✓
53-1172	Charles P. Smith	yes	yes
1279	Steven C. Lewis	yes	yes
19-2004	Dewey Lefebvre	✓	✓
49-5590	[illegible]	Yes	Yes
7875	Charles Tarlow	YES	
43-4555	Margaret Spinde	yes	yes
17-2140	William G. Stilling	yes	yes
170726	Grant H. McMullin	yes	yes
6-6043	Thomas D. Cluttenden	YES	YES
9-7815	Connie Parker	yes	yes
16-6043	Julie A. Taylor	yes	yes
14-0485	Thomas D. Haeg	yes	yes
78-1247	Opal M. Thorne	yes	yes
78-1247	Lenora E. Sherwood	yes	yes
9-1885	Susan E. St. Clair	yes	yes
74-7819	Elizabeth H. Gietz	yes	yes
43-2200	Anne Van Dolah	yes	yes.
4-9344	Norma Lipak	yes	yes
6-5962	Rollin J. dal Piaz	yes	yes
2-2264	Dean Caffel	yes	yes
1-5328	H. Arthur Arians	yes	yes
4-5326	Terry S. Arians	yes	yes
1-6835	Anne Wiebel	yes	yes
3873	E. Alden Robinson	yes	yes
1-5580	Dorothy A. Underwood	x	x
2-5666	Sherry Valentine	yes	yes
5666	[illegible]	yes	yes
7793	Lake	yes	yes
30908	Dorothy Anne Zappo	yes	yes
2706	John A. Zappo	yes	yes

PHONE	NAME	SUPPORT HB632	SUPPORT LIVING WILL CONCEPT
74-8755	Kay [illegible] Harris	yes	yes
77-6001	[illegible] Hedstrom	yes	yes
773666	Sol [illegible]	yes	yes
7-3149	Alberta Kost	yes	yes
77-6768	Jacqueline Sewell Russell	yes	yes
5-5324	Dennis E. Welt	yes	yes
1-8403	Richard L. Peterson	yes	yes

HB 632

Marion Lampman - AK. State Hos. Assoc.
5531 Arctic Blvd. Suite 1
Anch. AK. 995

Joseph Worrall, Jr., M.D.
Fairbanks Clinic
Box 1330
Fbks, AK. 99707

Francis T. Hurley
Archbishop of Anch.
Box 2239
Anch. AK. 99510

Rodman Wilson, M.D. 279-0481
3300 Providence Drive
Anch. AK. 99504

Pastor John Tindell 586-3131
Box 186
Juneau, AK. 99802

Sylvia Short - Anch - 277-3887

Reverend J.R. Mathews - Juneau - 586-2577

LA11 2533   13.26 JA01 0023 13.27 02/09/73

TO: CINDY, JUNEAU
FROM: CAROL, ANCH.

SHALL CONTACT SYLVIA SHORT ABOUT [illegible] 532. TOM/

JA01 [illegible]   13.14 JA01 [illegible] 13.15 02/09/73

TO [illegible], [illegible]
[illegible] CINDY, [illegible].

[illegible] CONTACT SYLVIA SHORT 277-3347 AND INFORM
[illegible] OF THE TELECONFERENCE SET UP FOR THE BILL
[illegible] [illegible] AND [illegible].

THANKS.
[illegible]

Sylvia L. Short
Attorney and Counsellor at Law
P. O. Box 4-734
Anchorage, Alaska 99509
Telephone 277-3887

January 24, 1978

Repr. Mike Miller
Pouch P
Juneau, AK 99811

Re: HB 632, DEATH WITH DIGNITY or NATURAL DEATH ACT

Dear Sir:

The Legislative Information Office advises that you have introduced the above bill as of January 16, 1978. The purpose of this letter is to assure you of my wholehearted support for such a bill.

I have not yet received copies of the bill but will be procuring them from the Legislative Information office to present to the board meeting of the Cook Inlet Memorial Society, which is on record in support of such a bill. After consideration of the above bill, we will advise of our recommendations in regard to your bill.

I have been in communication with Lisa Rudd regarding such an act, and I am sure Repr. Rudd would extend to you the information I gave her in support of such an Act. By copy of this letter I am advising Repr. Rudd hereof and soliciting her support.

My mother died on December 27, 1977, and among her important papers I found a newspaper clipping of the original "Death with Dignity" directive. As you are probably aware, the California Natural Death Act is so restrictive as to be barely usable. At any rate, the directive would not have been needed in my mother's case, but I was impressed with her concern over the matter.

I will be glad to do whatever I can to assist in support of this type of bill.

Sincerely yours,

SYLVIA L. SHORT

cc: Repr. Lisa Rudd
cc: Jane Raible, Executive Director, Northwest Institute of Ethics and The Life Sciences

February 1, 1978

Ms. Sylvia Short
Attorney and Counsellor at Law
P.O. Box 4-734
Anchorage, Alaska 99509

Dear Ms. Short:

Just a brief note to thank you for your letter of January 24th and for the very welcome information that you support the bill wholeheartedly. In case you haven't yet had a chance to pick up the final version of the bill, I'm enclosing an extra copy for you.

The bill is presently in the committee on Health, Education, and Welfare, and Chairman Charlie Parr indicated to me a short time ago that he in considering holding hearings on this bill and utilizing the new teleconferencing capacity that the legislature will inaugurate this year. If so, you will be able to testify in favor of this bill, if you desire, simply by going to the Legislative Affairs Office in Anchorage. I'm sending a copy of your letter to Chairman Parr so that if this plan becomes a reality, he can let you know prior to the hearing.

Rocky 11

Again, many thanks for writing.

Sincerely,

Mike Miller

cc: Chairman Charlie Parr and Representative Lisa Rudd

REPRESENTATIVE
MIKE MILLER
ALASKA STATE LEGISLATURE
P.O. Box 1494
Juneau, Alaska 99802
Home Phone (907) 586-3067
Legislative Phone (907) 465-3739

House Majority Leader
Chairman, Legislative Council
Member, Rules Committee
Member, Resources Committee
Member, Committee on Committees

Rocky - copies memo HB632 file

FAIRBANKS CLINIC

A Professional Corporation

1867 AIRPORT ROAD P.O. BOX 1330 FAIRBANKS, ALASKA 99707 (907) 452-1761

26 January 1978

Charles H. Parr
Chairman
Health, Education & Social Services Committee
House of Representatives
State of Alaska
Pouch V, State Capitol
Juneau AK 99811

Dear Mr. Parr:

Thank you for sending me House Bill #632. I approve of this approach. I have thought of three situations, however, that may require additional consideration.

(1) I can conceive of situations in which a family would have second thoughts after the patient died, and feel that the two physicians were wrong when they declared the patient was terminal. For the protection of the physicians, perhaps the bill could state that there is a presumption that the finding of terminal illness was made in good faith, except when the evidence is overwhelming that both physicians were intent on murdering the patient by neglect.

(2) There will probably be many people who do not execute the declaration in a timely manner. Many terminal patients are not of sound mind, i.e. the patient who suffers an unexpected stroke or head trauma. I suppose these cases are being handled now by agreement between the doctor and the families. Perhaps the bill could address itself to these situations and contain language that encourages and approves communication between doctor and family regarding the efforts to sustain life, when the patient is terminal, cannot communicate, and has not executed the declaration.

(3) It seems to me the situation of cardiac arrest, acute myocardial infarction, and cardiopulmonary resuscitation might deserve special mention in the bill. For example, what about the patient who has an invariably fatal cancer, but is not yet terminal, who has executed a declaration, and suffers a cardiac arrest during a diagnostic procedure? The attending staff (nurses, aides, or doctors - all can initiate CPR immediately) may make the wrong decision, from the standpoint of the family or the surviving patient, about whether to resuscitate. Perhaps the x-ray technician is unaware that the patient has signed a declaration and automatically starts CPR when the patient arrests on the x-ray table, or perhaps the nurse doesn't start CPR because she knew about the

declaration, and the doctor or family then say, "Oh, no. We meant no special measures when he was dying from cancer. We didn't mean he shouldn't be helped if he has a heart attack!"

I appreciate your sending this for my opinion. Actually, in my specialty, I rarely deal with anyone who has a fatal illness, so I hope that you seek opinions from a broad spectrum of physicians, many of whom will have far more experience with these matters than I.

Sincerely yours,

Joseph A. Worrall, jr., M.D.
Obstetrician/Gynecologist

JAW:pep

Rocky

CHARLIE PARR

ALASKA LEGISLATURE

S. R. Box 50599
Fairbanks, Alaska 99701
456-5029

Pouch V
Juneau, Alaska 99811
465-3797

January 30, 1978

Ms. Marion K. Lampman, Executive Director
Alaska State Hospital Association, Inc.
5531 Arctic Blvd. Suite 1
Anchorage, Alaska

Dear Marion:

Thank you for your letter of January 25 concerning HB 632. I will make certain that the committee members get copies of it. We probably shall not do anything with this bill for at least two weeks in order that other persons we wrote may reply, so its entirely possible that we will still have it when you are here.

Sincerely,

Charlie

Charles H. Parr

CHP;sg

11 TH AND A STREETS • PHONE 586-3131 • AREA CODE 907
MAILING ADDRESS: P. O. BOX 186 • JUNEAU, ALASKA 99802

Northern Light United Church

February 6, 1978

Charles H. Parr
Pouch V
Juneau, Alaska 99811

Dear Mr. Parr:

Thanks for sharing with me a copy of HB 632.

From an ethical point of view, which is the only way I feel competent to comment on this legislation, I am pleased with the bill. It seems to say what I hear a number of persons saying they would like to do. I would oppose going beyond what the bill says to say a form of "mercy killing" but have no objection to a person simply requesting that extraordinary means not be used when death is apparent for their own life.

I would appreciate being informed as to when the hearing on HB 632 is to be.

Sincerely,

John R. Tindell
Pastor
JRT/bm

ARCHDIOCESE OF ANCHORAGE
Post Office Box 2239
Anchorage, Alaska 99510

February 10, 1978

Mr. Charles H. Parr
Chairman
Committee on Health, Education and
Social Services
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Parr:

Thank you for the invitation to comment on HB 632.

My comments are in two categories: First, the general advisability of such legislation; second, observations on HB 632 itself.

There is a growing body of literature on legislation pertaining to the living will. An immediate observation on this literature is that the understanding of the relationship between law and the living will is far from maturity. The fact that legislation has passed in some states and failed in others indicates an interplay of conflicting values. On the one hand there is the right of the adult person to control decisions on his medical care and also a protection for a doctor and hospital from civil liability. On the other is the conviction that such bills are unnecessary in that patients already have the right in question and are also unduly restrictive.

Perhaps one of the key problems with living will laws is in what they imply rather than what they protect. For example, what are the implications for people who do not write a living will? Does the absence of such a will open to over-treatment, if for no other reason than to avoid liability on the part of the doctor? We must concede that most people will not have a living will, that quite frequently the decision about treatment will be made in emergency situations when it is not possible to determine if there exists such a will.

To put it another way, what does the existence of the law do to the patient-physician relationship? Especially when fewer and fewer patients have private physicians?

It is always a matter of great apprehension when there is an attempt to codify in law a right or freedom that exists without such a law, in this case the right of the person to decide on medical treatment or the right of the doctor to withdraw from a case if asked to perform acts incompatible with his conscience or profession.

So a basic question: Is the natural death act aimed primarily at the patient who does not want to be over-treated or at the physician who does not want to run the risk of civil liability? If the latter, then legislation should be aimed at that.

On HB 632, The Natural Death Act, at this point it is a copy of the California law. As carefully as it was written it still leaves many points of confusion. Other states have considered different drafts of legislation. The understanding of the issue has not matured, as the variety of reactions indicates.

The fundamental reason or right for this act is stated in Sec. 18.12.010 (1): The fundamental right of the individual to make decisions relating to his own medical care. To keep this right in clear focus there should not be references to patient dignity and unnecessary pain and suffering. Dignity and suffering are relative terms, differing from one individual to the next. The language of the act should not inject other terms, especially these that have in fact become emotional symbols.

For many people, particularly many of deep religious convictions, bearing terminal illness is not a loss of dignity and pain and suffering is something they may choose to endure for their own reasons.

Paragraph (b) exemplifies what I mean. "In recognition of the dignity and privacy which patients have a right to expect...." That is not what should prompt the legislature to make a declaration. Rather it is the fundamental right persons have to make decisions relating to their own medical care, as in (1) above, that prompts the declaration.

I make this point because I feel it is most important to keep clear in legislation what rights are involved. There is already too much loose language in this area, such a phrase as "death with dignity," which raise many apprehensions about an act of this kind being a preliminary to euthanasia. I know euthanasia is covered later in the bill but I return to my point, the language of the act should be consistent with exactly what right warrants this type of legislation.

Furthermore focusing the terminology on the fundamental right to decision-making keeps the point of decision with the patient.

"Terminal condition" is not well defined. There are situations it does not cover, especially those where death is not imminent.

Personally, I would prefer that the State not imply that it is conferring a fundamental right to the patient and physician. That already exists. Likewise I think legislation should not be injected with the basic relationship between a patient and his physician. Such legislation spawns numerous administrative regulations.

Might not the goal of HB 632 be accomplished if it were cast in terms of protecting the physician from civil liability.

I am interested in knowing when hearings will be held on this legislation.

Again, thank you for the invitation to comment.

Sincerely,

Francis T. Hurley

+Francis T. Hurley
Archbishop of Anchorage

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

February 15, 1978

MEMORANDUM

SUBJECT: February 23rd Videoconference

TO: All Legislators

FROM: Legislative Affairs Agency

On Thursday, February 23rd, from noon to 3:30, Juneau time, the House Committee on Health and Social Services will hold a hearing on HB-632, Relating to Death and Dying. The hearing will be the subject of the first of three two-way videoconferences between a legislative committee in Juneau and communities belonging to the Legislative Teleconference Network. Participating in the February 23rd hearing will be Juneau (the hearing site), Anchorage and Bethel. This means that citizens able to travel to conference centers in Anchorage and Bethel are invited to testify before the HESS Committee via closed circuit television. Testimony will be given in two segments: the first half of the conference will be devoted to testimony from Anchorage participants, the second, to testimony from Bethel.

Throughout the hearing the viewing conference centers in Fairbanks and Ketchikan, and the participating conference centers in Anchorage and Bethel will see a continuous television picture transmitted from Juneau, and hear discussion generated from the three participating centers.

Though unable to receive video until the April conference, the Nome conference center will of course, hear all discussion for the duration of the hearing.

After the videoconference there will be a fifteen minute break followed by a short audio only discussion between the HESS Committee here in Juneau and interested citizens in Nome, Fairbanks and Ketchikan unable to testify during the televised section.

Legislators receiving inquiries regarding HB-632, are asked to make this information known and to direct interested consituents to one of the following teleconference centers:

Nome:
Office of the Governor
Room E-1 Nome Regional Office Bldg.
Contact: Myrtle Johnson (Moderator)
443-2770

Anchorage:
Media Services Dept.
University of Alaska Library
3211 Providence Drive
Contact: Charity Kadow (Moderator)
278-3668

Bethel:
KYUK Studio
Contact: Janet Schantz - 543-3131
Peter Twitchell - 543-3131

Fairbanks:
KUAC Studio
Fine Arts Building
University of Alaska Campus
Contact: April Moore (Moderator)
452-4449

Ketchikan:
KATV Studio
345 Main Street
Contact: Sandy Wendte (Moderator)
225-9675

PF:ftc

Sylvia L. Short
Attorney and Counsellor at Law
P. O. Box 4-734
Anchorage, Alaska 99509

Telephone 277-3887

February 16, 1978

Repr. Charles Parr, Chairman
House Health, Education and Social Services
Pouch V
Juneau, Alaska 99811

Re: House Bill 632, the Natural Death Act

Dear Repr. Parr:

Last night at special meeting the Board of Directors of the Cook Inlet Memorial Society, Inc., voted to support the above bill. We are a non-denominational, non-profit Alaska corporation, affiliated with the Continental Association of Funeral and Memorial Societies, Inc., a group of over 100 similar societies in the United States and Canada. Our principle purpose is to honor the dead and aid the living with respect to bereavement.

We have studied the Natural Death Act and its concept of a Living Will, and it is our opinion that this is an enlightened and dignified concept, consonant with our purpose.

Testimony to this effect will be presented on behalf of our group at the forthcoming videoconference on February 23rd. Your consideration will be appreciated.

Very truly yours,

SYLVIA L. SHORT
President
Cook Inlet Memorial Society, Inc.

cc: Repr. Mike Miller
cc: Repr. Lisa Rudd

ST. ANTHONY'S CATHOLIC CHURCH
825 SOUTH KLEVIN STREET
ANCHORAGE, ALASKA
99504

February 16, 1978

Mr. Randy Phillips
State Representative
Pouch V
Juneau, Alaska 99811

Dear Representative Phillips:

I wish to thank you for your letter dated February 7, 1978 regarding House Bill 632. I appreciate your sending me a copy of this proposed bill.

I am very hesitant on a bill such as this becoming law. There is so much unforseen involvement in a bill of this type. I wonder if something like this should be defined as law.

In my estimation and from my experience as a priest, I have found in crises that people tend to cling to at least one more day or a few more minutes of life. I cannot see how anyone can make a will so far from a crisis that may or may not happen in the future. Everyone wants that extra moment to prepare and get ready.

Our church has always held that extraordinary means do not have to be used. But with the progress of medicine today we find the different definition of what is extraordinary day by day. So I feel we have to deal with individual cases when they actually happen.

I am enclosing an article and statement by Bishop Ernest Unterkoefler of Charleston, South Carolina on the "Definition of Death, Living Will Legislation Opposed." The section on euthanasia I feel really answers my feelings. The Bishop has good points which I feel should be considered.

It pleases me that you are interested in the opinions of others. I thank you for requesting my opinion.

Sincerely,

Francis A. Cowgill

Rev. Msgr. Francis A. Cowgill
Pastor

Encl:
FAC/cb

Definition of Death, Living Will Legislation Opposed

Two bills proposed to the South Carolina legislature — living will and definition of death bills — have been opposed by Bishop Ernest Unterkoefler of Charleston. In a statement, Unterkoefler said: "Although the primary reason given for legally redefining death is to assure that organs for transplantation will be available at the earliest possible moment and to protect physicians who wish to perform transplant operations from malpractice and criminal liability, it is clear that this may result in a shift of attitude from the patient as a person to be helped medically or allowed to die peacefully to a view of him as essentially a donor of organs to be exploited." Definition of death legislation is fundamentally flawed, the bishop said, because it invites abuse of the needs of the sick and suffering. Unterkoefler expressed the belief that so-called living will legislation too closely reflects the desires of those who would promote euthanasia in society. "It is the responsibility of the state to provide legal protection for human life at every stage of its existence and in every circumstance, even if the enjoyment of life is limited or qualified," Unterkoefler said. The text of his Jan. 13 statement follows.

At the start of its new session, the South Carolina House of Representatives once again has at the top of its calendar for consideration the definition of death (H. 2126) and passive euthanasia (H. 2419 and S. 197) measures tabled last year after considerable public debate. Since these pieces of legislation were first proposed, it has become apparent that they are not only highly detrimental to good health care for the public, but that they are part of a callous new movement across the country seeking euthanasia for the elderly, the handicapped and the disadvantaged because they are considered to be too great a financial burden on society and the state.

1. Definition of Death (H. 2126)

According to the proposed definition of death bill, a person shall be declared dead if, in the opinion of attending physicians, there has been an "irreversible cessation of spontaneous brain function." Yet it is well known in medical and legal circles that attempts to use a flat electroencephalogram as evidence of death have proved to be unreliable and impractical. Study of the matter by professionals indicates that in the majority of cases the EEG will be unavailable, its use of marginal value and its results inaccurate.

It may be difficult or impossible to determine in some cases, for example, whether a flat EEG tracing is the result of death or merely depression of the central nervous system by drugs or hypothermia. Similarly, its use in other cases is superfluous either because of the nature of the disease or because it simply confirms an existing diagnosis of death. "At best," as one scholar notes, "the EEG seems useful, if its results can be validated, in the patient who is dying from massive brain injury and consideration is being given to the use of his organs for transplant purposes...and for the assurance that viable organs are obtained for transplantation."(1)

Indeed, it seems that one of the major purposes of legislation redefining death is to establish a point at which a human being loses his legal status as a person and no longer has a right to medical or other basic services so that organs for experimentation or transplantation can be acquired and as an alternative to euthanasia. According to Dr. Willard Gaylin, the president of the prestigious Institute of Society, Ethics and the Life Sciences, "the difficult issues of euthanasia could be evaded by redefining death" for the purpose of "increasing use of parts of the newly dead to sustain life for the truly living"; or, as he suggests, for the purpose of "harvesting the dead" and developing "the potential for recycling human bodies."(2)

Although the primary reason given for legally redefining death is to assure that organs for transplantation will be available at the earliest possible moment and to protect physicians who wish to perform transplant operations from malpractice and criminal liability, it is clear that this may result in a shift of attitude from the patient as a person to be helped medically or allowed to die peacefully to a view of him as essentially a donor of organs to be exploited.

Such legislation may be criticized on many grounds — its vagueness, its potential rigidity in the face of medical and scientific advances, its lack of safeguards, its failure to appreciate that legal definitions cannot erase uncertainty about the borderline between life and death, and its sowing of confusion in other states among doctors and lawyers after its adoption — but it is fundamentally flawed because it invites abuse of the needs of the sick and suffering.

It is significant that these defects have led the American Medical Association and a substantial part of the legal community to oppose the adoption of such a measure. It is equally significant that Representative Theo Mitchell, one of the original sponsors of the South Carolina bill, withdrew his name from the proposal after careful consideration during the last session of the legislature and subsequently voted against its passage. Catholics should do no less. It is the purpose of medicine to serve patients and not to exploit them — to minister to the dignity of man. Measures designed to promote "the wholesale and systematic salvage of useful body parts" by redefining death so that patients "would have the legal status of the dead with none of the qualities now associated with death" are unworthy of man as the *imago Dei*.(3)

2. Euthanasia (H. 2419 and S. 197)

Similarly, the measures proposed in the House of Representatives to permit an individual to authorize the withholding or the withdrawal of medical care in the case of serious illness or injury through the agency of a "living will" written at some point in the course of his life are gravely defective in terms of morality, of sound social policy and of the obligation of medicine to promote life and health rather than to hasten death.

Although these bills have been advanced beneath the slogans of a "right to die" and "death with dignity," it is clear that they are part of a national campaign by the Euthanasia Society and the Euthanasia Educational Council to break down malpractice obstacles to active euthanasia for the elderly and the handicapped. Nor is this a matter of speculation. The South Carolina proposals are only a slightly modified version of past euthanasia legislation advocated by these groups both in the United States and England and of the sanitized model bill being pressed on lawmakers across the nation today.(4)

Specifically, the concept of the living will was originated by the Euthanasia Society several years ago as a means of educating the public to accept the idea of a "right to die" and as a method of gaining legislative

entree for the promotion of active euthanasia.

According to remarks made in an interview by Katherine Mali, the president of the Euthanasia Educational Council, the living will overcomes a major legal obstacle to euthanasia:

"Q. Doesn't euthanasia give rise to some rather sizable legal problems?"

"A. From the criminal standpoint, active euthanasia can result in a charge of murder...But the real legal obstacle is malpractice in the case of passive euthanasia, that is, when the physician pulls the plug on life-support mechanisms to allow his patient to die..."

"Q. What then is the solution?"

"A. We think it is the living will."(5)

Such comments indicating the meaning of this legislation have been repeated numerous times by the leaders of the euthanasia movement. For example, Dr. Florence Clotheir, a member of the board of directors of the Euthanasia Educational Council, has stated that once the principle of passive euthanasia is established by the living will legislation it will be necessary for society "to confront the greeater dilemmas inherent in active euthanasia for the hopelessly malformed and handicapped infants doomed to a bestial subhuman existece in our state institutions. Active euthanasia may also have its place for patients suffering from incurable, intractable pain, but for the present there are dilemmas enough in regard to passive euthanasia."(6)

Since there are serious signs that euthanasia is already being administered in the case of seriously ill or genetically defective infants in many areas and that even adult patients have cause for concern,(7) the actual effect of such legislation may be to give the color of legality to present rather than to future practices. Certainly, the fact that living will legislation is being openly discussed in governmental circles as a way of reducing the cost of health care to the aged under Medicare and Medicaid programs does nothing to enhance the attractiveness of the proposal.

It is appalling, for instance, that Robert R. Derzon, the head of the Health Care Financing Administration of the Department of Health, Education and Welfare, noted living will legislation as a possible means of diminishing the cost of care for the elderly, and that the issue has been raised in a similar context in South Carolina.(8) Such an approach to the medical needs of citizens is not consonant with the moral teaching of Christianity or the traditions of a humane society, and Catholics have a responsibility to see that standards of genuine care are upheld for every citizen.

Many specific objections might be raised to the provisions of this legislation. Since a will prohibiting care would be signed in most cases before illness or injury indicated the appropriateness of certain kinds of medical treatment, for example, it fails to meet normal standards of informed consent and thus inhibits both the rights of patients and the professional practice of medicine. Moreover, these bills do not provide for the intestate, they pressure doctors to seek the death of patients in a gray area of prognosis by creating a situation whereby a malpractice suit may be brought only if a person's life is saved despite a living will, and they throw roadblocks in the way of a patient seeking to revoke a directive.

> "It is the purpose of medicine to serve patients and not to exploit them — to minister to the dignity of man."

At the same time, there are no genuine guarantees that someone signing a directive to be permitted to die has full knowledge or acts with true freedom, particularly in the case of the elderly and handicapped in institutions. Nor do the vague and scientifically inadequate definitions of "terminal condition" and "life-sustaining" care inspire confidence. Yet it is less the many technical defects that make this legislation unacceptable than the intrinsic evil of the principle of euthanasia, whether the death of the patient is induced by not giving help or treatment, or it is brought about by doing or giving something (like an intravenous dose of evipan); whether it is a result of a deliberate act of omission or commission.

The teaching of the church is unequivocal. It has been stated many times, but perhaps most eloquently by Vatican II: "Society and its development must constantly yield to the good of the person, since the social order must be subordinate to the order of persons and not the other way around....The Council lays stress on respect for the human person. Everyone should look upon his neighbor (without any exception) as another self, bearing in mind above all his life....Today there is an inescapable duty to make ourselves the neighbor of every man, no matter who he is, and to come to his aid in a positive way, whether he is an aged person abandoned by all...or an illegitimate child wrongly suffering for a sin he did not commit...For the varieties of crime are numerous: all offenses against life itself, such as murder, genocide, abortion, euthanasia and willful suicide...are infamous, harmful to civilization, and dishonorable to the Creator."(9)

It is the responsibility of the state to provide legal protection for human life at every stage of its existence and in every circumstance, even if the enjoyment of life is limited or qualified. It is the duty of society not to promote death, but to help secure for the sick their right to good health and for the dying their right to genuine compassion and care. Since the pending legislation does not meet this test, it may not be ignored or endorsed. It must be actively opposed.

Footnotes

1. Harold L. Hirsh, "Brain Death," *Medical Trial Technique Quarterly*, (Spring 1975), 397ff.

2. Willard Gaylin, "Harvesting the Dead," *Harper's*, 249 (September 1974), 23ff.

3. *Ibid.*

4. See Lord Craigmyle, *Your Death Warrant? The Implications of Euthanasia* (London: Chapman, 1971), pp. 136-144 passim; cf. *Death With Dignity: A Legislative Manual* (New York: Society for the Right to Die, 1976), passim.

5. "The Right to Die With Dignity: An Interview With Katherine Mali," *People Weekly*, March 17, 1975.

6. Florence Clothier, *Euthanasia: The Physician's Dilemma* (New York: Euthanasia Educational Council, 1972), p. 2f.

7. See Harvey A. Stevens and Richard A. Conn, "Involuntary Pediatric Euthanasia," *Mental Retardation*, 14 (June 1976), 3-6; and Gila Berkowitz, "The Right to Die," *Medical Dimensions*, (October 1975).

8. John H. Averill, "Memo to Califano Suggests $9.2 Billion Health Cost Cut," *The Washington Post*, June 22, 1977; and "Here Come the Cost Controllers," *Private Practice*, (November 1977), 18, 20, 24.

9. Vatican II, *Gaudium et spes*, Dec. 7, 1965, 2:26-27.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1978

SUBJECT: February 23rd Teleconference Preparation

TO: Rocky Plotnick, Admin. Ass't HESS Committee

FROM: Peter Fromuth

Rocky, the following narrative summarizes the essential details of Thursday's teleconferences, which are: from 12:30 p.m. to 2:15 p.m.; House HESS; HB 632; Juneau, Anchorage, Bethel; a two-way videoconference; and, from approximately 2:30 p.m. to 3:30 p.m. (times will vary depending upon the duration of the first); House HESS; HB 632; Juneau speaking to Ketchikan, Fairbanks, and Nome in that sequence; and an audio only conference.

Preparation - 12:00 Noon - 12:25 p.m.

1) First, our audio circuit will be fed into a special video circuit for the duration of the videoconference. This means although all communities will hear committee discussion, the committee will only hear testimony from one location at a time. Likewise, you will not be able to converse with any location via the conference unit prior to the broadcast. All information concerning the number of participants in each location will be supplied by me.

2) This is a heroically long hearing; there are only two short breaks; urge the committee members to have an early lunch and to be seated in the Governor's Conference Room by 12:10 p.m. at the latest.

3) From 12:00 Noon to 12:25 p.m. we will be testing the various links our video/audio signal must pass on its way from Juneau to the sites and back again.

4) During this time, you and Chairman Parr should again brief the committee on procedure. Stress that the teleconference is designed to reflect the traditional protocol of a committee hearing. In effect, the Chairman rules. Discussion between committee members and between committee members and witnesses in each site must be initiated by the Chairman. Representative Parr must "recognize" Representative Nakak before Mr. Nakak can speak with a fellow member or a witness in Anchorage or Bethel. By the way, in the event of discussion between committee members - which should be minimal - you will need to keep both microphones open at once.

5) Also during this time I will provide you and Charlie with a report of the number of participants at each center. Although Representative Parr should confirm this report with each moderator in turn, it should nevertheless form the basis of a preliminary estimate of the time the committee should spend with each conference site.

6) 12:25 p.m. all tests should be complete.

7) 12:30 p.m. LIVE VIDEOCONFERENCE BEGINS.

Videoconference - 12:30 p.m. - 2:15 p.m.

I. Introduction. It would be very beneficial to us all if Representative Parr gave a brief introduction acknowledging that this is the first of several teleconferences in which a legislative committee in Juneau will hold a hearing in which citizens in five communities across Alaska will participate via satellite. He should then indicate that there will be two teleconferences this afternoon: a videoconference between Juneau, Anchorage and Bethel continuing for about two hours; and an audioconference, beginning shortly after conclusion of the first, and in which Ketchikan, Fairbanks and Nome will participate.

Note that throughout this introduction, the Anchorage conference studio will appear on the screen here in the Governor's Conference Room. It is important, however, that Charlie look at the TV camera instead of the screen since this message is directed to the audience at all network locations.

II. Testimony.

A. Anchorage.

1. Chairman Parr should first greet Charity Kadow the Anchorage moderator; ask the number of people who wish to testify; and then instruct the moderator to ask the first witness to address the committee.
2. The witness will take his seat before the microphone and identify himself.
3. The Chairman will acknowledge the witness, who will then begin testimony.
4. When the testimony is finished, the Chairman will proceed to recognize those committee members wishing to question the witness.
5. Once recognized, each committee member shall identify himself and his district before stating his question..
6. When the committee member has finished stating his question his microphone will be switched off at the conference set (by you or Representative Parr).
7. Each additional question, whether from the same or a different member, must be recognized separately by the Chairman.
8. When the committee has finished with an individual's testimony, Representative Parr should obviously thank the witness and instruct the moderator to ask the next one to come forth.

9. When all tesimony has been taken, Representative Parr will thank the Anchorage participants and announce that the committee will take a short break (about three minutes) to allow time to establish the satellite connection with Bethel.

B. Anchorage-Bethel switching time. Approximately a three minute break during which the camera will focus on two graphic displays; the first will state that further testimony may be sent to the committee address; the second will list the videoconference calendar.

C. Testimony. Bethel.

1. Chairman Parr will open testimony by greeting Janet Schantz Bethel moderator. Charlie shall then ask her the number of witnesses present, and finally, instruct her to ask the first to come forward and address the committee.

2 - 8. Same Format.

9. After all Bethel testimony is heard, the Chairman will thank participants for bringing their views before the committee, and state that this is the conclusion of the first of three videoconferences. The next two are scheduled: on March 16, between Juneau, Anchorage and Fairbanks; and on April 13 between Juneau, Fairbanks and Nome.

In addition, for those listeners in Ketchikan, Fairbanks and Nome, who would like to present their opinions on HB 632, an audio-only conference will begin between Juneau and these communities in approximately 15 minutes.

PF:lmk

ALASKA STATE MEDICAL ASSOCIATION
1135 W. Eighth Avenue • Suite 6 • Anchorage, Alaska 99501 • (907) 277-6891

February 24, 1978

Mr. Charlie H. Parr, Chairman
Alaska House of Representatives
Committee on Health Education
and Social Services
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Parr:

Thank you for the opportunity of testifying on the space-age satellite TV HESS Committee hearing on House Bill 632, an Act Relating To Death and Dying. Apart from the rather minor audio technical difficulties, I found it an extraordinarily successful operation, felt the visual communication to be excellent, in the sense of "presence" nearly perfect. I don't know if you had large screen projection equipment in the committee hearing room; we did in Anchorage and it made all the difference.

As I stated in my initial testimony, I could take no significant exception with the beautifully articulated testimony from the Right To Life group and Bishop Hurley. Their perception and depth of understanding of some of the more subtle aspects of this sensitive issue was quite remarkable. As regards the Cook Inlet Memorial Society, I was surprised that they had extended quite so far their primary mission of speedy and expeditious burial.

As I stated, both the Council of the Alaska State Medical Association and the Anchorage Medical Society have considered HB 632 and some of its implications. Although there was literally no favorable support for the legislation, both bodies felt it inappropriate at this time to make a formal statement in opposition.

We realize that there is a great deal of enthusism and emotion somehow generated, sweeping the country, resulting in the essentially rubber stamp enactment of this sort of legislation in numerous states. We believe that the emotionalism, while well intentioned is totally out of proportion with the facts of life as they actually exist.

We believe the legislation, again while well intentioned, proposes a statutory solution to a problem that seldom exists other than in a form which would not be solved by the legislation. While not opposing HB 632 formally, we strongly urge the committee to fully assess the actual problem, if such in fact exists, and even more important, assess carefully all the possible negative and conceivably dangerous implications of the legislation as written. We urge that you actively seek out factual information from those whose lives have been devoted to the problem,

not base your conclusions on the simple volume of testimony from individuals and groups who have not.

The popular imagination of the lay public has been captured by sensational press suggesting that there is widespread mis-utilization of modern medical life support mechanisms maintaining dying people, presumably against what they would have wished, indefinitely in a state of half-death and pain. Such is simply not the case; nor is it in fact possible.

We feel that the proponents of this bill should be able to present clear documentation with specific incidents where life was artificially prolonged at the expense of dignity, show how, had they been the responsible physician, they would have handled the given situation, and again, specifically, how this legislation would have altered their behavior.

I stated that I had been private practice of internal medicine and oncology for twenty years with consequent large experience dealing with problems of terminal illness, I know of no instances where the presence of this legislation and "living wills" would have substantially altered my behavior as a physician, except adversely.

I suggested that there were a number of problem areas with the bill generally and specifically, some of which had been dealt with in previous testimony, some not.

In consideration of the motivation behind this sort of legislation and its popularization, I digressed somewhat in to the parallel Administration push for expansion and development of health maintenance organizations or HMO's. I believe it is important that the committee fully understand that the HMO concept, while promulgated as a method of holding down costs through the mechanisms of disease prevention (something largely without our powers) is in fact cost containing because it is a prepaid health insurance mechanism wherein reduction, containment and rationing, of medical services reduces the expenses of the organization and directly relates to its profitability. It does not take much immagination to realize how the HMO concept in conjunction with living will legislation, could be subverted or perverted to improve the profitability of such organizations. It cannot be denied that patients, in situations envisioned by the proponents of living will legislation, are extraodinarily costly medical problems. It may be, regretably, that some such ice-floe solution may come to pass, but the medical profession understandably has some reluctance being placed in the position of government hitman.

I commented on Section 18.12.020 relating to soundness of mind and mental competency of individuals executing a so called living will. If you and the committee will look at that section closely, I believe you will find that the questions of competency and soundness of mind are dependent upon two otherwise unqualified witnesses, a situation fraught with legal, moral and ethical consequences. It applies directly to my comments relating to the HMO above.

Relating to Section 18.12.060, paragraph (b) the sanction, threatening a charge of unprofessional conduct against a physician refusing to withhold what ever is necessary to withhold for death with dignity to occur, places the physican completely at the mercy of the family or possbily other regulatory agencies on the threat of compromise of his licensure to practice medicine. This can be referred to the comments on the HMO as above. Furthermore it is ironic that the criminal penalties in Section 18.12.110 relating to fraudulent forgeries, murder, etc. are bypassed by this unprofessional conduct clause.

Strictly for accuracy, Section 18.12.070 is clearly in error, semantically. Withholding life sustaining procedures may constitute murder, but certainly not suicide.

The definitions of terminal condition and life sustaining procedures are totally vague and instantly subject to caprice. The perversion of these expressions for potential political abuse is clearly possible. They are,in addition, central to the theme of the legislation and being undefined, if not undefinable, make the entire legislation a potential legal can of worms.

Again in Section 18.12.020 the requirement for certification of a terminal condition by two physicians raises the possibility of disagreement. Who shall chose the physicians other than the attending physician? How many physicians can be approached for the necessary certification? It offers no option for the expression of medical disagreement on the fact that the condition is terminal, whatever that means.

Finally, the concept of dignity with relation to dying has been interjected constantly in arguments relating to this legislation. There are two points of view. One was expressed by Bishop Hurley that human dignity is always present and the presence or absence of life support mechanisms do not materially alter that status. Another is that death is almost never dignified and again the presence or absence of modern medical appurtenances do not alter that condition.

I apologize for the length of this letter. It seemed necessary to document the potential for the serious abuse of this legislation for which no clearly or well documented need has been demonstrated and which appears unnecessary. I sincerely hope the bill will remain in the committee for a considerable period of time.

Sincerely,

Winthrop Fish, M.D.
Chairman, Legislative Committee

WF:mlm
cc. ASMA Council
ASMA Legislative Committee
Jeff Landry, ASMA Lobbyist

Sylvia L. Short
Attorney and Counsellor at Law
P. O. Box 4-734
Anchorage, Alaska 99509

Telephone 277-3887

February 24, 1978

TO: Representatives Parr, Bennett, Buchholdt, Chatterton, Cotten, Gruening, Miller, Nakak, Ose, Phillips, Rudd; Senators Croft, Rader, Rodey

Re: The Natural Death Act; HB 632

Enclosed is a copy of the statement which was circulated at the Unitarian-Universalist Fellowship on February 19, 1978. The option of support for HB 632 or merely support for the concept of the "living will" was given; however, it is noted that the support was unanimous for both points. Four copies of HB 632 were circulated at the meeting and an oral explanation given.

I congratulate the House Health, Education and Social Services Committee for utilizing the unique and promising method of a teleconference for obtaining testimony on the bill, and I was impressed with some of the thoughtful and penetrating questions posed by members of the committee. Unfortunately, due to a Court commitment, I was unable to hear the remainder of the conference after my presentation, but I would like to add the following comments:

1. THIS BILL IS HUMANE AND NECESSARY. Too often the subject of "death" is taboo in conversation or consultation, and once a patient becomes "qualified" in the terms of the bill and unable to express his wishes, his attending physician must rely upon his own ethics or the wishes of the patient's next-of-kin (possible malpractice litigants) at this crucial time. Enactment of this bill would forestall malpractice litigation relative to the course of care pursuant to a directive.

2. THIS BILL IS LEGALLY SOUND AND MANDATED UNDER THE ALASKA CONSTITUTION. Since, under Article I, Section 22 of our Constitution, Alaskans are entitled to the right of privacy, the invasion of a physician's or relative's wishes as to prolongation of an Alaskan's terminating life is directly antagonistic to our Constitution.

3. THIS BILL IS LOGICAL AND SUPPORTABLE IN ANY RELIGIOUS SENSE. Regardless of the creed, every religion must accept the nature of which we are all a part. Prolongation of a terminating life constitutes interference with the nature given us, and while a patient may wish to utilize such measures, every possible patient should have the right to elect to eliminate an unnatural prolongation process.

I remain willing to discuss any aspects of the bill in which I may be able to help.

Sincerely,

SYLVIA L. SHORT

St. Matthew's Episcopal Church

1030 Second Avenue Fairbanks, Alaska 99701

The Rev. Donald P. Hart, Rector

February 27, 1978

Representative Don Bennett
Pouch V
State Capitol
Juneau, Alaska
99811

Dear Don,

I thank you very much for sending me a copy of HB632 and I appreciate knowing of your concern in this matter.

My personal feeling is that a bill of this sort needs to be enacted, that it is long overdue. From a religious point of view, I believe that a persons right to die is equally as important as a persons right to live. In both instances, the dignity and integrity of a person should be protected. Christianity has never taught that death should be avoided at all costs. Death is the natural and God given consequence for the end of life.

As far as I can tell, HB632 does an excellent job of dealing with the difficulities of prolonging life by mechanial means. It appears to give the individual, family, and physicians a welcomed freedom in facing death. The safe guards seem to be built in appropriately and carefully. I believe it is a bill that we can live with and die with, in the assurance that it has enhanced our pilgrimage through life! I commend it to you and to the committee and look forward to finding out what happens with it.

Sincerely,

Donald P. Hart

DPH:br

New Hope Methodist-
Presbyterian Church
Box 5614
North Pole, AK 99705

Mr. Don Bennett
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Mr. Bennett:

Thanks for your letter and a copy of HB 632. I like the looks of this bill and would support its passage. I would suggest, however, that strong consideration should be given toward extending the realms of the bill to include provisions where the parents or guardian of a minor child or of a person judged to be mentally incompetant could execute such a directive in behalf of that person. Sometimes unnecessary pain and agony are endured by patients and their families when life support syst ems are allowed and the family has no recourse toward having them withdrawn.

Sincerely,

Claude Klaver

Claude Klaver,
Organizing pastor

Sylvia L. Short
Attorney and Counsellor at Law
P. O. Box 4-734
Anchorage, Alaska 99509
Telephone 277-3387

February 24, 1978

TO: Representatives Parr, Bennett, Buchholdt, Chatterton, Cotten, Gruening, Miller, Nakak, Ose, Phillips, Rudd; Senators Croft, Rader, Rodey

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I remain willing to discuss any aspects of the bill in which I may be able to help.

Sincerely,

SYLVIA L. SHORT

LA21 1049 10.47 JA01 0006 10.57 03/01/78

TO: CINDY, JNU
FROM: APRIL, FBX

PLEASE DELIVER THE FOLLOWING MESSAGE:
TO: REPS PARR, MILLER, BENNETT, & CHATTERTON
THE LEGISLATIVE COMMITTEE OF THE FAIRBANKS CHAMBER OF COMMERCE WOULD LIKE TO MAKE A RECOMMENDATION REGARDING HB 632. THE COMMITTEE FEELS THAT THE BILL SHOULD BE CHANGED TO READ THAT IT WOULD ALLOW THE FAMILY TO PETITION THE ATTORNEY GENERAL WHO IN TURN WOULD PETITION THE COURT TO DELIVER A COURT ORDER FOR THE PHYSICIAN TO TERMINATE LIFE SUPPORT SYSTEMS. THIS WOULD PROTECT THE PHYSICIAN AND ALSO THE PATIENT. THE COMMITTEE FEELS THIS IS A DECISION THAT THE COURTS AND THE PHYSICIAN SHOULD MAKE.

TERRY PALOZER
CHAIRMAN, LEGISLATIVE COMMITTEE

PLEASE ACK WHEN MESSAGE DELIVERED. THANKS. /AA EOA

ROBERT D. WHALEY, M.D., F.A.C.P.
4050 LAKE OTIS PARKWAY
ANCHORAGE, ALASKA 99504
272-8213

March 6, 1978

Mr. Charlie H. Parr, Chairman
Alaska House of Representatives
Committee on Health, Education, and Social Services
Pouch V
State Capitol
Juneau, AK 99811

RE: HOUSE BILL 632

Dear Representative Parr,

I have been practicing medicine in Anchorage, AK with a few brief interruptions in the military and Public Health Service between 1953 and 1957, and in private practice since 1958. I should like to make a statement in regard to House Bill 632, an act relating to death and dying.

May I say first, that I am highly sympathetic to the motivation and the aims of those who have organized and introduced this bill. I wish to speak against its passage however, since I feel that it has serious defects in construction which may engender abuses, that its language contains ambiguities which may lead to serious technical and legal problems, and that it would place clerical and legal burdens on health care personnel whose attention could best be concentrated on their primary function of providing medical services.

Most importantly, I wish to strongly state that in my experience, extending over two decades, has not shown that there is a problem in this area in Alaska, and that I strongly feel that passage of this bill would engender such problems rather than solve them. However, such a bill were to be phrased, the making explicit those circumstances under which certain medical actions might be appropriate or inappropriate will diminish the current flexibility and humanity with which medical treatment can be applied and is indeed done so in almost every case.

I have read Dr. Fish's letter of February 24, 1978. I commend his statements to your serious consideration, since he has greater experience in this area than other doctors by far. I draw your attention again with his statement which corresponds with my experience that for the most

part, dying patients are well handled with sympathy and in accordance with their wishes as best ascertained, and that the proposed legislation would interfere with our present situation rather than solve any problems.

If you have specific questions, I would be happy to receive or return a telephone call.

Thank you for your attention.

Sincerely,

Robert D. Whaley, M.D.
4201 Lake Otis Parkway
Anchorage, AK 99504

RDW/sp

KETCHIKAN MEDICAL SOCIETY

3100 TONGASS AVENUE - KETCHIKAN, ALASKA 99901

March 6, 1978

The Honorable Charles Parr, Chairman
House Health, Education & Social Services Committee
Pouch "V"
Juneau, Alaska 99811

Dear Representative Parr:

I am writing on behalf of the Ketchikan Medical Society to speak against House Bill 632. This written testimony will amplify and supplement oral testimony I had the opportunity to give on the innovative audiovisual statewide hearing you set up for your committee on 23 February 1978.

We applaud the apparent intent of the authors of this legislation to insure the rights of individuals to make decisions regarding themselves and the medical care they receive. Unfortunately, we do not believe that this legislation will accomplish what it intends.

Historically patients, their families and their physicians, communicating and acting together have made the long series of individual choices of types of therapy and care that mark the end of life on this earth. No part of human experience is as devastatingly and finally individual and personal as an individual's own death. However well intentioned the attempt, a single approach to this experience simply cannot accomplish what takes the best efforts of patients, families and their physicians.

We take issue with house bill 632 in several particulars. While legislative finding and declaration number one is self evident, and number two is true in theory though rarely in practical life, number three seems to exaggerate the Alaskan experience significantly.

Section 18.12.020 spells out specific requirements for a directive to physicians. As was mentioned by several witnesses at the audiovisual hearing, the term "terminal condition" that first appears in line 4 of this section is exceedingly difficult to define. The directive is declared a part of the patient's medical records, imposing responsibility upon the physician or hospital to guard what is later in the act demonstrated to be a very important document.

The presumption stated in Section 18.12.030, Section 18.12.100 notwithstanding, comes dangerously close to establishing a written

directive as the standard of care, without which the physician would have an implicit responsibility to "press on regardless". This presumption certainly is not present in current Alaskan law or in current Alaskan medical standards of care. We are concerned that the physician of a patient without a directive would bear responsibility not currently in the law.

Section 18.12.040 is very specific in requiring physical destruction, written revocation, or verbal expression directly "to the attending physician by the declarant". There is no provision for non verbal expression for expression other than directly to the attending physician. In paragraph (B) of this section and in the section immediately following there is a definite bias for withholding or withdrawal of life sustaining procedures.

Section 18.12.060 paragraph (A) encumbers the physician with the responsibility of making a legal if not judicial review. The lengths to which it would be necessary for a physician to go to determine whether the witnesses are appropriately qualified are not specified, but are illustrative of the burden imposed. I suppose that a litigious person could attack a physician for practicing law without a license for making such legal determinations.

The bill conspicuously excludes the patient's family from their central, traditional, healthy and necessary role in the death of a family member. Since the physician often has responsibility to care for more than one family member, and since patients and their families bring a wide variety of feelings, beliefs, and wishes to the bedside at the time of death, this exclusion of the family does not accurately reflext life and death experiences.

The issues brought to discussion in this act are basic and humanly fundamental. We commend the authors for their serious attempt at addressing a most difficult issue. However, we believe that they have not as yet constructed a legislative solution to what is perhaps an educational or informational issue. We do not believe that the need for this legislation has been adequately documented. We believe that this legislation increases rather than decreases the intrusion of others into the experience of death.

We urge that the issue be kept open for further and debate and for demonstration by supporters of the legislation of its necessity. In the meantime, we again commend the authors for their efforts, and your committee for its considerations.

Yours truly,

David E. Johnson, M.D.

Councilor

HB632

Sylvia L. Short
Attorney and Counsellor at Law
P. O. Box 4-734
Anchorage, Alaska 99509

Telephone 277-3887

March 8, 1978

Representative Lisa Rudd
Pouch V
Juneau, Alaska 99811

Re: HB 632; The Living Will

Dear Lisa:

Thank you for sending me a copy of the testimony given by Sidney D. Heidersdorf, Vice President of Alaskans for Life, relating to HB 632. I have read it with a great deal of interest and sympathy, and in response to your request have the following comments in regard to its contents:

I concur that patients have the basic right to refuse the use of mechanical devices to prolong life when death is imminent and strongly endorse the concept that it is healthy for people to think about their death and to prepare for it. These are the very propositions that I believe this bill will achieve.

Taking the arguments seriatim as propounded:

A. NEED. Legally, the individual, if competent, is the only one who is legally able to give consent to medical treatment for him/herself. The heart of the "living will" lies in paragraph 2 of the bill's "Directive to Physician" covering the situation of "absence of my ability to give directions...". This situation is now generally covered by the provisions of AS 13.26 "Protection of Persons under Disability and Their Property." Under AS 13.25.150(a)(3), a guardian is empowered to "give any consents or approvals" relative to medical or other professional care, counsel, treatment or service, for the incapacitated. Court intervention is envisioned under Article 3, but as is implied by the testimony of Mr. Heidersdorf, frequently and commonly medical decisions, in cases of patient inability to express wishes or consent, are made by either the attending physician or members of the patient's family. To circumvent these "hard" decisions, the expression of the patient's wishes in the "living will" is needed. Obviously, if the patient is competent and able to express him/herself, he or she can give instructions and consents and even revoke any existing directive. The bill thus restores to patients their sovergnity over their bodies and releases others from decisions made when such patients are unable.

B. PHYSICIAN-PATIENT RELATIONSHIP. Obviously, I agree that the physician can take action only if the patient explicitly or implicitly gives the physician permission. The "living will" is the patient's expression of direction for the physician to take, and only the patient can give such direction. The bill underscores and protects this right

LISA RUDD

ALASKA HOUSE OF REPRESENTATIVES, POUCH V, JUNEAU 99811

20 March 1978

Dear Sylvia,

I can't thank you enough for your continuous effort and good work on HB 632.

The House Health, Education and Social Services Committee plans to have a work session on the bill one day next week. I will keep you informed of the bill's progress.

Thanks again.

Your responses on Friedersdorf's testimony are excellent. Thanks so much.

Yours sincerely,

Lisa Rudd

LR/vb

REPRESENTATIVE - DISTRICT 11 - ANCHORAGE

Send Copy to M. Main H-Hess

of the patient. Borrowing from page 4 of the testimony, in the situation of the 75% of the population without a family doctor, the living will may be the only communication between patient and doctor when an emergency arises and the patient is unable to communicate or is rendered incompetent. The State, thus, is not conferring any additional rights to patients but is giving a means of preserving a recognized right. The bill strengthens the physician-patient relationship by stressing that only the patient's wishes are to be considered in the applicable situation, as such wishes are communicated to the physician. And obviously the competent patient retains at all times the power and right to express his/her wishes irrespective of an existing directive. The bill is not an euthanasia bill and is supported widely by persons who have grave doubts about "mercy killing".

C. RIGHTS OF NON-SIGNERS. It is difficult to postulate the reaction of treating physicians in the instance of an non-signing patient. It does some injustice to the aims of medical science to conjure the possibility of undertreatment or overtreatment merely because a small segment of the population has utilized a means to express its wishes relative solely to their own persons. Reference to a physician taking judgmental steps different before and after enactment of such legislation again throws the onus upon the physician who is not legally the decider except in emergency situations. Since patients presently have the power, as the testimony concedes, to direct cessation of extraordinary artificial measures, it is difficult to conceive that affirmation of such power in a patient would result in a different course by the medical fraternity relative to non-signers. Their situation is as at present.

C. FAMILY. Especially in Alaska where a large proportion of the population is absent from close family members, it is apparent that such removed kin would be unaware of the patient's wishes. Certainly the making of a directive expressing in writing what the patient's wishes are would ease the burden of decision which apparently still persists despite the fact that the family has at the present time no right to make decisions regarding a single, nonconsenting, competent member's treatment. I cannot regard the non-signing as being tantamount to saying that extraordinary care is wanted; the testimony alludes to the possibility that the great majority will not avail themselves of this bill's directive. Again, the decision on medical care and treatment is exclusively the patient's, and if the patient is incompetent or incapable of giving consent, it is necessary to follow statutory requirements for viable consent, necessitating court intervention and delay except in the case of emergency.

Particularly, when we use the word "family", definition is needed. Who are the "family" - by what means do they determine a consensus; who should be notified - a myriad of questions can arise.

E. CONSENT. I cannot agree that the living will constitutes "uninformed consent". The circumstances, whenever they may occur, are set out clearly in the directive, paragraph 1 as set forth on page 2

of the bill. The active words are not solely "life-sustaining procedures" but are as clearly "(which) would serve only to prolong artificially the moment of my death". The bill is dedicated to those persons who do not wish to endure a "living death" to the agony of themselves and their families, and their directive prescribes the express conditions under which it becomes active.

F. ALTERNATIVE LEGISLATION. The problem with the "direct approach" suggested is that it indeed takes from the patient his control over his own life. Utilization of the physician's "best judgment" under the vague "usual and customary standards of medicine" connotes an even wider range of interpretation than that complained of in the testimony relative to "life sustaining procedure". But primarily, the approval of the patient "and/or the family" gives to the family a NEW right of decision over the patient's life. I object strenuously to giving the physician the alternative of applying to relatives under legislative sanction. And, obviously, instead of avoiding definitions, we would need to have the "standards" defined as well as, most particularly, "family". Family decision approaches euthanasia.

In summary, then, and with relation to the summary of the testimony:

1. The living will legislation is necessary to preserve patient's rights which might be disregarded or denied, particularly in the case of the incapacitated patient.

2. The bill will superimpose "legalism" into matters which might be treated without respect to legal requirements and will bolster good medical practice by reinforcing the physician-patient relationship.

3. The majority who will not sign a living will, if that be the case, will profit from the bill because the bill will underscore recognition that it is the patient's desires which are paramount, to the exclusion of life-or-death determinations made by doctors and members of families.

4. The bill is clear on the circumstances, constituting conditions, under which the living will operates.

5. The bill is legislative recognition of the rights of the patient.

I had not intended to write so much and so strongly, but I am convinced that the testimony presented is based upon misunderstanding of the bill. Again, I agree with certain concepts promoted by the testimony, although I have some areas of grave disagreement which I have delineated.

I have taken the prerogative of sending a copy of this letter to Mr. Heidersdorf, as I believe we should be able to meet squarely on the issues. I would be happy to discuss the matter with him or his group further, as I feel our goals are much the same.

Sincerely,

SYLVIA L. SHORT

cc: Mr. Heidersdorf

Telephone 486-3281
Box 1187
Kodiak, Alaska 99615

Copies Comm file
pls

March 21, 1978

Honorable Charles Parr
Chairman
Health & Social Services Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

I wish to comment on HB No. 632, an act relating to death and dying which was introduced on January 16, 1978 by Miller and Rudd. I believe that legislative intervention into the area of medical decisions is inappropriate.

The very first section points out that adult persons have the fundamental right to make decisions relating to their own medical care. I believe this right should remain with the individual in consultation with his or her physician. In the case of an individual being unable to make a decision, then the decision whether or not to prolong human life by artificial means should remain with the family and the physician on the case. Legislation to regulate such a process can do nothing but create more problems than it attempts to solve. Uncertainties would not be erased by passage of this bill, but would, rather, be multiplied.

What happens in the case of a patient who has not completed such a directive? If in the physician's opinion, life-sustaining procedures are inappropriate and he proceeds to so inform the patient and/or relatives of that fact, is the physician then liable to possible suit if the patient is allowed to die in dignity and there is no written directive indicating that the patient desires such a procedure?

Definitions are unclear and understandably so. This is a very difficult area in which to make general or all-inclusive statements.

I sincerely believe that this entire issue is outside the sphere of government, and that government is meddling unnecessarily by initiating such legislation.

Sincerely,

Sister Josephine Patti, G.N.S.H.
Administrator

SJP:az

cc: Mr. Merle Snider

Copies to ... origin 632 file

RESPECT FOR HUMAN LIFE
... Box 912
Sitka, Alaska 99835
Phone 747-3902

Mar. 22. 1978.

Health Educ. & Social Services Comm.
Alaska State House
Pouch V.
Juneau AK. 99811

I have before me a copy of House Bill # 632 introduced by Miller and Redd called the Natural Death Act. After careful study of the various provisions in this bill my recommendation is that you should not pass this legislation.

I have lived in Alaska for twenty years, given birth to my children, done volunteer work at Sitka Pioneer Home, and worked in my chosen profession as a teacher both with handicapped and hearing children. In no instance can I see where we need to add another law to our land whereby all these provisions are already being met most competently.

Indeed by raising questions like this to our citizens you are in effect telling the medical profession that their physician-patient relationship is such that the state must step in and protect individuals. This simply is not the case.

Our organization has existed since fall 1973 with stated goals of respecting all human life from conception to natural death. We monitor all legislation that is related to these goals and whenever possible inform our legislators of our recommendations.

Sincerely yours
Mary E. Hughes Director
People for Human Life

First Presbyterian Church

CUSHMAN AT SEVENTH TEL. 452-2406 FAIRBANKS, ALASKA 99701

Dear Charlie:

Thanks for your help on the Food Stamps problem. I have had no more complaints from people who have gone there and been emotionally demotated by the experience. Thanks again!

Jere

P.S. I'm in favor of the bill on death & dying. I was out of town or I would have testified on the bill last Monday at the U of A.

1 page

1521 N Street
Anchorage, Alaska 99501
February 28, 1978

Representative Charles Parr, Chairman,
House Health, Education, and Social Services Committee
Pouch V, Juneau

Re: House Bill 632

Dear Representative Parr:

I came to testify at the vido conference on February 23, but was pre-empted by Drs. Fish and Wilson. By the time they finished, time had run out - so I decided to write you instead, for I feel very strongly that the Natural Death Act should become law.

Since earning my master's degree in medical social work from Vanderbilt University in 1949, I have worked in this field for a quarter of a century full time - and as a reporter and columnist part time. Thus I have had ample opportunity to observe individuals in the proximity of death. It is not so much the end of life that they fear, but a slow, lingering death devoid of control and of dignity - and all too frequently a procrastination that spells bankruptcy for their families. Did you know that the average cost per day in cardiac or intensive care units, where dying patients are almost invariably housed, is now about $500. a day? And for what purpose? To prolong the agony of death and the suffering of the family.

Now I know that Dr. Fish and Dr. Wilson testified eloquently on their behalf - and I respect both these physicians, Dr. Fish for his professional skill and Dr. Wilson for his skill, his humanity, and his intellect. But like most physicians, they are obsessed by fear that government may tread upon their prerogatives; that any law related to the medical profession may impinge upon their precious doctor-patient relationship. -- The Natural Death Act, in fact, protects the physician by preventing litigious survivors from suing doctors - who, abiding by the patient's written decree, "pull the plug".

For the most part, I have great respect for physicians and believe the majority to be humane and dedicated. But there are those whose motives are mercenary and who deliberately prolong a dying patient's futile existence with modern technological devices simply to haul in more bucks. I am not lying to you when I tell you we have all heard them admit the fact in our ICU. When I worked in one local hospital, some of the nurses and I timidly questioned a surgeon why he would not permit an 80-year old who had been dying in ICU of hepatic failure to slip away. Blatantly he replied, "Why should I? Every time I come in and tip my hat to him it's $15. for me from Medicare."

One of my nurse friends from this very hospital planned to come and testify, for she worked for many years on both ICU and CCU; but her duties prevented her from coming. I think all of us who have been working in . . settings would advocate H.B. 632. I myself have a living will and have urged my husband to abide by it, but I could face death with equanimity only if I knew our legislature had endowed it with teeth!

Respectfully yours,

Mrs. J. Elmer Hedstrom

RODMAN WILSON, M.D.
FELLOW OF THE AMERICAN COLLEGE OF PHYSICIANS
3300 PROVIDENCE DRIVE
INTERNAL MEDICINE Anchorage, Alaska 99504 (907) 279-0481

Mr. Charles H. Parr, Chairman
Alaska State Legislature
House of Representative
Committee on Health, Education,
and Social Services
Pouch V - State Capitol
Juneau, Alaska 99811

Dear Mr. Parr:

The clash of old traditions and new technologies is creating new problems about life, dying, and death. The matter is in considerable flux. It would be a mistake to enact HB 632, An Act relating to death and dying, for it would only serve to make more difficult an already difficult time - the time of dying.

I am not opposed to persons holographically setting down their wishes about what should be done or not done when they are seriously ill, but apart from this the solemn matters of dying should remain in the hands of those who for centuries, indeed millenia, have held them - physicians, family, friends, nurses, clergy. A parade of attorneys, disinherited witnesses (what a distressing breach of privacy to divulge certain details of a will before death!) and additional physicians should not intrude.

Most desperately ill persons cling to life, even in pain, wanting another few months, another week, another day; - even those who with bravado in the bloom of health announced that they want no life-extending measures when they enter the valley of the shadow of death.

Most patients do not want to talk directly about death when they are ill. Wise physicians know this and know that it cruelly heightens anxieties to do so. Yet physicians usually sense from non-verbal signals what the person wants to be done or not done in his agony.

Families, on their part, usually do not want to make decisions about dying- Four of five will say something like this: "Doctor, do what you think is best." Thus responsibility rests on the physician. We are prepared to accept it, as we always have. Let others who are also fully prepared to accept these awesome duties step forward. I predict that none will, except those who hide behind ill-begotten proposals such as HB 632 who believe that they are participating in the conduct of dying when they are only meddling and muddling.

Sincerely,

Rodman Wilson

Rodman Wilson, M. D.

RW:jes

POSITION PAPER/Department of Health and Social Services

POSITION PAPER
ON
HOUSE BILL NO. 632

"An Act relating to death and dying; and providing for an effective date."

This Natural Death Act establishes a procedure whereby an adult may execute a directive to physicians directing the withholding or withdrawal of life-sustaining procedures in the event the person enters into a terminal condition. The Act further provides for revocation procedures and delineates duties and liabilities of persons and facilities involved. Almost every state in the union has begun considering some such legislation. Eight states have thus far enacted legislation. The medical profession is now forced to deal in an area of legal uncertainty and confusion. This Act would lend direction and order in these situations. The Department does recommend the following amendments, however, to better achieve these worthy goals.

1) Section 18.12.060 Duties of Physician may tend to complicate rather than clarify the legal confusion possible in these matters. It is suggested that this Section be amended by adding the following:

> A directive that is valid on its face is valid as to any physician for the purposes of this Act unless the physician has actual knowledge of facts that render the directive invalid or is under the direction of a court not to give effect to the directive.

2) Section 18.12.020(b) declares the "directive or a copy of the directive shall be made a part of the patient's medical records." The Department believes some provision should be made to facilitate patient access to his directive should the original be made part of the patient's record. Although written and verbal revocation are provided for in Section 18.12.040, the declarant may be most secure in revocation that destroys the directive, as provided in Section 18.12.040(a)(1).

3) Finally, the Department suggests that some cross-reference be made in this Act to AS 09.65.120, Definition of Death, to insure consistency with the Natural Death Act.

Recommended by: _____ Date: 2/22/78
Robert I. Fraser, Director
Division of Public Health

Approved by: Helen D. Beirne Date: 2/22/78
Helen D. Beirne, Commissioner
Department of Health & Social Services

ALASKANS FOR LIFE
Incorporated
P. O. Box 2106
Juneau, Alaska 99802

TESTIMONY PRESENTED BY SIDNEY D. HEIDERSDORF, VICE-PRESIDENT, ALASKANS FOR LIFE, BEFORE THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE OF THE HOUSE; FEBRUARY 22,1978 HEARING ON H.B. 632 (AN ACT RELATING TO DEATH AND DYING).

Mr. Chairman, members of the House HESS Committee, my name is Sidney Heidersdorf. I am here today as a representative of Alaskans For Life.

House Bill No. 632, an act relating to death and dying, is <u>living will</u> legislation similar to that being proposed in many State Legislatures across the country. We are opposed to legislation of this kind.

We do not argue with the stated goals of the bill. We recognize the basic right of the patient to refuse the use of mechanical devices to prolong life when death is imminent. We also believe it is healthy for people to think about their death and to prepare for it.

Our opposition does not stem from what the bill seeks to achieve but from the manner in which it attempts to achieve its goals. We are opposed to the concept of the living will because of the havoc it will cause in the physician-patient relationship and other potential harm that legislation of this kind may bring with it. In view of this, my testimony will be directed primarily at the concept of the living will and its impact rather than a consideration of specific provisions of H.B. 632.

In general, the following summarizes our thoughts about this bill:

1. Living will legislation is unnecessary; patient's already have those rights that this bill seeks to convey to the patient.

2. Superimposing a "legalism" into the decision surrounding the natural death process will hinder and interfere with good medical practice rather than help it.

3. This bill, if passed, will undercut the presently recognized rights of the majority who will not sign a living will.

4. The bill promotes uniformed consent to a future decision, the circumstances and details of which are unknown at the time of the decision.

5. The bill involves a dangerous precedent in implying that the physician has rights over the patient and that the State confers those rights.

I would like to comment briefly on these points to provide some clarification:

A. NEED

What problem does this bill seek to remedy? Who does it seek to protect? One of the stated reasons is to allow a patient the right to avoid the abusive use of technology. Clearly, patients already have the fundamental right of self determination in the acceptance or rejection of treatment. The bill itself in Section 18.12.010 LEGISLATIVE FINDINGS AND DECLARATIONS refers to this fundamental right. Everyone recognizes it. Physicians have for years in every state of the Union removed extra-ordinary life sustaining procedures in consultation with the family and/or the patient and they have done so without threat. If individual cases of abuse crop up they should be handled under existing law. Special legislation for hard cases is bad law. We do not see a need for this legislation.

B. PHYSICIAN-PATIENT RELATIONSHIP

Living will legislation implies a shift in the physician-patient relationship and it undermines this relationship. It implies that a patient must claim his fundamental right by legal action in advance in the form of signing a directive to insure that this right is respected. We believe this is a dangerous precedent. These laws enshrine the notion that the physician has some independent or inherent right where the patient is concerned and may treat him unasked and even if opposed. In reality the physician can take action only if the patient explicitly or implicitly gives the physician permission. When a person engages a doctor's services he does not abdicate his right to decide his own fate. The physician is hired to provide medical care and the physician serves at the pleasure of the patient. For the great majority of physicians there is no confusion on this point.and there is no widespread abuse of this right which indicates the need for this kind of law. Any legislation that makes it necessary to write a living will to avoid unreasonable treatment during the dying process is a move toward undercutting patient rights.

We are concerned about the growth of the popular misconception that the living will confers rights on the patient rather than recognizes them. Once the right to refuse treatment is construed as conferred by the State the implication is that the State can control this decision relating to death. What the State gives it can take away. If this view is accepted the State could also presumeably make the decision as to when the patient should die. This brings us to the brink of active euthanasia. It is well known that advocates of mercy killing strongly support this kind of legislation.

C. RIGHTS OF NON-SIGNERS

What happens to those that do not sign a living will? The logical presumption is that those who do not sign do not have the same

claim to self-determination as do those individuals who do sign. Will the physician feel free to remove life sustaining devices in the case of the non-signer? If the answer is "yes" then the bill is clearly unnecessary. If the answer is "no" then the bill obviously creates as much mischief as it resolves since it is reasonable to assume that the majority of the people will not sign a living will. The majority will then have their fundamental rights undermined by law.

The physician faces penalties for not living up to the directive of a living will, therefore, those who sign the directive could run the risk of being undertreated since there is no penalty for removing or denying care. It is overtreatment that the law seeks to remedy and for which there is a penalty. What about those who do not sign a living will? Since these people did not exercise what is now a requirement that they express their right in writing there is the real possibility that physicians in this case will overtreat since the patient made no expression of a desire not to have life sustaining means employed. The living will may cause the physician to hesitate to take the steps his judgement prior to the law would have dictated. Out of all of this one thing is certain. The living will legislation will not promote good judgement on the part of the physician.

Living will legislation could have an effect opposite to that desired by the sponsors. Those with wills may be undertreated and those without, overtreated. Since the majority will not sign a will it is ironic that the law could lead to an increase in excessive treatment rather than a decrease. Most serious of all, while supposedly recognizing the rights of those who sign, it will diminish the rights of those who do not sign.

D. FAMILY

Living will legislation excludes the family from any responsibility. There is a great deal of support for the idea that it is important for the family to participate in the decision involving use of life sustaining devices. In cases where the patient cannot speak for himself, the family knows best the wishes of the patient. It is important to note that this legislation would effectively eliminate the families of both the signers and non-signers alike. It will exclude the non-signers since not signing the living will is tantamount to saying that the patient wants extra-ordinary care to be kept alive.

E. CONSENT

A fundamental right of the patient is to be fully informed about medical procedures so he can give informed consent. Signing a living will is the ultimate in uninformed consent. The State should not permit such a practice. How can a patient make a decision regarding the circumstances of his death 5 or 10 or 20 years in advance.

He does not know any of the facts or circumstances that will exist at that time. He will probably not even know the physician since it is estimated that only 25% of the population has a family doctor. Even if the patient does know the physician how does he know the physician will interpret "life sustaining procedure" in the same manner as he. Certainly the family would best be expected to know the patient's wishes in this regard.

The living will is a pig in the poke. In no other area of human activity would we consider a decision of this magnitude reasonable if made in such a factual vacuum. Signing a living will is truly an uninformed decision.

F. ALTERNATIVE LEGISLATION

I would like to return to the question I asked early in my testimony. What does this legislation seek to do? Presumeably legislation of this kind seeks to protect the rights of either the patient or the physician or both. While we do not accept the need for this bill its goals could be accomplished without jeopardizing the rights of the patient and physician.

We suggest a direct approach. Pass a law acknowledging the fundamental rights of the patient to make decisions affecting their care and restate the principle that extra-ordinary life sustaining measures may be withdrawn by the attending physician when done in his best judgement under the usual and customary standards of medicine following approval of the patient and/or the faminly.

This approach would avoid the difficulty of definitions. There would be no requirement for signing a directive affirming one's rights and consequently no injury to those who do not sign and there would be no pitfalls and potential for serious abuse that exists in living will legislation.

G. CONCLUSION

We have chosen not to comment on specific provisions of H.B. 632. We believe this bill, in any form which gives legal status to a written directive, is not in the best interest of society. We urge you to preserve the rights of all patients by rejecting the concept of the living will.

ALASKANS FOR LIFE
Incorporated
P. O. Box ~~2186~~ 2186
Juneau, Alaska 99802 99803

March 19, 1978

Representative Lisa Rudd
Pouch V
Juneau, Alaska 99811

Dear Representative Rudd,

Sylvia Short sent me a copy of her comments on my prepared testimony regarding H.B. 632. I appreciated this consideration and I would like to respond briefly on a number of points which might serve to help us better understand each other's position.

A. NEED

It appears that the need for this kind of law has been created in the minds of some people by raising into question the present handling of cases where patients are dying and where life sustaining devices may be used. However in reality, there has not been a demonstrated need of a magnitude even close to that which would justify attempts to legislate in this area. Daily, without threat of lawsuits, physicians in consultation with the family and/or patient, meet the difficult decisions related to dying.

Occasional hard cases can be handled by present laws. It is ironic that the Karen Quinlan case which gave so much attention to this issue would not have been resolved by H.B. 632 since her death was not imminent.

B. PHYSICIAN-PATIENT RELATIONSHIP

Ms. Short obviously has a vastly different view than we have as to the effect of the living will on the relationship between the physician and the patient.

A living will directive signed by a patient, if it is to be effective, must alter the physician's behavior. This, in turn, has to have an effect on the judgment of the physician. It is our belief that this effect will be harmful to the physician-patient relationship. We believe also, that this effect will extend to non-signers as well, as described in my testimony.

C. RIGHTS OF NON-SIGNERS

If one accepts the premise that this law is necessary then one must also assume that a physician will take different judgmental steps after enactment of living will legislation than before. Argueing that the physician will not change his judgment after the law is tacit admission of the fact that the law is unnecessary. Therefore, supporters of this bill are put in the position of acknowledging that the law will, in fact, affect a physician's judgment and response in the treatment of patients.

It is not unreasonable to postulate that the legal cloud of the directive will also have impact on the judgment of the physician dealing with those patients who have not signed a living will. We cannot accept the argument that the status of the non-signer will remain the same after passage of living will legislation. Any change from the present will in all probability be detrimental to those who do not sign, for reasons stated in my testimony.

D. FAMILY

The statement that the absence of close family members means that they are unaware of the patient's wishes is subject to serious question. We see nothing "apparent" about it. My personal experience does not at all support that premise. We suspect most people would not accept it either. Physical separation of close family members does not at all mean that they are not aware of the goals, wishes and aspirations of their loved ones.

The traditional right of the family to make decisions relating to the treatment of family members has not been questioned. Obviously, if the patient is conscious he can express his own desires and they are to be honored. In any event, the living will will not resolve the "problem" of family intervention in the case of the non-signers who will represent the majority of the people. We should be concerned about the rights of all patients. We encourage you to consider steps in that direction if you believe patients' rights are not presently being recognized.

E. CONSENT

Ms. Short apparently misread the point of my testimony on the issue of consent. The signer knows under what circumstances the directive is to be applied. The signer does <u>not</u> know ten years in advance who the physician will be, the facts surrounding the circumstances of his pending death and most importantly, the patient does not know how the physician will interpret "life sustaining procedure". It is possible, and even probable, that there will be technological advances which will change the whole scenario of the death process as envisioned by the patient at the time of the decision to sign the living will. That represents uninformed consent.

F. ALTERNATIVE LEGISLATION

That proposed as a direct approach in my testimony was intended to be conceptual rather than precise wording. We agree that terms would have to be carefully selected and clearly defined. However, the difficulty of defining "family" so as to avoid abuse is no where near that engendered by attempting to define "life sustaining procedures" and "terminal condition". This is amply demonstrated in the bill itself where the definition of "life

sustaining procedure" refers to "prolonging artificially the moment of death when.....death is imminent whether or not the procedures are utilized." If death is imminent regardless, why the need for the living will? We suspect that definition says something that is not intended.

Further, the definition of "terminal condition" makes no reference to "imminent death", but rather speaks of prolonging the moment of death. Good medical care prolongs the moment of death but that obviously isn't what's meant. We believe a close examination of H.B. 632 will reveal danger of laws such as this where there is an attempt to walk the tightrope between state sanctioned suicide on the one hand and active euthanasia on the other.

We note that the term "best judgment" was singled out by Ms. Short as vague and open to a wide range of interpretation. H.B. 632 makes repeated use of such phrases. Reference is made particularly to the critical definition of life sustaining procedures where the phrase "judgment of the attending physician" is used. Also in the definition of terminal condition, the phrase "in reasonable medical judgment" is used. Apparently we agree on one point, and a most critical one at that. The definitions of "life sustaining procedures" and "terminal condition" are vague and clearly open to a wide range of interpretation which could easily lead to abuse. This all points up the danger of legislating in this area.

While we do not believe it is necessary, the direct approach proposed in my testimony would provide a means of affirming the recognized rights of all, not only for those who sign a directive. We do not understand the emphasis on the directive when both the patient's and physician's rights in the death process could be reaffirmed by a direct statement to that effect.

Representative Rudd, we urge you to consider what happens to a fundamental right when a law is passed recognizing an individual's written directive to protect that right. The need to claim a right in writing calls into question its fundamental nature and will not serve to preserve that right. We do not believe you would support a similar approach in the affirmation of other rights. The state does not confer rights on citizens but this kind of law gives that impression. There are dangerous precedents involved here which far outweigh any benefit. For these reasons we strongly urge you to reconsider your support of H.B. 632.

Again, we appreciate Ms. Short sharing her thoughts with us. Thank you for your consideration of this response.

Yours very truly,

Sidney D. Heidersdorf
Alaskans For Life
Vice President

cc: Rep. Mike Miller
Ms. Sylvia Short

Diocese of Juneau

Diocese of Fairbanks

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Activists Arrested in Pentagon Demonstrations

Washington (NC) — Peace activist Philip Berrigan and seven other persons were arrested Feb. 14 for pouring blood and ashes in the concourse of the Pentagon. Jesuit Fr. Daniel Berrigan was also present for the demonstration, but was not arrested.

According to John Schuchardt, one of those arrested on misdemeanor charges of destruction of government property, the blood and ashes were poured after a litany of repentance was read. The demonstrators asked that the ashes and what they said was their own

Continued on page 8

Brazilian Crucifixion a Mental Disturbance, Says Cardinal

Porto Alegre, Brazil (NC) — Cardinal Alfredo Vicente Scherer of Porto Alegre said police and health authorities should have prevented the three-day crucifixion of 16-year-old Eliana Maciel Barbosa in a southern village, since she is mentally retarded.

"This shameful spectacle has nothing to do with religion, angels or demons," said the cardinal. "It is a case of mental disturbance that should be treated by doctors."

The village police chief said Eliana's father was being indicted for making incisions in the girl's wrists and feet to reproduce Christ's wounds. She spent 72 hours tied to the cross, in what she said was penance "to free my soul from demons."

Protestant Theologians Protest Silencing of Jesuit

Bangor, Pa. (NC) — Six Protestant theologians have publicly protested the Vatican's silencing of a priest who favors a liberal view of homosexuality, calling the ban against Jesuit Fr. John McNeill "anti-intellectual" and a "serious obstacle to the pursuit of truth."

In urging the Vatican to overturn its decision, the theologians said the ban "embarrasses and damages the spirit and form of ecumenical conversation on this and other issues of common concern."

The Rev. Robert Raines, a United Church of Christ theologian and director of Kirkridge, a Christian retreat and study center here, said the protest may be the first in recent years by Protestant theologians regarding the silencing of a Catholic colleague.

Others signing the letter are the Rev. John Bennett, president emeritus of Union Theological Seminary, New York, and now professor at the Greater Theological Union, Berkeley, Calif.; the Rev. Robert McAfee Brown, professor of theology and ecumenics at Union Theological Seminary; the Rev. William Sloane Coffin, Jr., senior minister, Riverside Church, New York; the Rev. Harvey Cox, professor of theology, Harvard Divinity School; and the Rev. George A. Lindbeck, professor of theology at Yale.

A few days before he was to address a convention of homosexual Catholics last September the Vatican ordered Fr. McNeill to stop making public statements, in word or print, on the subject. It also ordered that its "imprimi potest," or Church

Continued on page 8

16 Political Prisoners Freed; Bolivian Bishops Urge Freedom

La Paz, Bolivia (NC) — As 16 political prisoners in Bolivia were released, the country's bishops issued a statement backing government amnesty moves and urging political freedom in Bolivia's approaching elections.

The prisoners were freed after they were transferred from military to civil jurisdiction. The civilian judges said there was not enough evidence to convict them of the subversion charges under which the prisoners had been jailed by the military.

The transfer to civilian authority was part of an amnesty granted by the government as a result of a Church-backed hunger strike by some 1,300 Bolivians in January. The government also promised to allow exiles to return and to reestablish trade union rights for miners and for urban and rural workers.

Many exiles and their families are returning to Bolivia, but so far there has been little progress in reestablishing trade union rights.

In a statement linking the strike and the forthcoming presidential elections in July, the bishops supported the Permanent Assembly of Human Rights, an ecumenical group of about 300 Bolivian Church and civic leaders. The assembly coordinated much of the strike and is now conducting an educational campaign on civil rights.

On the elections announced last November by [illegible] Hugo Banzer, Bolivia's [illegible] state, the bishops said both government and political parties have an obligation to respect self-determination by the people.

"The freedom to vote is a vital right of citizens, as well as a duty. Political choice is a pre-

Continued on page 8

Advisory Council Reviews Bishops' May Agenda

Marriottsville, Md. (NC) — The U.S. Catholic Bishops' Advisory Council voted to establish its own standing committee on family life during a council session to lay some of the groundwork for the National Conference of Catholic Bishops' meeting in Chicago in May.

The 60-member council, which meets twice a year to review and comment on agendas for the NCCB Administrative Committee and the USCC Administrative Board, also examined—and submitted changes designed to strengthen—a proposed 3,500-word "Pastoral Plan

Continued on page 8

UFWA Ends Boycott

La Paz, Calif. (NC) — The United Farm Workers of America (UFWA) has called off its international boycott of non-union table grapes, lettuce and the wines of the E and J Gallo Co., Modesto.

A spokesman for UFWA president Cesar Chavez said the boycott was no longer needed because California's two-and-a-half-year-old Agricultural Labor Relations Act enabled farm workers to unionize through secret ballot elections.

Marc Grossmann, UFWA press aide, said that in the future, a boycott would be directed only at those individual growers who refused to bargain with the UFWA. "Instead of a generic or product boycott, it will be a more selective boycott," he explained.

Grower reaction to the announcement was low key, and many minimized the effectiveness of the boycott.

OF SEVERAL THINGS

by Most Rev. Francis T. Hurley
Archbishop of Anchorage
Apostolic Administrator of Juneau

Ecumenism

In Ketchikan, the Catholics and Episcopalians are sharing St. John's Episcopal Church, but it is not just a sharing of facilities. Catholics and Episcopalians have joined in an Ashes to Easter Program—a combined observance of Lent.

In Wasilla, the Presbyterians and the Catholics are exploring the feasibility of constructing a joint facility for educational purposes. But before construction, both groups plan a series of spiritual and social community ventures.

The sharing of facilities is a practical, economical approach. But practicality and economics will not guarantee a true ecumenical development. There must be on the part of those involved a willingness to share the intangible, the spirituality.

Blueprints of buildings will not assure mutual cooperation, toleration and coordination. These com. from the spirit. The spirit therefore must be nourished if practical sharing is to be achieved.

Living Wills

Alaska legislators were challenged to show the necessity of living will legislation, or as it is called officially, the Natural Death Act.

In hearings via teleconference, a two-way video communications arrangement by satellite, before a House legislative committee, two ministers, a representative of a memorial society and another citizen recommended passage of the Natural Death Act.

Arguments centered on the right to privacy, relief for terminally ill patients and their families, and an abhorrence of seeing a terminally ill person as a "vegetable."

Representatives of the Anchorage Right to Life organization rejected the proposed bill as anti-life. Two doctors testified that the bill was unnecessary, and one stated that the bill, if it were to become law, would inhibit doctors in their treatment of patients. This writer also testified and raised doubts as to the maturity of the idea of living wills, as to their necessity as a matter of law. I cited the California Medical Association which reported that 112 doctors ordered more than 11,000 living will forms but only 67 people asked for one. The situation suggests that somebody is advocating this type of legislation when there is no indication that it is something that the public really wants or needs.

I also indicated that th expression of living wills has resulted in much loose language which undercuts the real dignity of the individual.

And the Location of the Capital
(Senator Ray, Please Note)

The teleconference hearings via staellite present a great technique for bringing not only citizens closer to their legislators but also citizens closer to one another. Those testifying from Anchorage were able to hear the testimony of the people from Bethel as well as the questions posed by the legislator.

Healthy government is built on good communications. There must be a message in satellite communications for those arguing over the location of the capital.

Japan and Abortion

A New York Times story noted that Japan marked its 30th anniversary of liberalized abortion laws. In 1976 Japan registered over 1,800,000 live births and over 600,000 abortions. The statistics are bad enough, but the concern registered by medical experts is very telling: the lowered value abortion places on human life.

The views of the Japanese who were interviewed, though, showed that the negative was outweighed, in their opinion, by the lower birth rate. That says something about values.

So, too, does another point in the story raise a question about values. During the 1800's, infanticide was used in Japan to thin out the population. Then military governments banned birth control and abortion in order to produce more soldiers for the country. Then after the surrender in 1945 the shortage of jobs and food inhibited family growth, and the government passed the Eugenic Protection Law of 1948. That's some name for a law that demonstrates that the government of Japan has attempted to call the shots on the number of children that are going to be born in that country.

That situation should give us all pause for thought on the role of government in the most intimate of family relationships.

Abbey Begins Recovery of Misspent Funds

St. Benedict, Ore. (NC) — Mt. Angel Abbey has recovered $85,949 of $461,611 allegedly spent improperly by its former business manager and holds promissory notes for the balance, Benedictine Abbot Anselm Galvin announced.

The expenditures, dating to 1969, were in the form of loans to the business manager, identified in a local newspaper as Dominic Fressler of Silverton, Ore., and other parties. According to the weekly *Silverton Appeal*, most of the improperly expended money has "gone into real estate developments through a number of real estate developers from the Salem area and also from eastern Oregon."

Meanwhile, the U.S. attorney's office for the District of Oregon in Portland is conduct-

Continued on page 6

Gregory Baum Married in Montreal

Toronto (NC) — Gregory Baum, noted Canadian theologian and outspoken critic of the Church, married a former nun in a private ceremony recently in Montreal.

The bride was Shirley Flynn, who left her religious order about 15 years ago.

Baum, 53, professor of religious studies at St. Michael's College in Toronto and formerly an Augustinian priest, announced in November, 1976, his decision to leave the priesthood. However, his application to Pope Paul VI for release from his priestly obligations and religious vows has yet to be approved by the Vatican.

A spokesman for the archdiocese of Toronto said the chancery would make no comment on the marriage "out of respect for his privacy."

House Opens Education Tax Credit Hearings

Washington (NC) — For the sixth time in a decade, the House took up the politically sensitive issue of education tax credits, opening hearings Feb. 14 on a variety of bills to ease the financial crunch of sending children to school.

Leading a pack of bills before the Ways and Means Committee is a proposal by Rep. Bill Frenzel (R-Minn.) that would allow a tax credit of up to $500 to parents paying tuition to accredited public and nonpublic schools, colleges and universities. Other proposals would allow tax deductions and tax deferrals for educational expenses.

Last month, the Senate finance subcommittee held hearings on a bill sponsored by Sens. Robert Packwood (R-Ore.) and Daniel Patrick Moynihan (D-N.Y.), identical to the Frenzel measure.

While the House bills differ in scope, eligibility, and amount they have one thing in common: the Carter administration opposes all of them and favors instead increases and improvements in existing education aid programs.

The leadoff witness before the Ways and Means committee was Secretary of Health, Education and Welfare Joseph Califano, Jr., who said tax credits "make neither educational nor financial sense."

Repeating objections raised by an HEW official before the Senate finance subcommittee, Califano said tuition tax credits do not target aid to those that need it, are insensitive to family need, do not solve the cash flow problem resulting from high college tuition costs, drain federal money from other aid programs, are administratively burdensome and fragment education policy among different congressional committees and different federal agencies.

As in the Senate hearings, the constitutionality of tuition tax credits stirred debate in the House committee.

Adding a new twist to the discussion was attorney William Ball, a recognized expert in church-state affairs. Ball said that while most discussion has focused on the First Amendment implications of tuition tax credits, "the right to nonpublic

Continued on page 6

Death With Dignity Backers Optimistic

(NC)—"Death with dignity" bills have been enacted in eight states during the past two years, and backers of such laws say they can use that experience to push similar measures in other states.

Along with that drive, which some Catholic spokesmen see as opening the door to euthanasia (mercy killing), there is another campaign on behalf of "definition of death" bills. The latter would define when death occurs, which backers say is necessary to facilitate organ transplants without danger of lawsuits against the doctors who remove the donated organs.

Figures compiled by the National Conference of Catholic Bishops (NCCB) Committee on Pro-Life Activities, show that 38 bills to give patients or designated representatives the right to terminate life-sustaining treatment have been introduced in 27 states so far this year. These figures compare with the 67 bills introduced in 44 states last year. According to backers of such bills, they expect 1978 to bring even more legislative activity—because in 1977, the last such bill wasn't thrown into the hopper until September.

Right-to-die legislation has scored its initial success in California in 1976, with passage of a law permitting terminally ill adults to authorize "withholding or withdrawal of extraordinary life-sustaining procedures." That was followed by a similar law passed in Idaho in March, 1977. Arizona, Nevada, New Mexico, North Carolina, Oregon and Texas followed suit last year.

The right to die movement's path has not been without setbacks. In New Hampshire, both legislative houses passed such a measure, only to have it vetoed by Republican Gov. Meldrim Thompson. The House voted to override the governor's veto, but right-to-die backers failed to muster enough strength in the senate, and the governor's veto stood.

In South Carolina, the state's lower house killed a motion to continue a bill which would have allowed the terminally ill to reject in advance artificial life support systems. By killing the motion, the South Carolina House of Representatives agreed not to revive the bill during this session; nor can it be carried forward to the legislature's 1980 session.

But the backers of such measures are optimistic. In 1975, they were able to introduce 15 bills in 13 states with no successes. By last year, they were successful in seven out of 44 states where efforts were made.

According to Alice V. Mehling, executive director of the

Continued on page 6

Bishops Launch Parish Renewal Program

Washington (NC) — The U.S. bishops have launched a three-year Project for Parish Renewal designed to provide practical assistance to priests and other parish staff.

The project, announced here by Bishop Thomas C. Kelly, general secretary of the National Conference of Catholic Bishops, will involve publishing studies and other aids, and bringing together parish leaders, professionals and representatives of diocesan and parish-oriented institutions to share experiences.

Bishop Edward C. O'Leary of Portland, Me., chairman of a special bishops' committee to oversee the project, said its implementation "represents a new approach by the bishops to help meet the challenges and problems posed for those who are in the front lines of the Church's mission.

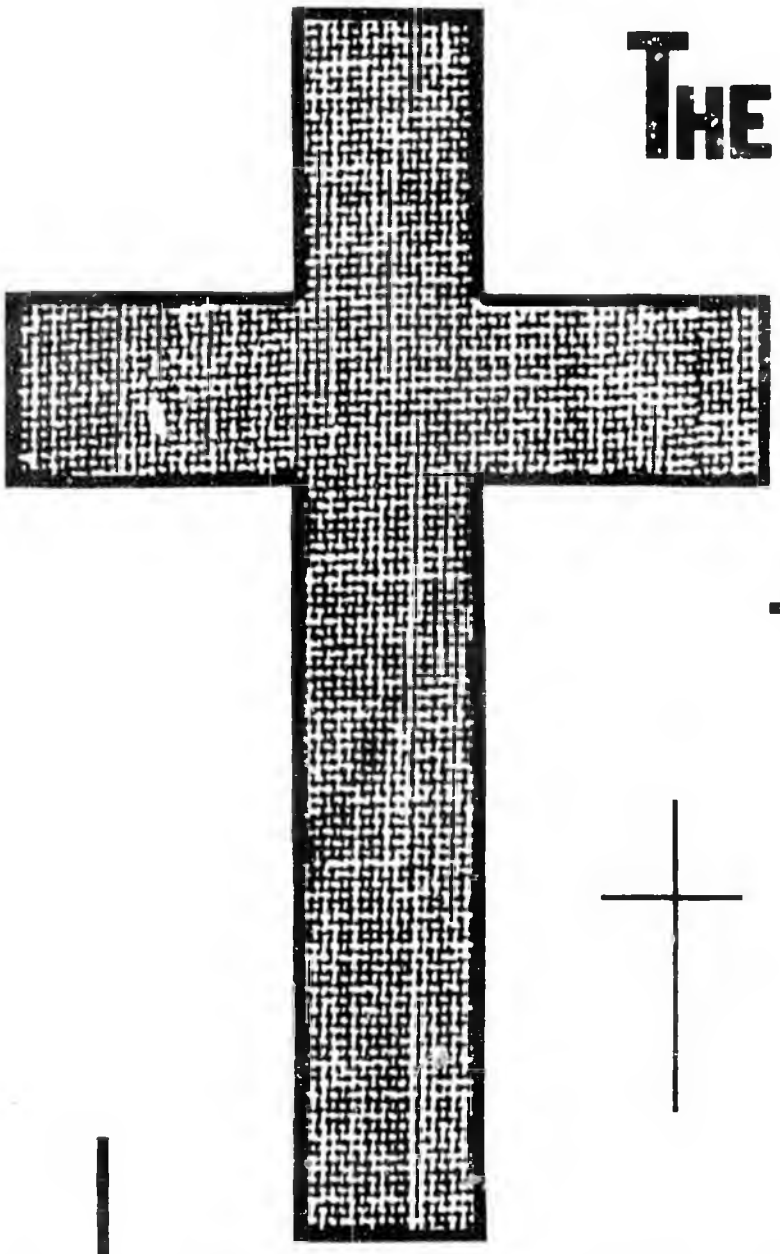
"The work is expected to make a major contribution toward revitalizing parish life, which remains for millions of Catholics the first and foremost vehicle of their involvement with the Church," he added.

Although the project involves study and reflection, he said, "it would be erroneous to call it a 'study' because at every stage we hope to share the fruits of effective parish experience with others, to work with the priests, deacons, religious and laity who are developing parish life, and to cooperate with agencies designed to assist parish life.

"The project will be one of service, not simply at its conclu-

Continued on page 6

The Crosses We To



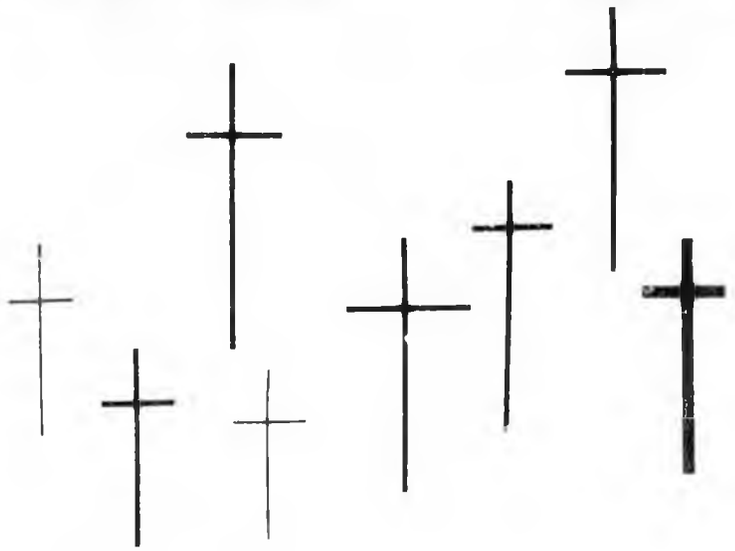
We children can be mean, especially to other children and animals. Maybe we are more respectful to adults because we're a little afraid of them. But who's afraid of a crippled child or a "shrimp" or a kitten?

Whenever we're mean to someone else—one of God's special friends, because we are all his special friends—we give that person a cross to carry.

If the cross is too heavy, it can knock him down, and make him fall.

Lord, help me to help other people with their crosses, not make them worse.

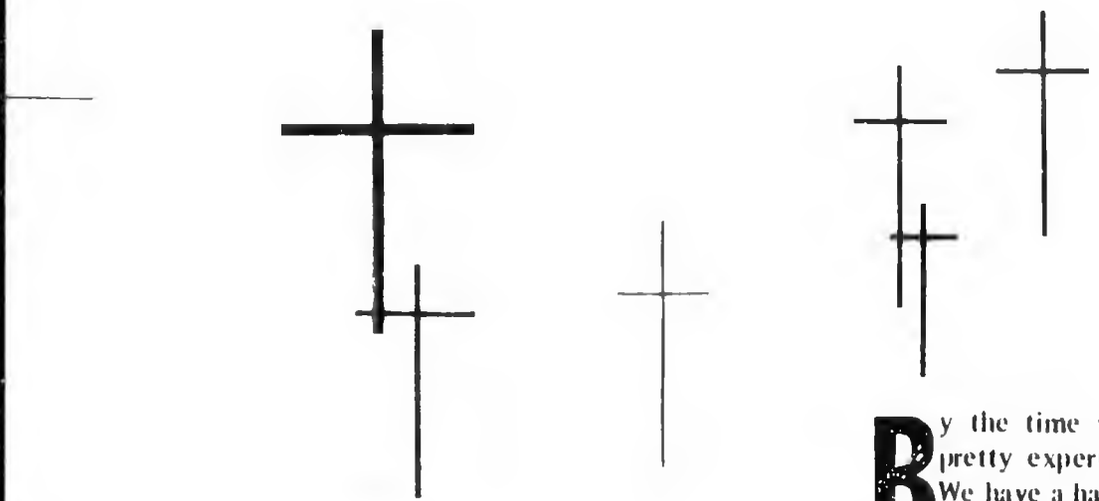
GIVE EACH OTHER



"Take up your cross and follow me," we are told. And under the pressure of that admonition, we—sometimes grudgingly—accept the trials that come our way.

But where do those trials, those crosses, come from? And more importantly, how many crosses are we responsible for in the lives of others?

Whatever our age, we are capable of bearing—and of giving—crosses. The former is commendable. The latter is not.



We are bigger people, so our meanness can be bigger. Excluding the "creeps" from our crowd, taunting those who are too "chicken" to try alcohol or pot. Our life isn't easy, but we don't make it any easier for others, either.

We give crosses to others quite liberally—yet how quick we are to say "That's not fair" when someone unloads a cross on our own shoulders.

Lord, help me lift someone's cross and help him along the way.

By the time we get to be adults, we can be pretty expert at unloading crosses on others. We have a hard day, and take it out on spouse and kids. We disorder our priorities and unload responsibilities on others. We refuse to show the love we feel, causing hurt and loneliness.

Child abuse, wife abuse, husband abuse can take on various forms, physical, verbal or emotional. All leave scars and can cause partial or total death. And families have no monopoly on abuse; statistics on crime and violence indicate it is well distributed.

Lord, help me to an awareness of the crosses I give to those around me, so I can stop being so generous with them. Help me to reach out with a helping hand.

Extension Society to Present Mission Award

Chicago (NC) -- The Catholic Church Extension Society will present a new honor, the Lumen Christi Award, annually to those best representing the society's philosophy of aiding needy missions in the U.S. and its protectorates.

Cardinal John Cody of Chicago will present the award, according to Fr. Edward J. Slattery, acting president of the Chicago-based mission aid society.

"It is Extension's desire in developing this program to recognize each year those persons who give unselfishly of themselves in the home missions," Fr. Slattery said. "At the same time, we hope to recognize members of the society, who through their generosity enable Extension to continue support of the home missions," he continued.

"The award has been entitled Lumen Christi because we truly believe those persons selected are the Light of Christ, spreading his good news in the home mission lands either through personal service or by support of organizations such as Extension," said Arthur L. Conrad, chairman of the selection committee and a member of the society's 12-member board of governors.

Founded in 1905, the society has distributed more than $61 million in aid to the home missions.

Anglican Head Asks Intercommunion With Catholics

London (NC) — Anglican Archbishop Donald Coggan of Canterbury has once again appealed for a measure of officially sanctioned intercommunion between Anglicans and Roman Catholics.

Preaching in (Catholic) Westminster Cathedral, the symbolic leader of world Anglicanism suggested that the reason for the "pathetically feeble" impact of Christians on the world is that they are divided at the deepest point of unity, the sacrament of Christ's body and blood.

"Is this God's judgment on us for failing to grasp this nettle?" he asked. "We recognize our unity in Baptism, we persist in disunity at the Eucharist. So we go to our mission weak where we should be strong and invigorated by joint participation in the supper of the Lord."

The archbishop said he regretted the slow pace of joint evangelistic work involving Anglicans and Catholics, and he stressed that this is not something to be left to the hierarchies on each side.

"The whole People of God," he said, "in their own communities and areas, must together take counsel and act, in being torch-bearers of the light."

Archbishop Coggan said he had told his host, Cardinal George Basil Hume of Westminster, what he was going to say, and the cardinal had said he was happy he should say it even though the cardinal was unable to agree with him because of theological differences. This was a point Cardinal Hume also referred to when he expressed his "personal joy" at the archbishop's visit in a brief welcoming address.

It was the second occasion an archbishop of Canterbury has preached in Westminster Cathedral. Ten years ago, in January, 1968, Archbishop Michael Ramsey, Archbishop Coggan's predecessor, gave a sermon during the Week of Prayer for Christian Unity.

Archbishop Coggan's first appeal for Anglican-Catholic intercommunion came during a visit to Pope Paul VI last April.

Natural Family Planning Seminar to be Held in June

Collegeville, Minn. (SJU) — The first accredited seminar on natural family planning ever offered for doctors and midwives will be sponsored June 23-25 by the Human Life Center of St. John's University and the University of Minnesota Medical School Obstetrics-Gynecology Department.

An international faculty will conduct the seminar which is expected to draw more than 100 participants to Minneapolis. Credits for participants will be granted by the American Medical Association.

The Rev. Paul Marx, OSB, director of the Human Life Center, says, "The now well known medical hazards of the intrauterine device and the pill are causing responsible couples to make increasing demands for information on methods of natural birth control. Because doctors were never exposed to natural family planning in medical school, the seminar will help prepare them to meet an imperative need."

For additional information, contact Fr. Marx at the Human Life Center, Collegeville, MN 56321.

ABBEY RECOVERY—

ing an investigation "concerning possible violations of federal criminal statutes by persons associated or formerly associated with Mt. Angel Abbey." In a letter to James Fournier, attorney for Mt. Angel Abbey, U.S. Attorney Sidney I. Lezak asked that "books and records" of the abbey be made available for review by his office.

"We will cooperate fully with the U.S. Attorney's office," Abbot Galvin said.

On the recommendations of their accountants, officials at the abbey have "segregated financial and accounting responsibilities among several individuals," Abbot Galvin said. "All expenditures are approved and checks are signed by authorized members of the Chapter. We have installed a new accounting system and the records will be audited."

TAX CREDIT—

education is [also] a fundamental liberty."

"It is utterly dishonest, in the face of the economic strain which so many parents of nonpublic school children now face, to say that they are perfectly 'free' to 'exercise their preference' for private education," Ball said. "They are not, and a constitutional argument in favor of the tax credit concept is that it helps them to have that freedom."

Ball also said the concept "presents no danger whatever of violation of our principle of church-state separation." Citing Supreme Court decisions in related areas, he said, "It is clear that the tax credit program here presented would be 'general' benefit legislation and that it does not contain the special features of channeling benefits to any single group or to any group consisting predominantly of individuals of a particular religion."

Taking an opposing view was Americans United for Separation of Church and State, a group which opposes state aid to nonpublic schools. "This bill could so entangle religion and politics that two centuries of progress in our country with regard to religious liberty and church-state separation could be obliterated," it said.

DEATH WITH DIGNITY

Society for the Right to Die, the legislative activity on behalf of her cause may or may not be intensifying, but the quality of the drive is up.

Shortly after the South Carolina setback, the House in neighboring Georgia passed a right to die bill and sent it to the state senate.

The Society for the Right to Die is not directly concerned with definition of death laws, Mehling said, but according to its tally, 18 states now have such measures on the books. Such laws usually define death as having occurred when there is no brain wave activity (flat EEG), and when spontaneous heartbeat and respiration have ceased. Someone requiring a heart-lung machine to effect circulation and respiration, and whose brainwaves have ceased to be measurable, could be taken off the machines by doctors without the threat of being sued by the patient's family.

Additional bills are now pending in nine states.

PARISH RENEWAL—

sion when findings are published but throughout its course," he added.

The Project for Parish Renewal will involve several phases—an initial exploration of the critical issues in parish life today, development of a handbook on parish life containing specific and practical aids for planning and development of the various areas of parish ministry, visits to parishes and publication of case studies, development of a parish reporting form, leadership development, and consultation with professional groups that have some involvement with elements of parish life.

The project had its origins in the November, 1975, bishops' meeting when Bishop Albert H. Ottenweller of Steubenville, Ohio, spoke about the special need for assistance that persons in parish ministry were experiencing. Since then the matter has been under study by the NCCB Administrative Committee, the NCCB Committee on Pastoral Research and Practices, and a task force.

Film Profits and Problems

New York (NC) — The motion picture box-office hit a record $2.3 billion in 1977, Jack Valenti, president of the Motion Picture Association of America, described 1977 returns as "the most spacious in the history of the U.S. film industry."

The big news was, of course, the incredible success of "Star Wars," which took in $127 million domestically. Though "Star Wars" outdistanced the field, all of 1977's top ten films earned more than $20 million, headed by "Rocky" with $54 million and "Smokey and the Bandit" with nearly $40 million.

In all, 27 films earned $10 million or more in rentals and 32 films reached $8 million or more. According to Valenti, "this is the largest group of high grossing films in any one year since accurage statistics became available."

The word "rental" describes the revenue realized by producers and distributors. The year 1977 appears to have been an extraordinary one for them. But what about theater owners or exhibitors who provide the rental income? The average exhibitor is not quite so enthusiastic. His share of box office receipts continues to decline as distributors demand ever higher rentals. Moreover, contrary to the statistics just cited, many exhibitors complain that there are not enough quality films available to sustain a profitabe 52-weeks-a-year theater operation. For many exhibitors, survival is a very real question.

The USCC Department of Communication's Office for Film and Broadcasting has selected the following as the ten best films of 1977, in alphabetical order:

Black and White in Color—Allied Artists (PG)

A Bridge Too Far—United Artists (PG)

Cria!—Jacon Allen (PG)

Harlan County, U.S.A.—Cinema 5 (PG)

Iphigenia—Cinema 5

Jacob the Liar—Macmillan

The Lacemaker—Cinema 5

Star Wars—Fox (G)

We All Loved Each Other So Much—Cinema 5 (PG)

A Woman's Decision—Tinc Productions.

Prayer Can Reduce World Tensions, Says President

Washington (NC) — President Jimmy Carter told more than 3,000 people at the National Prayer Breakfast that it is not "being overly optimistic" to believe that prayer and a sense of a shared faith can help reduce world tensions.

He made his point in part by referring to the religious ties that bind Israel, the Arab countries in the Middle East and the U.S.

Referring to Isreali President Menachem Begin, Carter said, "I like him, I admire him and I respect him because in our conversations and our quiet, lonely, private times together there is the fervor of a deeply committed religious man who worships the same God that I do and that you do."

Referring to Egyptian President Anwar Sadat, Carter said that when they talk, Sadat never fails to point out that "Egyptians and Jews are both sons of Abraham who worship the same God and share a common belief and a common faith."

Speaking of his own faith, Carter said, "To me, God is real.

"To me, the relationship with God is a very personal thing. God is ever present in my life. He sustains me when I'm weak, gives me guidance when I turn to Him."

Christ, he said, is the "perfect example for me to emulate in my experiences with other human beings."

Carter said he prays with his wife each night and "I turn to God in a quiet and personal way" often during the day.

Carter, who has described himself as a "born-again" Christian, said there has been a great deal of public discussion about what it means to be "born again."

"For those of us who share the Christian faith," he said, "the words have a very simple meaning . . . Through a personal experience, we recommit our

Continued on page 8

New Testament Translation a Sell-Out

Cochin, India (NC) — A new translation of the New Testament into modern Malayalam, the regional language of Kerala, was a sell-out even before all 100,000 copies of its first pringing were off the presses.

To meet excess orders of about 75,000 already pending, a second edition is in progress.

The translation, sponsored by the Kerala Catholic Bishops' Conference and prepared by the Pastoral Oreintation Center here, was released in mid-December.

The Catholic Church in Kerala and the Bible Society of India have also announced a joint venture to produce an interconfessional translation of the Old Testament into modern Malayalam in the next three to five years.

Kerala is the most Christianized region of India. Its population includes about 4 million Christians, 3 million of them Catholic. Catholics in Kerala account for 40% of the Catholic population of all India.

Pope Calls Christians to Austerity

Vatican City (NC) — Pope Paul VI told Catholics at his general audience that "only austerity can make Christian life strong and authentic."

The Pope urged Catholics to make Lent a time of "psychological and moral renewal."

"For Christians already baptized," said the Pope, "Lent will not be only a simple remembrance of the first great purifying and generating sacrament, but it will be a psychological and moral renewal, brought about through Baptism itself."

The Pope said that while the Church has dropped many past Lenten rules, serious Catholics must adopt a "personal austerity" of life during Lent and also "listen to the divine word in an attentive and regular fashion."

"Concerning the fast and abstinence obligation, does nothing remain of the past tradition, so binding, so severe and almost so ritualized?" asked the Pontiff.

Continued on page 8

A Living Valentine

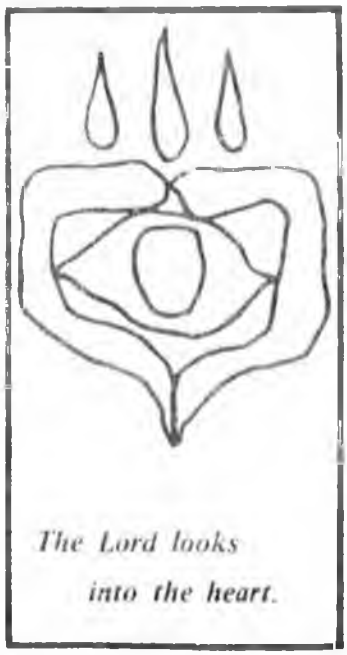
Washington (NC) — As a priest, Fr. Frank Ponce is priceless, but as a singing Valentine he's worth $181.60.

That's the amount he collected for serenading the staff at the U.S. Catholic Conference here on Valentine's Day. Fr. Ponce is a research assistant for the bishops' Spanish-speaking secretariat.

With guitar in hand, the priest sang in English, Spanish and French for 17 departments and individuals who made a donation to neighborhood shelters for the homeless.

Among others, the singing Valentines went to daughters, mothers, wives, husbands, freinds, and in one case, a Catholic newspaper editor in Denver.

Receiving the proceeds from the venture were church-run night shelters near the USCC building in downtown Washington. The shelters are open seven nights a week and provide supper and breakfast for people who stay there, in addition to a place to sleep.



SAMUEL LOOKED AT ELIAB and saw a man of lofty stature, surely the one chosen by the Lord. The Pharisees saw the works of Jesus and saw the works of a sinner. Our judgments are not to be trusted, and for this reason, we leave judgment to God. We see only the appearance, it is God who sees to the heart. (Readings for March 5, Fourth Sunday of Lent: I Sm. 16:1, 6-7, 10-13; Eph. 5:8-14; Jn. 9:1-41)

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NEWS

inside the Inside Passage

BOLIVIA–

mise for freedom of thought," they said.

They warned Catholics, however, against political parties upholding "programs or ideologies contrary to the faith and hostile to religion."

They added that Catholics must not vote for parties that in any way "suppress the fundamental rights of the human person."

Although some 30 political groups have voiced interest in the elections, no opposition group has actually launched an electoral campaign. The only active candidate is a former Banzer aide, Gen. Juan Pereda, who held the ministry of interior in the military junta.

Some opposition leaders contend that 14 years of military rule have weakened the parties and their appeal to the people.

ACTIVISTS–

blood "be a sign leading us to repentance."

Twenty persons from various nonviolent communities in Washington and Baltimore participated in the protest.

The latest Pentagon incident came shortly after several persons, including an Oblate priest from St. Paul, Minn., had been sentenced for earlier protests at the government's military headquarters.

Oblate Fr. Carl Kabat was sentenced to six months in jail by Magistrate Harris Grimsley for pouring blood on the river entrances to the Pentagon during demonstrations there Dec. 28, the Feast of the Holy Innocents.

The priest had earlier received a six-month sentence, all but ten days of which was suspended, for an incident at the Pentagon during Holy Week, 1977, and had been put on probation. U.S. District Judge Orin Lewis revoked the probation after Fr. Kabat's most recent arrest, however, and ordered him to serve the remianing five months and ten days sentence for the Holy Week protest. The sentences are to be served consecutively.

Fr. Kabat is in the Alexandria City Jail pending an appeal of his sentence, said Schuchardt who called the sentence "arbitrary and discriminatory." He claimed the judge is "seeking to make an example of one person."

Fr. Kabat was in Juneau's Cathedral Parish for several weeks in 1973, replacing Fr. Robert Mihelyi while he was on his vacation.

AUSTERITY–

"What remains for strong and faithful souls," he said, "is personal austerity in what we eat, in our free time and in our work, and charity for our neighbor, for the suffering, for those needing help, for those waiting for our aid and pardon --all of this remains, along with the obligation to abstain from meat on Fridays in Lent.

"Only austerity makes Christian life strong and authentic," concluded the Pope. "May austerity, which goes against today's fashionable softness, be the sincere, strength-giving and unostentatious means we choose for carrying out Christian penance."

In a sermon later in the day, the Pope called sin a "radical failure of man, and a rebellion against God."

"The denial of God and the loss of the living sense of His presence have led many to give sin a sociological, psychological, existential or evolutionary interpretation," said the Pope. "This empties sin of its tragic seriousness."

Quoting St. Augustine, the Pope said that if we want our prayer to "fly to God, give it two wings: fasting and almsgiving."

SILENCED JESUIT–

permission to publish, be removed from future editions of Fr. McNeill's *The Church and the Homosexual*, published in 1976.

A self-described "celibate homosexual," Fr. McNeill urged the Church to accept homosexual activity as morally good when it is based on authentic commitment of mutual love and respect.

While saying they did not agree with all of Fr. McNeill's views, the Protestant theologians said he and others were providing "fresh insight" o.. an important facet of human sexuality.

"We believe that the exclusion of this qualified and prudent scholar from public discussion of a question about which he is knowledgeable, on the apparent ground that his tentative conclusions are unwelcome, places a most serious obstacle to the pursuit of truth," they said.

"This way of proceeding bespeaks an anti-intellectual spirit at odds with the freedom of inquiry which so largely characterized the procedures of the Second Vatican Council."

BISHOPS' AGENDA–

for Family Ministry" during its three-day meeting.

The pastoral plan is a response to a USCC Ad Hoc Commission on Marriage and Family Life report, finished last June after two and a half years in preparation. During their May meeting, the bishops are expected to consider the proposed plan. The ad hoc commission and the study came about on recommendations from the advisory council.

The advisory council, which consists of eight bishops, seven priests, seven religious and 38 laypersons, invited Fr. Donald Conroy, USCC family life representative, to present the family ministry proposal. The group also asked Dolores R. Leckey, director of the NCCB Laity Secretariat, to report on her office's activities.

The council made other recommendations to the Administrative Committee and Administrative Board, among them:

—That the council be given an opportunity to review those sections of the new Code of Canon Law that concern the laity's role and shared responsibility.

—That the bishops' conference continue to study the rights of women and Indians, prison ministry and land ownership.

—That the bishops compose a pastoral letter on racism.

The council also decided that at future meetings it would study evangelization, non-ordained ministerial roles, and ministry among the alienated and neglected in the Church.

PRAYER–

lives as humble children of God."

Carter said America's founding fathers wrote the separation of church and state into the constitution, because they had seen kings and other leaders try to "cloak" wrongdoing in the guise of the church.

But that separation does not mean that Americans are not called upon to pray, he said. He said the Constitution and the Declaration of Independence were written by believers.