HB
500
2/2

COMMITTEE REPORT

HOUSE

(5)

FURTHER: JUDICIARY
FINANCE

2/15/82

Date: _____

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had SSHB 500

"An Act limiting the use of state money to pay for abortions; annulling sections of the Alaska Administrative Code relating to abortions; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Martin - Do pass for sfc

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bettye Fate - do not pass
Carlton Smith - Do Not Pass
H Malone - Do Not Pass

CHAIRMAN

H 60 (Rev. 12/78)

Testimony Regarding HB 500 and HB 550

Health, Education, & Social Service Committee

Dear Committee Members

My name is Janet Mangan and I have been a resident of Alaska for about two years. I consider myself a religious person, I am a registered voter, and a home owner. I plan to stay in Alaska and am concerned about state laws.

HB 500

I strongly object to limitation of funds for abortions for low income people. With 9 years experience in the medical field I have seen many women of various economic groups in great distress over unwanted pregnancy. I have also seen the children of some of these women. Although perfect birth control throughout society would be ideal, it is unrealistic. Humans make mistakes. An unwanted child can be a huge burden to a low income person. That additional burden can, as I am sure you know, lead to child abuse, maladjusted personalities, substandard nutured conditions, and continued burdens to society.

HB 550

I totally object to the inclusion of the word "fetus" in the murder statute as well as the vague exemption clause at the end of this bill. This bill is loose and could be interpreted to acuse a woman who has an abortion of murder. Let us deal with the abortion issue head on. This appears to be a "back alley" way of dealing with the abortion issue.

Thank you for your time and consideration.

Sincerely

Janet Mangan

Janet Mangan
1512 Kepner Drive
Anchorage, Ak 99504

PLEASE NOTE

THE ORGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

Newspaper
"Anchorage Times
10/11/81

ALASKA

STATE LEGISLATURE

MEMORANDUM

DATE: September 4, 1981

TO: Rep. Mike Beirne, Chairman, HESS
Rep. Ramona Barnes, Chairman, Judiciary

FROM: Joe H. Hayes, Speaker

SUBJ: Change of bill referrals.

In order to expedite public hearings and that they may be held in Anchorage during the Legislative interim, I am reversing the order of referrals on [redacted] HB 550. Those bills will now go first to the Committee on Health and Social Services and second to the Committee on the Judiciary.

Norma G. Barry, of Los Angeles, California, filed a brief for the American Association of University Women et al. as amici curiae; the California Committee to Legalize Abortion et al. as amici curiae; Robert E. Dunne, of Los Angeles, California, filed a brief for Robert L. Sassone as amicus curiae.

ANNOTATION

VALIDITY, UNDER FEDERAL CONSTITUTION, OF ABORTION LAWS

by

Sheldon R. Shapiro, J.D

TOTAL CLIENT-SERVICE LIBRARY® REFERENCES

1 AM JUR 2d, Abortion § 1.5

1 AM JUR OF PROOF OF FACTS 15, Abortion and Miscarriage

US L ED DIGEST, Abortion § 1; Constitutional Law § 526; Statutes § 18

ALR DIGESTS, Abortion §§ 1-3; Constitutional Law §§ 445, 452, 525; Statutes § 29

L ED INDEX TO ANNO, Abortion

ALR QUICK INDEX, Abortion

FEDERAL QUICK INDEX, Abortion

Reported p 147, supra

INDEX

TABLE OF COURTS AND CIRCUITS

Consult POCKET PART in this volume for later case service

I. Preliminary matters

§ 1. Introduction

[a] Scope

This annotation[1] collects and analyzes the federal and state cases determining[2] whether, as a matter of federal constitutional law,[3] abortion[4] laws[5] are valid.

[b] Related matters

Indefiniteness of language as affecting validity of criminal legislation or judicial definition of common-law crime—Supreme Court cases. 96 L Ed 374, 16 L Ed 2d 1231.

Homicide based on killing of unborn child. 40 ALR3d 444.

Right of action for injury to or death of woman who consented to illegal abortion. 36 ALR3d 630.

Woman upon whom abortion is committed or attempted as accomplice for purposes of rule requiring corroboration of accomplice testimony. 34 ALR 3d 858.

Action for death of unborn child. 15 ALR3d 992.

Entrapment to commit or attempt abortion. 53 ALR2d 1156.

Pregnancy as element of abortion or homicide based thereon. 46 ALR 2d 1393.

Necessity, to warrant conviction of abortion, that fetus be living at time of commission of acts. 15 ALR2d 949.

Admissibility, in prosecution based on abortion, of evidence of commission of similar crimes by accused. 15 ALR2d 1080.

---

1. The annotation at 28 L Ed 2d 1059 is hereby superseded.

2. Dealing solely with cases which purport to determine federal constitutional issues as to the validity of abortion laws, the annotation does not discuss cases which merely present such issues without determining them.

3. For purposes of this annotation, if a particular issue involving the constitutionality of an abortion law is the type of issue which could arise either under the Federal Constitution or under a state constitution, and if the court, in discussing its decision of such issue, does not specify whether the decision is based upon the Federal Constitution or upon a state constitution, it is assumed, in the absence of any indication by the court to the contrary, that the decision

4. This annotation is concerned solely with laws expressly referring to "abortion" or "miscarriage," the two terms having been treated by the courts as synonymous. This annotation is not, however, concerned with laws dealing generally with contraception or birth control, without dealing specifically with abortion; moreover, even if a contraception or birth control law consists in part of a reference to abortion, but if a court determines the constitutionality of the law only insofar as it relates to contraception or birth control, without discussing that part of the law referring to abortion, such a case is not included herein.

5. For present purposes, the term "laws" includes municipal ordinances as well as state and federal statutes

George, The Evolving Law of Abortion. 23 Case Western Reserve L Rev 708.

Byrn, An American Tragedy: The Supreme Court on Abortion. 41 Fordham L Rev 807.

Comment, Abortion on Demand in a Post-Wade Context: Must the State Pay the Bills? 41 Fordham L Rev 921.

Knecht, A Survey of the Present Statutory and Case Law on Abortion: The Contradictions and the Problems. 1972 U Ill L Forum 177.

Lucas, Federal Constitutional Limitations on the Enforcement and Administration of State Abortion Statutes. 46 NC L Rev 730.

Welborn, Abortion Laws: A Constitutional Right to Abortion. 49 NC L Rev 487.

Ely, The Wages of Crying Wolf: A Comment on Roe v. Wade. 82 Yale LJ 920.

§ 2. Summary and comment

[a] Generally

On the basis of decisions by the United States Supreme Court, which decisions have been followed by numerous other courts, it has recently become established—despite several earlier decisions to the contrary—that where a law prohibits the performance of an abortion except upon restricted grounds, such as to preserve the life or health of the pregnant woman, the federal constitutional right to privacy is violated, at least insofar as the law is applied to an abortion performed during the early stages of pregnancy. More specifically, the Supreme Court, in the leading case of Roe v Wade (1973) 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409, has held that since a law regulating or prohibiting the performance of abortions limits a woman's fundamental constitutional right to privacy, such a law can be justified only by a compelling state interest: that during the stage of pregnancy prior to approximately the end of the first trimester, a physician's decision, in consultation with his patient, that the pregnancy should be terminated by means of an abortion, can be effectuated without any interference by the state, since there is no compelling state interest in interfering with the effectuation of such a decision; that during the stage subsequent to approximately the end of the first trimester, the state, in promoting its interest in the health of the mother, can regulate the abortion procedure in ways reasonably related to maternal health; and that during the stage after which the fetus has become viable, the state, in promoting its interest in protecting fetal life after viability, can proscribe abortions unless necessary to preserve the mother's life or health. The Supreme Court has based its conclusions upholding the right to privacy upon the Fourteenth Amendment provision that no state shall deprive any person of liberty without due process of law, while some other courts have based similar conclusions upon the Ninth Amendment provision that the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people. In conjunction with a woman's constitutional right to privacy, the courts sometimes have also referred either to a physician's right to practice his profession or to the view that an abortion law is unconstitutional on the ground of overbreadth where an intrusion into constitutionally protected areas is too sweeping to be justified by any compelling state interest. (See § 3[a], infra.)

Although in light of such decisions as Roe v Wade, supra, a woman's constitutional right to privacy appears to have become the major basis for federal constitutional challenges to the validity of laws prohibiting abortions except upon restricted grounds (see § 3[a], infra), several additional federal constitutional rights have been asserted in an effort to invalidate such abortion laws (see § 3[b-l], infra). While it has become established that the federal constitutional right to privacy precludes a state from restricting the grounds for an abortion in the situation of an abortion performed by a physician during the early stages of pregnancy (see § 3[a], infra), there are various other situations in which

issues are likely to continue to arise as to the validity, under the Federal Constitution, of laws prohibiting abortions except upon restricted grounds, and the judicial decisions involving federal constitutional issues other than the right to privacy (see § 3 [b–l], infra) are thus likely to continue to be of some precedential value as applied to such other situations.

Laws prohibiting abortions except upon restricted grounds have been challenged in several cases on the basis that their language was so vague as to violate due process, and the courts have reached varying results in deciding this issue (see § 3[b, c], infra). On one hand, the United States Supreme Court has rejected the contention that the language of an abortion law was unconstitutionally vague (1) where a District of Columbia Code provision prohibited abortions unless "necessary for the preservation of the mother's life or health" (United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, infra § 3[c]), and (2) where a Georgia statute prohibited a physician from performing an abortion unless the abortion is "based upon his best clinical judgment that an abortion is necessary" (Doe v Bolton (1973) 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410, infra § 3 [c]). Similarly, other courts have rejected contentions that the language of an abortion law was unconstitutionally vague where such contentions were directed against (1) state legislation—in Arizona, Connecticut, Indiana, Iowa, Kentucky, Louisiana, Michigan, Missouri, Ohio, South Dakota, Vermont, and Wisconsin—containing provisions to the effect that an abortion upon a woman was prohibited unless "necessary to preserve her life," (2) the use of the term "unlawfully" in a Massachusetts abortion statute, and (3) the use of the terms "foeticide," "foetus," and "embryo" in a Nebraska statute (see § 3[c], infra). On the other hand, the contention that the language of an abortion law was unconstitutionally vague has been upheld by the courts (1) where an Illinois statute prohibited abortions unless "necessary for the preservation of the woman's life," and (2) where a Pennsylvania statute used the term "unlawfully" (see § 3[b], infra). Although it had previously been held that a California abortion statute containing the language "procure the miscarriage of a woman" was not unconstitutionally vague (see § 3[c], infra), it was subsequently held that California abortion laws were unconstitutionally vague where the statutory language was to the effect that an abortion upon a woman was prohibited unless "necessary to preserve her life" (see § 3[b], infra) or unless there was "substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother" (see § 3[b], infra). Similarly, although it had previously been held that a Florida abortion statute containing the word "unlawfully" was not unconstitutionally vague (see § 3 [c], infra), it was subsequently held that the words "necessary to preserve the life of such mother" rendered Florida's abortion statute unconstitutionally vague (see § 3[b], infra). Both in New Jersey, where an abortion statute contained the words "without lawful justification," and in Texas, where an abortion statute contained the words "for the purpose of saving the life of the mother," the Federal District Court concluded that the language of the abortion law was unconstitutionally vague (see § 3[b], infra), but the state courts, holding to the contrary, concluded that such language was not unconstitutionally vague (see § 3[c], infra).

Where a state statute has expressly provided that an abortion upon a woman is prohibited unless "necessary to preserve the life of such woman," and that "it shall not be necessary for the prosecution to prove that no such necessity existed," it has been held that the statute, by shifting to the accused the burden of proving the necessity of an abortion, violated the presumption of innocence to which the accused was constitutionally entitled; however, where a statute has not expressly shifted the burden of proof, but has provided that the par-

ed except if certain restricted grounds for an abortion existed, it has been held (1) that the intent of the statute was not to require the accused to prove that his conduct fell within the statutory exception, but to require the prosecution to prove that the accused's conduct did not fall within the statutory exception, and (2) that the statute, as so construed, did not involve any violation of the constitutional presumption of innocence (see § 3[d], infra).

The contention has often been made that where a state statute prohibits abortions except upon restricted grounds, such a statute violates the equal protection clause of the Fourteenth Amendment, especially with regard to the circumstance that a wealthy woman is able to obtain a legal abortion by traveling to a different state, in which the abortion laws are less restrictive, whereas a poor woman cannot afford this; however, the courts have consistently rejected the contention that laws restricting the grounds for an abortion violate the equal protection clause (see § 3[e], infra). Also, the courts have rejected contentions that legislation prohibiting abortions except upon restricted grounds violated (1) the First Amendment provisions guaranteeing free exercise of religion and proscribing laws respecting an establishment of religion (see § 3[f], infra), or (2) the Eighth Amendment's proscription against the infliction of cruel and unusual punishment (see § 3[g], infra). However, the courts have reached conflicting results as to whether legislation prohibiting an abortion upon a woman unless "necessary to preserve her life" involves such a grant of decision-making power to a physician as to be an unconstitutional delegation of authority, in violation of the due process clause of the Fourteenth Amendment (see § 3[h], infra).

Besides passing upon the constitutionality of abortion law provisions restricting the grounds for an abortion (see § 3, infra), the courts have determined the constitutionality of various other types of abortion law provisions (see §§ 4-9, infra).

On the basis of either the privileges and immunities clause or the constitutional right of interstate travel, it has been held that state legislation precluding nonresidents from obtaining abortions violated the Federal Constitution (see § 4, infra). Also, it has been held violative of the Federal Constitution for an abortion law to require that when a physician makes a decision to perform an abortion, such a decision must be approved by a hospital committee or by other physicians (see § 6, infra). Moreover, while it has been held that the Federal Constitution does not foreclose all legislation regulating requirements as to hospitals or other facilities in which abortions are to be performed (see § 7[a], infra), it has generally been held that the Federal Constitution is violated where legislation provides that an abortion can be performed only in an accredited hospital (see § 7[b], infra).

However, it has been held not violative of the Federal Constitution for the law to require that the person performing an abortion must be a licensed physician (see § 5, infra). Moreover, it has been held that where abortion legislation is liberalized so as to remove prior restrictions upon the grounds for an abortion, such liberalized legislation cannot successfully be challenged as violating the Federal Constitution by depriving unborn children of the right to life (see § 9, infra).

In determining whether laws prohibiting advertisements concerning abortion violate the First Amendment guaranties of free speech and press, the courts have reached differing results, apparently based partly on differences in circumstances and partly on differences in judicial attitude (see § 8, infra).

[b] Practice pointers

When an attorney is representing a client who seeks to challenge the constitutionality of an abortion law, the attorney must often be prepared to establish that the client meets certain threshold requirements which have to

sider the merits of any constitutional issues. Such threshold requirements have frequently been stated in terms of "standing" or "justiciable controversy."

Where the client is a woman who seeks to invalidate an abortion law because it might prevent her from obtaining a desired abortion, the attorney may be able to readily satisfy these threshold requirements if he can show that the client is pregnant, and even if the pregnancy terminates pending the litigation, this will not make the case moot (see, for example, Roe v Wade (1973) 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409; Doe v Bolton (1973) 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410). If, however, the woman is not and has never been pregnant, but alleges that she might become pregnant because of possible failure of contraceptive measures and that at such time she might want an abortion which might then be contrary to the law, the attorney faces a substantial risk that the allegation of such an indirect, future injury will be held not sufficient to present a justiciable controversy (see, for example, Roe v Wade (1973) 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409).

Where the client is a licensed physician who seeks to invalidate an abortion law because he wishes to assure that he will not be punished for performing abortions prohibited by the law, the attorney may find it advisable to contend that even if the physician has not yet been prosecuted or threatened with prosecution, he nevertheless has standing and presents a justiciable controversy, since he is asserting a sufficiently direct threat of personal detriment and should not be required to await and undergo a criminal prosecution as the sole means of seeking relief (see, for example, Doe v Bolton (1973) 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410). If, however, a prosecution against the physician for violating the abortion law is likely to be met with a ruling that the physician cannot challenge the abortion law in the federal court unless there is an allegation of either (1) a substantial and immediate threat to a federally protected right which cannot be asserted in the physician's defense against the state prosecution, or (2) harassment or bad-faith prosecution (see, for example, Roe v Wade (1973) 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409). In order to prevent a federal court from declining jurisdiction on the ground of a pending state prosecution against the physician, the physician's attorney may find it worthwhile, even after the physician has been threatened with prosecution, to attempt to reach an agreement with the state prosecutor that no state prosecution for violation of the abortion law will be initiated against the physician until after federal litigation challenging the constitutionality of the abortion law has been concluded (see, for example, Mitchell Family Planning, Inc. v Royal Oak (1972, DC Mich) 335 F Supp 738).

Where the client is a layman rather than a licensed physician, but nevertheless seeks to invalidate an abortion law because he wishes to assure that he will not be punished for performing abortions prohibited by the law, the attorney faces a substantial risk that it will be held that even if the law would be unconstitutional as applied to abortions performed by licensed physicians, the law is not unconstitutional as applied to abortions performed by laymen, and a layman has no standing to challenge the constitutionality of the law (see, for example, Cheaney v Indiana (1973) 410 US 991, 36 L Ed 2d 189, 93 S Ct 1516; May v State (1973, Ark) 492 SW2d 888; Commonwealth v Brunelle (1972, Mass) 277 NE2d 826, all infra § 5; but see the dissenting opinion in May v State (1973, Ark) 492 SW2d 888, maintaining that a statute limiting the grounds for abortion must fall as a

man, had standing to challenge the constitutionality of the statute, since the statute, as written, made no distinction between abortions performed by physicians and abortions performed by laymen).

Even if considerable authority supports the view that a particular provision of a state or municipal abortion law does not violate the Federal Constitution, an attorney whose client seeks to have such a provision invalidated may find it advisable to contend, in state court proceedings, that the provision violates the state constitution (see, for example, State v Barquet (1972, Fla) 262 So 2d 431).

Even if an attorney whose client is being prosecuted for violating an abortion statute is able to establish that the statute is unconstitutional, it may be advisable for the attorney to anticipate—and to be prepared to rebut—the suggestion that despite the unconstitutionality of the statute, the client is nevertheless subject to prosecution for the common-law offense of abortion (see, for example, State v Barquet (1972, Fla) 262 So 2d 431, wherein it was held that although a state abortion statute was unconstitutional, it was nevertheless possible, until valid new legislation was enacted by the legislature, to charge a person with the common-law offense of abortion, it being noted that under the common law, it was a crime to operate upon a pregnant woman for the purpose of procuring an abortion if she was actually quick with child).

II. Validity of particular abortion laws

§ 3. Prohibition of abortion except upon restricted grounds, such as to preserve life or health

[a] As violative of constitutional right to privacy

In the following cases, it has been held that where the performance of an abortion was prohibited, except upon restricted grounds, such as to preserve

woman, the federal constitution right to privacy was violated.

In Roe v Wade (1973) 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409, where the plaintiffs were seeking injunctive and declaratory relief against the enforcement of a Texas statute making it a crime to procure an abortion except for the purpose of saving the life of the mother, it was held that a constitutional right of privacy, founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, was broad enough to encompass a woman's decision whether to terminate her pregnancy, and that a state criminal abortion statute of the type involved in the present case, excepting from criminality only a lifesaving procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved, was violative of the due process clause of the Fourteenth Amendment. The court noted that although the right of privacy was broad enough to cover a decision as to abortion, such right was, however, not absolute and was subject to some limitations, and that at some point a state's interest in the protection of health, medical standards, and prenatal life, became dominant. Moreover, it was noted that the right to privacy was a fundamental right, and that regulation limiting such a right could be justified only by a compelling state interest. It was concluded that during the stage prior to approximately the end of the first trimester of a pregnancy, the abortion decision and its effectuation had to be left to the medical judgment of the pregnant woman's attending physician, and that during such stage, the attending physician, in consultation with his patient, was free to determine, without regulation by the state, that in his medical judgment the patient's pregnancy should be terminated, and it was also concluded that if such a decision was reached, the judgment could be effectuated by an abortion free of interference by the state. It was stated that with respect to a state's important

of the mother, the compelling point, in the light of present medical knowledge, was at approximately the end of the first trimester, and that this was so because of the now established medical fact that until the end of the first trimester, mortality in abortion was less than mortality in normal childbirth. The court concluded that during the stage subsequent to approximately the end of the first trimester, a state, in promoting its interest in the health of the mother, could, if it chose, regulate the abortion procedure in ways reasonably related to maternal health, and that examples of permissible state regulation in this area were requirements as to the qualifications of the person who was to perform the abortion; as to the licensing of such person; as to the facility in which the procedure was to be performed, that is, whether it had to be a hospital or could be a clinic or some other place of less-than-hospital status; as to the licensing of such a facility; and the like. In addition, it was stated that with respect to the state's important and legitimate interest in potential life, the compelling point was at viability, and that this was so because the fetus then presumably had the capability of meaningful life outside the mother's womb. In connection with the conclusion that the compelling point, with respect to potential life, was at viability, the court noted that the word "person," as used in the Fourteenth Amendment, did not include the unborn. It was pointed out, however, that state regulation protective of fetal life after viability had both logical and biological justifications, and that if the state was interested in protecting fetal life after viability, it could go so far as to proscribe abortions during such a period except when it was necessary to preserve the life or health of the mother. It was held that the challenged Texas legislation, by restricting legal abortions to those procured or attempted by medical advice for the purpose of saving the life of the mother, swept too broadly; that the statute made no distinction between abortions performed

formed later; that the statute limited to a single reason, saving the mother's life, the legal justification for the procedure; and that the statute therefore could not survive the constitutional attack made upon it in the present case.

The decision in Roe v Wade was adhered to in Doe v Bolton (1973) 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410, infra § 7[b].

To similar effect is Corkey v Edwards (1973) 410 US 950, 35 L Ed 2d 682, 93 S Ct 1411, vacating and remanding for further consideration—in light of Roe v Wade and Doe v Bolton, both supra—Corkey v Edwards (1971, DC NC) 322 F Supp 1248, wherein the District Court had held that there was a sufficient state interest to justify an invasion of a woman's right of privacy by means of criminal legislation prohibiting abortion unless (1) there was substantial risk that continuance of the pregnancy would threaten the life or gravely impair the health of the woman, or (2) there was substantial risk that the child would be born with grave physical or mental defect, or (3) the pregnancy resulted from rape or incest and the alleged rape was reported to a law-enforcement agency or court official within 7 days after the alleged rape.

Also to similar effect is Crossen v Atty. Gen. (1973) 410 US 950, 35 L Ed 2d 683, 93 S Ct 1413, vacating and remanding for further consideration—in light of Roe v Wade, supra—Crossen v Atty. Gen. of Kentucky (1972, DC Ky) 344 F Supp 587, wherein the District Court, holding that a state's compelling interest in potential human life was sufficient to justify legislation prohibiting abortion unless necessary to preserve a woman's life, had rejected the contention that a woman's Ninth Amendment right to privacy and her Fourteenth Amendment due process right to protect her health were violated.

Holding that the Ninth Amendment and the due process clause of the Fourteenth Amendment were violated by Connecticut legislation making it a crime to perform an abortion unless

or that of her unborn child, in Abele v Markle (1972, DC Conn) 342 F Supp 800, vacated on other grounds 410 US 951, 35 L Ed 2d 683, 93 S Ct 1412, reh den 411 US 940, 36 L Ed 2d 402, 93 S Ct 1888, the court concluded that by such legislation, the state trespassed unjustifiably on the personal privacy and liberty of its female citizens. Pointing out that the state's interests were insufficient to take from a woman the decision, after conception, whether she would bear a child, and that the woman, as the appropriate decision-maker, had to be free to choose, the court noted that the state interest in taking this decision from a woman was, because of changing societal conditions, far less substantial than it had been at the time of the passage of the legislation during the 19th century, and that such legislation restricted a woman's choice in instances in which the state interest was virtually nil. The court stated that the legislation forced a woman to carry to natural term a pregnancy which was the result of rape or incest, but that such acts as rape and incest were prohibited by the state at least in part to avoid the offspring of such unions, and that forcing a woman to carry and bear a child resulting from such criminal violations of privacy cruelly stigmatized her in the eyes of society; that the legislation required a woman to carry to natural term a fetus likely to be born a mental or physical cripple, but that the state had less interest in the birth of such a child than a woman had in terminating such a pregnancy; and that for the state to deny therapeutic abortion in such cases as these was an overreaching of the police power.

To similar effect is Abele v Markle (1972, DC Conn) 351 F Supp 224, vacated 410 US 951, 35 L Ed 2d 683, 93 S Ct 1412, 1417, reh den 411 US 940, 36 L Ed 2d 402, 93 S Ct 1891, wherein subsequently enacted Connecticut legislation making it a crime to perform an abortion unless "necessary to preserve the physical life of the mother," and stating that the public policy of the state and the intent of the legislature were to protect and preserve human life from the moment of conception, was also held unconstitutional. It was pointed out that the state interest in protecting the fetus was subject to widely varying personal views, and that since a state interest subject to such variety of viewpoint was asserted on behalf of a fetus which lacked constitutional rights, and since the assertion of such an interest would accomplish the virtually total abridgment of a constitutional right of special significance, such a state interest could not prevail over a woman's constitutionally protected right to privacy and personal choice in matters of sex and family life.[6]

In YWCA v Kugler (1972, DC NJ) 342 F Supp 1048, vacated without op (CA3 NJ) 475 F2d 1398, it was held that a woman had a constitutional right of privacy, cognizable under the Ninth and Fourteenth Amendments, to determine for herself whether to bear a child or to terminate a pregnancy in its early stages, free from unreasonable interference by the state; that the state showed no compelling interest which could sustain its legislation providing that any person who, maliciously or without lawful justification, with intent to cause or procure the miscarriage of a pregnant woman, administers or prescribes or advises or directs her to take or swallow any poison, drug, medicine, or noxious thing, or uses any instrument or means whatever, is guilty of a high misdemeanor; and that such legislation was therefore unconstitutional.[7]

In Roe v Wade (1970, DC Tex) 314 F Supp 1217, affd in part on other grounds and revd in part on other grounds 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409, it was held that state legislation prohibiting abortions except for the purpose of saving the life of the mother was unconstitutional because it deprived single women and married couples of their right, secured by the Ninth Amendment, to choose whether to have children, and that such legislation was unconstitutionally overbroad because it swept far beyond any areas of compelling state interest.

In Doe v Scott (1971, DC Ill) 321 F Supp 1385, vacated on other grounds Hanrahan v Doe, 410 US 950, 35 L Ed 2d 682, 93 S Ct 1410, it was held that a state statute prohibiting an abortion unless necessary for the preservation of a woman's life unconstitutionally infringed a woman's right to privacy insofar as it restricted or prohibited the performance of an abortion during the first trimester of pregnancy by a licensed physician in a licensed hospital or other licensed medical facility. The court stated that the practical effect of the statute was an intrusion on constitutionally protected areas too sweeping to be justified as necessary to accomplish any compelling state interests; that these protected areas were women's rights to life, to control over their own bodies, and to freedom and privacy in matters relating to sex and procreation; that the state did not have a compelling interest in preserving all fetal life which justified the gross intrusion on a woman's privacy which was involved in forcing her to bear an unwanted child; and that during the early stages of pregnancy, at least during the first trimester, the state could not prohibit, restrict, or otherwise limit women's access to abortion procedures performed by licensed physicians operating in licensed facilities.

Where the plaintiff, a physician, had been prosecuted for performing an abortion involving an unquickened child, it was held, in Babbitz v McCann (1970, DC Wis) 310 F Supp 293 (app dismd 400 US 1, 27 L Ed 2d 1, 91 S Ct 12, and later op (DC Wis) 320 F Supp 219, vacated on other grounds 402 US 903, 28 L Ed 2d 643, 91 S Ct 1375), that the state's police power did not entitle it to deny to a woman the basic right, reserved to her under the Ninth Amendment, to decide whether she should carry or reject an embryo which had not yet quickened, and that at least as applied to the present case, a state statute prohibiting an abortion unless necessary to save the life of the mother suffered from an infirmity of fatal overbreadth. Noting that the Ninth Amendment precluded the state from depriving a woman of her private decision whether to bear her unquickened child, the court stated that the statute could not be justified by any compelling state interest in protecting the mother's life or in discouraging nonmarital sexual intercourse, and that the mother's interests were superior to those of an unquickened embryo, regardless of whether the embryo was mere protoplasm, as the plaintiff contended, or was a human being, as the state statute declared. To similar effect is Harling v Department of Health & Social Services (1971, DC Wis) 323 F Supp 899.

In People v Belous (1969) 71 Cal 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, where a state statute prohibited an abortion upon a woman unless "necessary to preserve her life," it was held that even if a definition of the statutory language requiring certainty of a woman's death might make the statute sufficiently definite to prevent it from being invalidated on the ground of vagueness, such a definition would work an invalid abridgment of a woman's constitutional rights. The court recognized that the fundamental right of a woman to chose whether to bear children followed from a woman's "right to pri-

6. Although the United States Supreme Court vacated the District Court's judgment and remanded the case "for further consideration in light of" the Supreme Court's decisions in Roe v Wade and Doe v Bolton, both supra, the Supreme Court's remand was apparently not intended to impair the District Court's original conclusion that the legislation violated a woman's constitutional right to privacy.

7. The District Court's judgment in the YWCA v Kugler Case, supra, was vacated without opinion by the Court of Appeals a few weeks after the United States Supreme Court's decisions in Roe v Wade and Doe v Bolton, both supra, but the Court of Appeals did not refer to either of these Supreme

vacy" or "liberty" in matters related to marriage, family, and sex, and that at least where an abortion was sought during the first trimester of pregnancy, the state's interference with the woman's rights could not be justified either on the basis of considerations of the woman's health or on the basis of protection of the embryo or fetus.

Although upholding the validity of state abortion legislation as applied to abortions performed by nonphysicians, in People v Bricker (1975) 389 Mich 524, 208 NW2d 172 (affg 42 Mich App 352, 201 NW2d 647, infra § 5), the court recognized that under the United States Supreme Court's decision in Roe v Wade, supra, the legislation could not stand as relating to abortions in the first trimester of a pregnancy as authorized by the pregnant woman's attending physician in the exercise of his medical judgment. [ed.]

In People v Nixon (1972) 42 Mich App 324, 201 NW2d 645, where a state statute prohibited an abortion upon a woman unless "necessary to preserve the life of such woman," the court, while stating that it did not express any opinion whether a woman's right of privacy precluded any state action with regard to abortion if the legislature chose to recognise an unquickened fetus as a new and separate human being, concluded that there was no longer a sufficient state interest to justify continued protection of licensed physicians for the mere act of artificially inducing a miscarriage of an unquickened fetus: that what state interest there was in the protection of the woman was offset by the superior right of the woman and her physician to undertake such medical treatment as was deemed appropriate; that there could be no question as to the right of a woman to possess and control her body as she saw fit, in the absence of an expressed compelling state interest; and that, since the intended state interest sought to be protected by the abortion statute was that of the preservation of the woman's health and safety, and since such interest was no longer promoted with regard to therapeutic abortion by a licensed physician, there was no long-

est in the continued application of the statute to licensed physicians to justify infringement upon a woman's protected right to personal control of her person. The court stated that the intended purpose of the statute was no longer served by continued application of the statute to therapeutic abortions performed in the first trimester of pregnancy by a licensed physician in a hospital environment, and that a licensed physician who performed a therapeutic abortion upon a woman who was in her first trimester of pregnancy, if such operation took place in a hospital, was not subject to prosecution under the statute.

In State v Strance (1973, App) 84 NM 670, 506 P2d 1217, where a licensed physician had been convicted of performing an abortion requested by a woman who was not under the age of 18 years, it was held that by virtue of the United States Supreme Court's holdings in Roe v Wade and Doe v Bolton, supra, state statutory provisions restricting the grounds for an abortion were unconstitutional. The only grounds which the statute specified for an abortion were (1) that the continuation of the pregnancy was likely to result in the death of the woman or the grave impairment of her physical or mental health, (2) that the child probably would have a grave physical or mental defect, (3) that the pregnancy resulted from rape, or (4) that the pregnancy resulted from incest. While holding that the provisions specifying these grounds for an abortion were unconstitutional, the court recognized that other provisions of the state's abortion statute—penalizing the act of performing abortions on the unconsenting, or performing an abortion upon a woman under the age of 18 years without the consent of both the woman and her then living parent or guardian—were not unconstitutional.

In Beecham v Leahy (1973) 130 Vt 164, 287 A2d 836, the court, while not expressly referring to any particular federal constitutional right, held invalid a state statute prohibiting an abortion upon a woman unless "necessary to preserve her life." The court

in a woman herself those rights respecting her own choice to bear children which had come to be recognized in many jurisdictions; that unless a woman's life itself was at stake, the law, tragically, left her only to the recourse of attempts at self-induced abortion, uncounseled and unassisted by a doctor, in a situation where medical attention was imperative; and that the statute unlawfully impinged upon a pregnant woman's rights to a measure beyond the justifications of governmental action. The court noted that in the present case, a doctor had found no indication that the plaintiff, a pregnant woman, was likely to die if the pregnancy ran to term, but that the doctor did give, as his professional judgment, that a termination of pregnancy through a medically induced and supervised abortion was medically indicated in order to secure and preserve the plaintiff's physical and mental health. Pointing out that the plaintiff's doctor was prepared to carry out the appropriate medical procedures, on the basis of his diagnosis, but for the expectation of prosecution under the state statute, the court concluded that as the law stood, barring, as it did, the medical aid which the plaintiff sought in her present circumstances, the law was invalid and could not be resorted to by way of a criminal prosecution against the doctor.

✦

In addition to the cases discussed above, the following cases have also supported the view that the federal constitutional right to privacy was violated by legislation prohibiting an abortion except upon restricted grounds.

Sup Ct—Thompson v Texas (1973) 410 US 950, 35 L Ed 2d 682, 93 S Ct 1411 (vacating (Tex Crim) 493 SW2d 913); Munson v South Dakota (1973) 410 US 950, 35 L Ed 2d 683, 93 S Ct 1416 (vacating (SD) 201 NW2d 123); Rosen v Louisiana State Board of Medical Examiners (1973) 412 US 902, 36 L Ed 2d 966, 93 S Ct 2285 (vacating (DC La) 318 F Supp 1217).

Fifth Circuit—Doe v Bolton (1970, DC Ga) 319 F Supp 1048 (com[illegible]

1614, 1633), mod on other grounds 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410.

Ariz—Nelson v Planned Parenthood Center, Inc. (1973) 19 Ariz App 152, 505 P2d 590 (opinion on rehearing); State v Wahlrab (1973) 19 Ariz App 552, 509 P2d 245.

Colo—People v Norton (1973, Colo) 507 P2d 862.

Ill—People v Frey (1973) 54 Ill 2d 28, 294 NE2d 257.

People v Bell (1973) 10 Ill App 3d 533, 294 NE2d 711.

Ky—Sasaki v Commonwealth (1973, Ky) 497 SW2d 713.

Minn—State v Hultgren (1973, Minn) 204 NW2d 197; State v Hodgson (1973, Minn) 204 NW2d 199.

Okla—Jobe v State (1973, Okla Crim) 509 P2d 481.

Pa—Commonwealth v Page (1973, Pa) 303 A2d 215.

SD—State v Munson (1973, SD) 206 NW2d 434.

Tex—Thompson v State (1973, Tex Crim) 493 SW2d 793.

✦

The following decisions appear to be inconsistent with the United States Supreme Court's views holding legislation restricting the grounds for an abortion violative of the federal constitutional right to privacy, and such cases, to the extent of such inconsistency, appear no longer authoritative:

Sixth Circuit—Steinberg v Brown (1970, DC Ohio) 321 F Supp 741.

Ind—Cheaney v State (1972, Ind) 285 NE2d 265, cert den for want of standing 410 US 991, 36 L Ed 2d 189, 93 S Ct 1516.

La—See State v Scott (1971) 260 La 190, 255 So 2d 736 (wherein the court rejected the contention that a state statute prohibiting abortion was unconstitutional under the Ninth and Fourteenth Amendments because the statute (1) infringed upon the right of women to choose whether they wanted to bear children, (2) was overly broad, and (3) impinged upon the freedom to choose in the matter of abortions which had been accorded the status of a fundamental freedom); and

(wherein the court, affirming a doctor's conviction for abortion, held that the trial judge had acted correctly in denying a motion alleging that a state abortion statute was violative of the First, Fourth, Fifth, Ninth, and Fourteenth Amendments and was an unwarranted invasion of the private rights of a female, it being pointed out that the trial judge had noted that the constitutional issue was whether the state had a compelling reason to impose restrictions on a woman's right to have an abortion or whether it was a fundamental freedom immune from state interference).

Mo—Rodgers v Danforth (1972, Mo) 486 SW2d 258.

[b] As unconstitutionally vague: Laws held vague

Under the circumstances of the following cases, it has been held that where abortion laws were phrased in such language as to prohibit the performance of abortions "without lawful justification," or "unlawfully," or unless "necessary to preserve the life" of the mother, such abortion laws were unconstitutionally vague.

In YWCA v Kugler (1972, DC NJ) 342 F Supp 1048, vacated without op (CA3 NJ) 475 F2d 1398, it was held that New Jersey abortion legislation—which provided that any person who, maliciously or without lawful justification, with intent to cause or procure the miscarriage of a pregnant woman, administers or prescribes or advises or directs her to take or swallow any poison, drug, medicine, or noxious thing, or uses any instrument or means whatever, is guilty of a high misdemeanor—was unconstitutionally vague on its face and as applied. The court noted that First Amendment freedoms of speech and expression were clearly involved in the present case, since the very language of the statute imposed a prohibition on any person who "prescribes or advises or directs" a woman to terminate her pregnancy; that the legislation chilled and deterred physicians in the exercise of protected First Amendment activities; and that the legislation violated physicians' rights under the Fourteenth Amendment to freely practice the profession of their choice. The court discussed the absence of judicial interpretation establishing a clear standard by which individuals and prosecutors could determine whether an abortion was "without lawful justification" under the statute, and the court concluded that in the absence of judicial interpretation or legislative history or directives providing adequate guidelines as to the conduct which might be prosecuted, the legislation could not constitutionally be sustained, it being noted that the phrase "without lawful justification" did not provide a glimmer of notice to the reader of what he could and could not do. Distinguishing United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, infra § 3[c], the court noted although in the Vuitch Case the words "necessary for the preservation of the mother's life or health" were found sufficiently specific to fulfil the notice requirements of the Fourteenth Amendment, the New Jersey legislation challenged in the present case was not similar to the statute involved in the Vuitch Case either in language or as interpreted by the state courts. The court declined to follow State v Moretti (1968) 52 NJ 182, 244 A2d 499, 37 ALR3d 364, cert den 393 US 952, 21 L Ed 2d 363, 89 S Ct 376, infra § 3[c].[8]

In Roe v Wade (1970, DC Tex) 314 F Supp 1217, aff'd in part on other grounds and revd in part on other grounds 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409, it was held that a state statute prohibiting an abortion except "for the purpose of saving the life of the mother" was unconstitutionally vague, in violation of the due process clause of the Four-

8. The District Court's judgment in the YWCA v Kugler Case, supra, was holding that the abortion statute was unconstitutionally vague was intended

teenth Amendment. It was noted that in the application of the statute, such questions as the following could not be answered: How likely must death of the mother be? Must death be certain if the abortion is not performed? Is it enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the woman threatens suicide if the abortion is not performed? How imminent must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years? In holding the legislation unconstitutionally vague, the court emphasized the grave uncertainties in the application of the statute and the consequent uncertainty concerning criminal liability under the state's abortion laws.[9]

In Doe v Scott (1971, DC Ill) 321 F Supp 1385, vacated on other grounds Hanrahan v Doe, 410 US 950, 35 L Ed 2d 682, 93 S Ct 1416, it was held that a state statute prohibiting an abortion unless "necessary for the preservation of the woman's life" was unconstitutionally vague. The court noted that the word "necessary" was susceptible of various meanings and could import physical necessity or inevitability, or could import that which was only convenient, useful, appropriate, proper, or conducive to the end sought. Also, the court noted that the word "preserve" was similarly susceptible of so broad a range of connotations as to render its meaning in the statute gravely amorphous, since it could mean anything from maintaining a nothing in its status quo to preventing the total destruction of something. The court pointed out that a treating physician who believed that an abortion was medically or psychiatrically indicated found himself threatened with becoming a felon, as well as with the possibility of losing his right to practice his profession, if he erred in the legal interpretation of a penal statute the words of which had not been sufficiently definite for courts to agree on their meaning, and that this was precisely the kind of situation that the void-for-vagueness doctrine was intended to prevent.

To similar effect is State v Barquet (1972, Fla) 262 So 2d 431, wherein the court, quoting from the District Court's opinion in Doe v Scott, supra, held that a statute prohibiting an abortion unless "necessary to preserve the life of such mother" was so vague as to violate the Fourteenth Amendment. The court stated that the statute was not so clearly and definitely expressed that an ordinary person could determine in advance whether his contemplated act was within or without the law, and that the language used in the statute was so vague and indefinite as to afford no fair warning as to what conduct might transgress the statute. The court purported to distinguish the United States Supreme Court's decision in United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, infra § 3[c], on the ground that the Vuitch Case involved a statute containing a clause reading "necessary to the preservation of the mother's life or health," whereas the language involved in the present case was "necessary to preserve the life" and did not refer to the preservation of the mother's health. To the same effect is Medlin v State (1972, Fla) 267 So 2d 823. Also, see, to similar effect, Walsingham v State (1971, Fla) 250 So 2d 857.

In People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, where a state statute prohibited an abortion upon a woman unless "necessary to preserve her life," it was held that the term "necessary to preserve" was not susceptible of a construction which did not violate legislative intent and which was suf-

9. A contrary decision, holding the

(wherein the court, affirming a doctor's conviction for abortion, held that the trial judge had acted correctly in denying a motion alleging that a state abortion statute was violative of the First, Fourth, Fifth, Ninth, and Fourteenth Amendments and was an unwarranted invasion of the private rights of a female, it being pointed out that the trial judge had noted that the constitutional issue was whether the state had a compelling reason to impose restrictions on a woman's right to have an abortion or whether it was a fundamental freedom immune from state interference).

Mo—Rodgers v Danforth (1972, Mo) 486 SW2d 258.

[b] As unconstitutionally vague: Laws held vague

Under the circumstances of the following cases, it has been held that where abortion laws were phrased in such language as to prohibit the performance of abortions "without lawful justification," or "unlawfully," or unless "necessary to preserve the life" of the mother, such abortion laws were unconstitutionally vague.

In YWCA v Kugler (1972, DC NJ) 342 F Supp 1048, vacated without op (CA3 NJ) 475 F2d 1398, it was held that New Jersey abortion legislation—which provided that any person who, maliciously or without lawful justification, with intent to cause or procure the miscarriage of a pregnant woman, administers or prescribes or advises or directs her to take or swallow any poison, drug, medicine, or noxious thing, or uses any instrument or means whatever, is guilty of a high misdemeanor—was unconstitutionally vague on its face and as applied. The court noted that First Amendment freedoms of speech and expression were clearly involved in the present case, since the very language of the statute imposed a prohibition on any person who "prescribes or advises or directs" a woman to terminate her pregnancy; that the legislation chilled and deterred physicians in the exercise of protected First Amendment activities; and that the legislation violated physicians' rights under the Fourteenth Amendment to freely practice the profession of their choice. The court discussed the absence of judicial interpretation establishing a clear standard by which individuals and prosecutors could determine whether an abortion was "without lawful justification" under the statute, and the court concluded that in the absence of judicial interpretation or legislative history or directives providing adequate guidelines as to the conduct which might be prosecuted, the legislation could not constitutionally be sustained, it being noted that the phrase "without lawful justification" did not provide a glimmer of notice to the reader of what he could and could not do. Distinguishing United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, infra § 3[c], the court noted although in the Vuitch Case the words "necessary for the preservation of the mother's life or health" were found sufficiently specific to fulfil the notice requirements of the Fourteenth Amendment, the New Jersey legislation challenged in the present case was not similar to the statute involved in the Vuitch Case either in language or as interpreted by the state courts. The court declined to follow State v Moretti (1968) 52 NJ 182, 244 A2d 499, 37 ALR3d 364, cert den 393 US 952, 21 L Ed 2d 363, 89 S Ct 376, infra § 3[c].[8]

In Roe v Wade (1970, DC Tex) 314 F Supp 1217, affd in part on other grounds and revd in part on other grounds 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409, it was held that a state statute prohibiting an abortion except "for the purpose of saving the life of the mother" was unconstitutionally vague, in violation of the due process clause of the Four-

8. The District Court's judgment in the YWCA v Kugler Case, supra, was holding that the abortion statute was unconstitutionally vague was intended to be affected by the Court of Appeals'

teenth Amendment. It was noted that in the application of the statute, such questions as the following could not be answered: How likely must death of the mother be? Must death be certain if the abortion is not performed? Is it enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the woman threatens suicide if the abortion is not performed? How imminent must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years? In holding the legislation unconstitutionally vague, the court emphasized the grave uncertainties in the application of the statute and the consequent uncertainty concerning criminal liability under the state's abortion laws.[9]

In Doe v Scott (1971, DC Ill) 321 F Supp 1385, vacated on other grounds Hanrahan v Doe, 410 US 950, 35 L Ed 2d 682, 93 S Ct 1410, it was held that a state statute prohibiting an abortion unless "necessary for the preservation of the woman's life" was unconstitutionally vague. The court noted that the word "necessary" was susceptible of various meanings and could import physical necessity or inevitability, or could import that which was only convenient, useful, appropriate, proper, or conducive to the end sought. Also, the court noted that the word "preserve" was similarly susceptible of so broad a range of connotations as to render its meaning in the statute gravely amorphous, since it could mean anything from maintaining something in its status quo to preventing the total destruction of something. The court pointed out that a treating physician who believed that an abortion was medically or psychiatrically indicated found himself threatened with becoming a felon, as well as with the possibility of losing his right to practice his profession, if he erred in the legal interpretation of a penal statute the words of which had not been sufficiently definite for courts to agree on their meaning, and that this was precisely the kind of situation that the void-for-vagueness doctrine was intended to prevent.

To similar effect is State v Barquet (1972, Fla) 262 So 2d 431, wherein the court, quoting from the District Court's opinion in Doe v Scott, supra, held that a statute prohibiting an abortion unless "necessary to preserve the life of such mother" was so vague as to violate the Fourteenth Amendment. The court stated that the statute was not so clearly and definitely expressed that an ordinary person could determine in advance whether his contemplated act was within or without the law, and that the language used in the statute was so vague and indefinite as to afford no fair warning as to what conduct might transgress the statute. The court purported to distinguish the United States Supreme Court's decision in United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, infra § 3[c], on the ground that the Vuitch Case involved a statute containing a clause reading "necessary to the preservation of the mother's life or health," whereas the language involved in the present case was "necessary to preserve the life" and did not refer to the preservation of the mother's health. To the same effect is Medlin v State (1972, Fla) 267 So 2d 823. Also, see, to similar effect, Walsingham v State (1971, Fla) 250 So 2d 857.

In People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, where a state statute prohibited an abortion upon a woman unless "necessary to preserve her life," it was held that the term "necessary to preserve" was not susceptible of a construction which did not violate legislative intent and which was suf-

9. A contrary decision, holding the same statute not unconstitutionally 2d 913 (vacated on other grounds 410

ficiently certain to satisfy due process requirements without improperly infringing on fundamental constitutional rights. The court noted that there was no standard definition of the words "necessary to preserve," and that when the words were taken separately, no clear meaning emerged. The court pointed out that the meaning of "necessary" was not fixed, but was flexible and relative, and that the word "preserve" had a wide range of meanings. The court concluded that unless the statutory language was construed in such a manner as to violate a woman's constitutional rights with respect to bearing children, the statutory language was so vague as to violate due process.

In People v Barksdale (1972) 8 Cal 3d 320, 105 Cal Rptr 1, 503 P2d 257, where a state statute provided, as an exception to the prohibition against abortions, that an abortion could be performed where there was "substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother," it was held that the language establishing the medical criteria upon which abortions could be approved was not sufficiently certain to meet minimal standards of due process under the Fourteenth Amendment. The court stated that it was unable to ascertain, within the meaning of the statute, either the nature of the diminished health required or that degree of diminution which stamped it as gravely impaired; that on its face, the "gravely impair" requirement was impermissibly vague in its present context; and that the term "mental health," as employed in the context of the statute, also involved impermissible ambiguities. To the same effect is People v Pettegrew (1972) 8 Cal 3d 347, 105 Cal Rptr 20, 503 P2d 276.

In Re [illegible] v Duggan (1971, Pa) 119 Pittsb Leg J 220, where a state statute imposed criminal penalties upon anyone who, "with intent to procure the miscarriage of any woman, unlawfully administers to her any poison, drug or set forth which acts were intended to be unlawful, the statute violated the due process clause of the Fourteenth Amendment. After referring to various questions as being left unanswered by the ambiguous language of the statute, the court stated that the inadequacy of the statute in providing proper standards by which the illegality of an abortion could be determined under particular circumstances was a fatal flaw and rendered the abortion statute void on its face.

[c] — Laws held not vague

Under the circumstances of the following cases, it has been held that the provisions of various laws prohibiting abortions except upon restricted grounds, such as to preserve a pregnant woman's life or health, were not unconstitutionally vague.

In United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, it was held that a District of Columbia abortion statute, which made it unlawful to perform an abortion unless the abortion was "necessary for the preservation of the mother's life or health," was not unconstitutionally vague. Reversing a District Court judgment which had held the statute unconstitutionally vague, the Supreme Court rejected the District Court's conclusion that once an abortion was proved, a physician was presumed guilty and remained so unless a jury could be persuaded that his acts were necessary for the preservation of the woman's life or health. The Supreme Court stated (1) that it was unable to believe that Congress intended that a physician be required to prove his innocence, and (2) that under the statute, the burden was on the prosecution to plead and prove that an abortion was not "necessary for the preservation of the mother's life or health." Moreover, the Supreme Court rejected the District Court's conclusion that the word "health" was so imprecise that it failed to inform a defendant of the charge against him, so as to make the statute violative of due process. Rejecting the District Court's view that

well as physical health, the Supreme Court stated that the statute could be construed to permit abortions for mental health reasons whether or not a patient had a previous history of mental defects; that such a construction accorded with the general usage and modern understanding of the word "health," which included psychological as well as physical well-being; that viewed in this light, the term "health" presented no problem of vagueness; and that whether a particular operation was necessary for a patient's physical or mental health was a judgment which physicians were obviously called upon to make routinely whenever surgery was considered.

In Doe v Bolton (1973) 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410, the court, while holding a Georgia abortion statute unconstitutional on other grounds, rejected the contention that the statute was unconstitutionally vague by making it a crime for a physician to perform an abortion except when it is "based upon his best clinical judgment that an abortion is necessary." The court rejected the contentions that the word "necessary" did not warn the physician of what conduct was proscribed; that the statute was wholly without objective standards and was subject to diverse interpretation; and that doctors would choose to err on the side of caution and would be arbitrary. It was noted that under the statutory language which was challenged as vague, the abortion determination, so far as the physician was concerned, was made in the exercise of his professional, that is, his "best clinical," judgment in the light of all the attendant circumstances. It was further noted that whether a particular operation was necessary for a patient's physical or mental health was a judgment which physicians were obviously called upon to make routinely whenever surgery was considered, and that whether an abortion was necessary was a professional judgment which a physician would be called upon to make routinely. In addition, it was in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient; that all of these factors could relate to health; that this allowed the attending physician the room he needed to make his best medical judgment; and that this operated for the benefit, not the disadvantage, of the pregnant woman.

Although holding state abortion legislation unconstitutional on other grounds, in Abele v Markle (1972, DC Conn) 342 F Supp 800, vacated on other grounds 410 US 951, 35 L Ed 2d 683, 93 S Ct 1412, reh den 411 US 940, 36 L Ed 2d 402, 93 S Ct 1888, supra § 3[a], the court rejected the contention that such legislation, which made it a crime to perform an abortion upon a woman "unless necessary to preserve her life or that of her unborn child," was unconstitutionally vague. Relying upon the United States Supreme Court's decision in the Vuitch Case, supra, the court stated that although the legislation swept broadly to its desired end of prohibiting abortions, such legislation defined with sufficient particularity the prohibited conduct.

In Rosen v Louisiana State Board of Medical Examiners (1970, DC La) 318 F Supp 1217, vacated on other grounds 412 US 902, 36 L Ed 2d 966, 93 S Ct 2286, where a state statute prohibited an abortion "unless done for the relief of a woman whose life appears in peril after due consultation with another licensed physician," the court rejected the contentions that the words "relief of a woman whose life appears in peril" did not provide meaningful guidance to the ordinary physician, and that the statute forbade abortions in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. The court concluded that the challenged language was neither vague nor indefinite, but was instead reasonably comprehensible in its meaning, with its reach delineated in words of common understanding. The court pointed out that the language "unless done for the re-

meaning; that the words "relief," "appears," and "life" were widely used and well understood, particularly when read in the context of the abortion statute; and that the statute was intended to permit an induced abortion of an embryo or fetus only when the physician, after due consultation with another licensed physician, determined in good faith that continuation of the pregnancy would directly and proximately result in the death of the woman. The court also pointed out that the statute, so read, provided fair warning that the state did not suffer the performance of all medically indicated abortions, however wise in the physician's estimation such an operation might be in a particular case, but rather allowed the induced abortion of an embryo or fetus to be performed only when the life of the mother was directly endangered by the condition of pregnancy itself, and that the court was not convinced that the state legislature was vague or indefinite in its choice of language. The court expressed its disagreement with People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, and Roe v Wade (1970, DC Tex) 314 F Supp 1217 (affd in part on other grounds and revd in part on other grounds 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409), both supra § 3[b].

In Steinberg v Brown (1970, DC Ohio) 321 F Supp 741, where a state statute prohibited an abortion upon a woman unless "necessary to preserve her life," it was held that the statute was not unconstitutionally vague. The court noted that the words of the statute, taken in their ordinary meaning, had, over a long period of years, proved entirely adequate to inform the public, including both lay and professional people, of what was forbidden, and that the problem of the plaintiffs was not that they did not understand, but that basically they did not accept, its proscription. To the same effect is State v Munson (1972, SD) 201 NW 2d 123, vacated on other grounds 410 US 950, 35 L Ed 2d 683, 93 S Ct 1418, on remand 206 NW 2d 414. The District Court's opinion in Steinberg v Brown, supra, rejected the contention that a state statute prohibiting an abortion upon a woman unless "necessary to preserve her life" was unconstitutionally vague.

Where a state statute prohibited an abortion upon a woman unless "necessary to preserve her life," it was held, in Crossen v Atty. Gen. of Kentucky (1972, DC Ky) 344 F Supp 587 (vacated on other grounds 410 US 950, 35 L Ed 2d 683, 93 S Ct 1418), that the phrase "necessary to preserve her life," although perhaps technically imprecise, was not unconstitutionally vague. Rejecting various contentions as to alleged uncertainties which would arise from the application of the statute, the court stated that the phrase "necessary to preserve her life" meant, and was generally understood to mean, that an abortion was unavailable except if it was reasonably certain that a woman's continued pregnancy would result in her death, and that the argument of vagueness was nothing more than a guise for the belief that the statute too rigidly regulated abortions. To the same effect is Sasaki v Commonwealth (1972, Ky) 485 SW2d 897, vacated on other grounds 410 US 961, 35 L Ed 2d 684, 93 S Ct 1422, conformed to on other grounds (Ky) 497 SW2d 713. And to similar effect is Nelson v Planned Parenthood Center, Inc. (1973) 19 Ariz App 142, 505 P2d 580, vacated on reh on other grounds 19 Ariz App 152, 505 P2d 590, wherein the court, quoting from the District Court's opinion in the Crossen Case, supra, held that a state statute prohibiting an abortion upon a woman "unless it is necessary to save her life" was not unconstitutionally vague.

In Babbitz v McCann (1970, DC Wis) 310 F Supp 293 (app dismd 400 US 1, 27 L Ed 2d 1, 91 S Ct 12, and later op (DC Wis) 320 F Supp 219, vacated on other grounds 402 US 903, 28 L Ed 2d 643, 91 S Ct 1375), it was held that a state statute prohibiting an abortion unless "necessary to save the life of the mother" was not unconstitutionally vague. The court stated that the

both reasonably comprehensible in their meaning, and that the statute set forth with reasonable clarity and sufficient particularity the kind of conduct which would constitute a violation. The court expressed its disagreement with the decision in People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, supra § 3[b]. Also, the court, responding to the contention that there was confusion in a statutory provision defining the words "unborn child" to mean "a human being from the time of conception until it is born alive," stated that even if a physician had medical or practical justification for disagreeing with the correctness of this statutory definition of an "unborn child," the court was not convinced that the state legislature was vague or indefinite in its choice of language.

In People v Rankin (1937) 10 Cal 2d 198, 74 P2d 71, where a state statute imposed criminal penalties for the procurement of a miscarriage, it was held that the statutory language "procure the miscarriage of such woman" was sufficiently explicit to inform persons of common intelligence and understanding of the acts which were prohibited, the court rejecting contentions that such language did not convey a definite and certain meaning and was unconstitutional by failing to inform a person with reasonable certainty as to what acts were prohibited.[10]

In Carter v State (1963, Fla) 155 So 2d 787, app dismd 376 US 648, 11 L Ed 2d 980, 84 S Ct 983, where a defendant who had been found guilty of attempted abortion challenged the constitutionality of a state statute penalizing anyone who "unlawfully administers . . . or unlawfully uses any instrument" with intent to procure miscarriage, the court rejected the contention that the word "unlawfully," as appearing in this legislation, was so ambiguous as to violate due process. The court noted that the challenged statutory language was to be construed in conjunction with another statutory provision prohibiting abortion "unless the same shall have been necessary to preserve the life of such mother, or shall have been advised by two physicians to be necessary for such purpose." The court therefore construed the challenged statutory language to proscribe and penalize the enumerated acts, performed with the requisite intent, in every instance except when necessary to preserve the life of a woman or except when advised by two physicians to be necessary for such purpose. The court concluded that such construction effected a result which was in accord with the apparent intent of the legislation, and that the defendant's conviction had to be affirmed.[11]

In Cheaney v State (1972, Ind) 285 NE2d 265, cert den for want of standing 410 US 991, 36 L Ed 2d 189, 93 S Ct 1516, it was held that a state statute prohibiting an abortion upon

10. In later California cases, however, state abortion legislation was held unconstitutionally vague where the challenged statutory language consisted of the words "necessary to preserve her life" (People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, supra § 3[b]), or the words "substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother" (see, for example, People v Barksdale (1972) 8 Cal 3d 320, 105 Cal Rptr 1, 503 P2d 257, supra § 3[b]).

11. The current precedential value of the decision in Carter v State, supra, rejection of the contention that the word "unlawfully" was so ambiguous as to violate due process depended upon the court's conclusion that the word "unlawfully" was to be construed together with a different statutory phrase specifying that an abortion was prohibited "unless the same shall have been necessary to preserve the life of such mother," and (2) in later Florida cases (see, for example, State v Barquet (1972, Fla) 262 So 2d 431, supra § 3[b]), it was held that the statutory language "unless the same shall have been necessary to preserve the life of such mother" was itself so vague as to violate process.

a woman unless "necessary to preserve her life" was not unconstitutionally vague. The court stated that the challenged statutory language had to be read in the context of the entire abortion statute; that read in this manner, the words has a clear meaning, namely, that an abortion would be allowed only when the continuation of a pregnancy would directly and proximately result in the death of the mother; that the burden remained on the state to prove that the abortion was not to save the life of the mother; and that the language of the statute was reasonably clear and gave fair warning as to its proscriptions.

Where a state statute prohibited the performance of an abortion upon a woman unless "necessary to save her life," it was held, in State v Abodeely (1970, Iowa) 179 NW2d 347, cert den and app dismd 402 US 936, 29 L Ed 2d 104, 91 S Ct 1617, that the statute was not unconstitutionally vague. Disagreeing with People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194 (cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920), supra § 3[b], the court stated that the challenged statutory language had been clear enough for satisfactory use for over 100 years, and that there was no occasion for declaring the statute constitutionally invalid.

In Kudish v Board of Registration in Medicine (1969) 356 Mass 98, 248 NE2d 264, the court rejected the contention that because of the inclusion of the word "unlawfully," a state abortion statute was unconstitutionally vague. The statute imposed criminal penalties upon any person who, "with intent to procure the miscarriage of a woman, unlawfully administers to her, or advises or prescribes for her, or causes any poison, drug, medicine or other noxious thing to be taken by her or, with the like intent, unlawfully uses any instrument or other means whatever, or, with like intent, aids or assists therein." The court noted that any uncertainty had been made sufficiently definite by the court's prior decisions, it being pointed out that the court's decision had established, over the years, that a physician could lawfully perform an abortion if he acted in good faith and in an honest belief that it was necessary for the preservation of the life or health of the woman. In response to the contention that the statute was unconstitutionally vague for the additional reason that there was a judicially imposed requirement that a doctor's judgment correspond with the average judgment of the doctors in the community in which he practiced, the court stated that in the present case, the doctor had demonstrated neither the existence of any peril to the woman nor his good faith in performing the abortion, both of which were fundamental to exoneration, and that he was therefore unaffected by any defect in the judicially imposed requirement and had no standing to raise any question concerning it.

In People v Bricker (1972) 42 Mich App 352, 201 NW2d 647, affd 389 Mich 524, 208 NW2d 172, where a state statute prohibited an abortion upon a woman unless "necessary to preserve the life of such woman," it was held that the contention that the statute was vague in the constitutional sense was without merit, the court noting that in the Vuitch Case, supra, the United States Supreme Court had held that a similarly worded statute was not unconstitutionally vague. To the same effect is People v Nixon (1972) 42 Mich App 332, 201 NW2d 638.

In Rodgers v Danforth (1972, Mo) 486 SW2d 268, where a state statute prohibited a physician from performing an abortion upon a woman unless "necessary to preserve her life or that of an unborn child," and where physicians contended that the statute was unconstitutionally vague and indefinite because it provided insufficient warning of which physical or mental conditions justified interruption of pregnancy, the court, noting that under the statute the burden was on the state to plead and prove that an abortion performed on a woman by a physician was not necessary to preserve her life or that of an unborn child, held, under the authority of the United States Supreme Court's decision in the Vuitch Case, supra, that the claims of vague-

ness asserted by the physicians were without merit.

In Hana v State (1946) 147 Neb 67, 22 NW2d 385, vacated on reh on other grounds 147 Neb 730, 25 NW2d 35, where a statute included the word "foeticide" in its title and prohibited the destruction of a "vitalized embryo, or foetus," unless necessary to preserve the life of the mother, the court rejected the contention that the words "foeticide," "vitalized embryo," and "foetus" did not sufficiently inform the defendant of the offense with which he was charged and thus violated the due process clause of the Fourteenth Amendment. The court noted that the terms "embryo" and "foetus" were practically interchangeable and referred to an unborn child, in ventre sa mere; that it was obvious that the legislature used these terms in their ordinary and commonly accepted meaning; and that when the legislature used the term "foeticide," it meant the unlawful destruction of an unborn child, in ventre sa mere, at any stage of gestation.

Where a state statute prohibited the performance of an abortion "without lawful justification," it was held, in State v Moretti (1968) 52 NJ 182, 244 A2d 499, 37 ALR3d 364, cert den 393 US 962, 21 L Ed 2d 363, 89 S Ct 376, that under the circumstances of the present case, the defendants were in no position to urge that the statute was too vague to warn them that their contemplated conduct was proscribed, and the court concluded that the statute was constitutional as applied to the defendants. It was noted that any doubt of the defendants' knowledge that their actions were unlawful was dissipated by their surreptitious conduct revealed by the record, and that there was testimony that one of the defendants had expressly stated that an abortion which he was arranging was "illegal." The court pointed out that a defendant whose conduct was such that he could clearly tell that it was prohibited would not be heard to say that a statute was overly broad and that another person, in some hypothetical case, could be misled. Also, the court pointed out that if the statute gave sufficient warning to the defendants in the present case that the abortion they contemplated was not lawfully justifiable and thus was criminal, the statute was constitutional as applied to them. In response to the defendants' contention that they believed that an abortion would be lawfull justified because it was to terminate an allegedly unwanted pregnancy, the court stated that it was beyond comprehension that the defendants could have believed that the statute envisioned lawful justification to exist whenever a woman wanted to avoid having a child.[12]

In Jackson v State (1908) 55 Tex Crim 79, 115 SW 262, where a state statute imposed criminal penalties upon any person who "shall designedly administer to a pregnant woman, with her consent, any drug or medicine, or shall use toward her any violence or any means whatever, externally or internally applied, and shall thereby procure an abortion," and where the statute also contained a provision excluding "an abortion procured or attempted to be procured by medical advice for the purpose of saving the life of the mother," the court rejected the contention that the statute was unconstitutional and void in that it did not sufficiently define or describe the offense of abortion. Similarly, in Thompson v State (1971, Tex Crim) 493 SW2d 913, vacated on other grounds 410 US 950, 35 L Ed 2d 682, 93 S Ct 1411, where a state statute which prohibited abortions but which exempted from the prohibition "an abortion procured or attempted by medical advice for the purpose of saving the life of the mother," the court rejected the contention that the statutory exemption was unconstitutionally vague, and the court declined to follow Roe v Wade (1970, DC Tex) 314 F Supp 1217 (affd in part on other grounds and revd in part on other

12. A contrary decision, holding the same statute unconstitutionally vague, was reached in YWCA ... without op (CA2 NJ) 475 F2d 1398), supra § 3[b], wherein the Federal Di-

grounds 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409), supra § 3[b].

In State v Bartlett (1970) 128 Vt 618, 270 A2d 168, where the defendant had been convicted of assisting in the procurement of an abortion in violation of a state statute prohibiting an abortion upon a woman unless "necessary to preserve her life," the court rejected the defendant's contention that the statute was unconstitutionally vague. The court stated that the statutory language expressed the clear meaning and purpose of the statute; that its terms indicated with certitude what the legislature intended by its enactment and informed a person what conduct it proscribed; that the statute spelled out the offense and was susceptible to but one interpretation which gave the defendant, as a person of ordinary intelligence, fair notice that his contemplated conduct was forbidden; that his intent to have an abortion performed was clear, and he did all that was necessary to bring about the criminal results he desired; and that he could not fail to be aware that his surreptitious conduct would violate the statute. Concluding that the statute was constitutional as applied to the defendant, the court stated that the statute gave the defendant sufficient notice that the abortions which he assisted in procuring were not lawfully justifiable and thus were criminal.

[d] As violative of constitutional presumption of innocence

Where it has been contended that a statute which prohibited the performance of an abortion except upon restricted grounds, such as to preserve a pregnant woman's life or health, violated the constitutional presumption of innocence by requiring the accused to prove that an abortion performed by him fell within the statutory exception, it has been held (1) that the statute would be construed as not intending to require the accused to prove that his conduct fell within the statutory exception, but as intending to require the prosecution to prove that the accused's conduct did not fall within the statutory exception, and (2) that the statute, so construed, was not subject to challenge as violating the constitutional presumption of innocence.

Thus, in United States v Vuitch (1971) 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, where a District of Columbia Code provision prohibited the performance of an abortion unless "necessary for the preservation of the mother's life or health," the Supreme Court rejected the District Court's conclusion that once an abortion was proved, a physician was presumed guilty and remained so unless a jury could be persuaded that his acts were necessary for the preservation of the woman's life or health. The Supreme Court noted that a statute which outlawed only a limited category of abortions but "presumed" guilt whenever the mere fact of abortion was established would at the very least present serious constitutional problems under the Supreme Court's previous decisions interpreting the Fifth Amendment. The Supreme Court concluded that Congress did not intend that a physician be required to prove his innocence, and that under the District of Columbia abortion statute, the burden was on the prosecution to plead and prove that an abortion was not necessary for the preservation of the mother's life or health.

Similarly, in Corkey v Edwards (1971, DC NC) 322 F Supp 1248, vacated on other grounds 410 US 960, 35 L Ed 2d 682, 93 S Ct 1411, where a state statute prohibiting an abortion created exceptions if a licensed physician could reasonably establish that (1) there was substantial risk that continuance of the pregnancy would threaten the life or gravely impair the health of the woman, or (2) there was substantial risk that the child would be born with grave physical or mental defect, or (3) the pregnancy resulted from rape or incest, it was concluded that to read the statute so as to place the burden of proof upon the defendant in a criminal prosecution would offend a maxim—implicit in due process—that the accused was presumed innocent until proved guilty; that the burden of proof had to be upon the state to show that the conditions for performing therapeutic abortions—a substantial risk to the life or health of the mother, or a substantial risk that the child would be born with grave physical or mental defect, or rape or incest—were not present; that due process forbade that the accused be required to establish to the court and jury that the abortion performed came within the exemptions of the statute; that this was unquestionably the legislative intent; and that since the statute could be saved only by such an interpretation, the court would not hesitate to put such a construction upon the statute.

However, in People v Bricker (1972) 42 Mich App 352, 201 NW2d 647, affd 389 Mich 524, 208 NW2d 172, where a state statute prohibited an abortion upon a woman unless "necessary to preserve the life of such woman," and where the statute also provided explicitly that in any prosecution under the statute, "it shall not be necessary for the prosecution to prove that no such necessity existed," the court concluded that the language of the statute clearly shifted the burden of proof as to the necessity of the abortion to the defendant, and that such a shifting of the burden of proof was constitutionally impermissible. To the same effect is People v Nixon (1972) 42 Mich App 332, 201 NW2d 636.

[e] As violative of equal protection

The following cases have held that laws prohibiting abortions except upon restricted grounds did not violate the equal protection clause of the Fourteenth Amendment.

Where a state statute prohibited an abortion "unless done for the relief of a woman whose life appears in peril after due consultation with another licensed physician," in Rosen v Louisiana State Board of Medical Examiners (1970, DC La) 318 F Supp 1217, vacated on other grounds 412 US 902, 36 L Ed 2d 966, 93 S Ct 2285, the court rejected the contention that because an affluent woman had a better opportunity than a poor woman to obtain an abortion at little risk to her life or health, the equal protection clause of the Fourteenth Amendment was violated. The court stated that it was unwilling to hold that the right to an abortion was a protected right under the Fourteenth Amendment.

In Crossen v Atty. Gen. of Kentucky (1972, DC Ky) 344 F Supp 587, vacated on other grounds 410 US 950, 35 L Ed 2d 683, 93 S Ct 1413, the court rejected the contention that since a woman with sufficient money, unlike a poor woman, was free to travel outside of a state and procure a legal abortion, state legislation prohibiting an abortion unless necessary to preserve a woman's life violated the equal protection clause of the Fourteenth Amendment by precluding only poor women from obtaining legal abortions. The court expressed the view that the disparities between one woman's economic status and another's were not caused by the wording of the abortion statute, and that a constitutional invalidation of the statute was not warranted. To the same effect is Nelson v Planned Parenthood Center, Inc. (1973) 19 Ariz App 142, 505 P2d 580, vacated on reh on other grounds 19 Ariz App 152, 505 P2d 590, wherein the court, quoting from the District Court's opinion in the Crossen Case, supra, rejected the contention that a statute prohibiting an abortion unless necessary to save a woman's life unconstitutionally discriminated against poor women because women with sufficient means were always free to travel outside the state and procure a legal abortion. Also to the same effect is Sasaki v Commonwealth (1972, Ky) 485 SW2d 197, vacated on other grounds 410 US 951, 35 L Ed 2d 684, 93 S Ct 1422, conformed to on other grounds (Ky) 497 SW2d 713.

In Steinberg v Brown (1970, DC Ohio) 321 F Supp 741, it was held that a state statute prohibiting an abortion unless necessary to preserve a woman's life was not violative of the equal protection clause of the Fourteenth Amendment. In response to the contention that wealthy persons could shop for complaisant physicians, or could travel to remote places where abortion was legal, while poor people could not, the court stated that even if such a situation had a sound basis in fact, it

A state statute prohibiting an abortion unless necessary to save the life of the mother was held not violative of the equal protection clause of the Fourteenth Amendment, in Babbitz v McCann (1970, DC Wis) 310 F Supp 293 (app dismd 400 US 1, 27 L Ed 2d 1, 91 S Ct 12, and later op (DC Wis) 320 F Supp 219, vacated on other grounds 402 US 903, 28 L Ed 2d 643, 91 S Ct 1375). The court rejected the contention that because medical facilities were not constant throughout the state and because a doctor in a rural area might be justified in performing a "necessary" abortion, whereas a doctor treating the same patient in a large city would be unwarranted in performing the abortion because of the availability in such city of superior medical facilities, the equal protection clause was violated. Moreover, the court stated that even if a wealthy woman, but not a poor one, was able, upon demand, to secure a safe and legal abortion somewhere outside the state, such types of inequality could not be equated with a denial of a protected right under the Fourteenth Amendment.

In Cheaney v State (1972, Ind) 285 NE2d 265, cert den for want of standing 410 US 991, 36 L Ed 2d 189, 93 S Ct 1516, the court rejected the contention that a statute prohibiting an abortion unless necessary to preserve a woman's life constituted a denial of equal protection to the poor, in that an abortion was available for the rich, who could afford to obtain the abortion at some out-of-state place where it was legal, while a poor citizen had no means by which to obtain one. The court pointed out that a state was obligated to provide equal protection under its own laws, but could not be expected to provide equal protection under the law of any other jurisdiction. The court stated that although it was sympathetic with the frequent difficulties faced by the poor and the inequities with which they were sometimes confronted, no denial of equal protection arose in any legal sense from the enforcement of the abortion law.

In State v Abodeely (1970, Iowa) 179 NW2d 347, cert den and app dismd abortion upon a woman unless necessary to preserve her life, and where the state's highest court had construed the statute so that if a regular physician made an examination and acted upon it, he was entitled to a presumption of correct judgment and good faith, thereby falling under the therapeutic exception contained in the statute, but if a person accused of violating the statute was not a physician, there would be no such presumption, it was concluded that because the absence of medical skill added to the risk of injury, the classification imposed on the statute by the court's interpretation was neither unreasonable nor arbitrary, and that the classification thus involved no denial of equal protection.

See Rodgers v Danforth (1972, Mo) 486 SW2d 258, wherein the court appears to have rejected, without discussion, the contention that a state statute narrowly restricting the grounds for an abortion violated equal protection of the laws.

[f] As violative of religious guaranties

It has been held that legislation prohibiting abortions except upon restrictive grounds does not violate the First Amendment's provisions guaranteeing free exercise of religion and proscribing laws respecting an establishment of religion.

Thus, in Crossen v Atty. Gen. of Kentucky (1972, DC Ky) 344 F Supp 587, vacated on other grounds 410 US 960, 35 L Ed 2d 683, 93 S Ct 1413, the court rejected the contention that a state statute prohibiting an abortion unless necessary to preserve a woman's life represented an unconstitutional establishment of religion. Rejecting contentions that the determination as to when an embryo or fetus became human was in essence a theological question not to be resolved by the state, and that for the state to assume that an embryo was human was tantamount to an unconstitutional establishment of religion, the court stated that no determination as to when an embryo or fetus became human was essential for a constitutional justification recognize that the embryo or fetus was potential human life; and that the state's compelling interest in potential human life justified the statute. To the same effect is Saraki v Commonwealth (1972, Ky) 485 SW2d 897, vacated on other grounds 410 US 951, 35 L Ed 2d 684, 93 S Ct 1422, conformed to on other grounds (Ky) 497 SW2d 713.

In Nelson v Planned Parenthood Center, Inc. (1973) 19 Ariz App 142, 505 P2d 580, vacated on reh den other grounds 19 Ariz App 152, 505 P2d 590, the court, noting that one need not base a sanctity for life on religious concepts only, rejected the contention that legislation prohibiting an abortion unless necessary to save a woman's life constituted an establishment of religion and violated the plaintiffs' religious liberty.

See Rodgers v Danforth (1972, Mo) 486 SW2d 258, wherein the court appears to have rejected, without discussion, the contention that a state statute narrowly restricting the grounds for an abortion constituted an establishment of religion.

[g] As inflicting cruel and unusual punishment

Legislation prohibiting abortions except upon restricted grounds has been held not violative of the Eighth Amendment's proscription against the infliction of cruel and unusual punishment.

Thus, in Steinberg v Brown (1970, DC Ohio) 321 F Supp 741, it was held that a state statute prohibiting an abortion unless necessary to preserve a woman's life did not violate the cruel and unusual punishment clause of the Eighth Amendment. The court noted that if it is known generally that an act has possible consequences which the actor does not desire to incur, he has the choice between refraining from the act and taking his chance of incurring the undesirable consequences; that if one gambles and loses, it is neither the statute nor the Constitution which determines the price, or how it shall be paid; and that the result of deciding to have sexual intercourse and then being unable to obtain an abortion for an ensuing pregnancy is not

[h] As unconstitutional delegation of authority

Conflicting results have been reached by the courts whether legislation which prohibits an abortion upon a woman unless "necessary to preserve her life" delegates decisionmaking authority to a physician in violation of the due process clause of the Fourteenth Amendment.

Thus, on one hand, in People v Belous (1969) 71 Cal 2d 954, 80 Cal Rptr 354, 458 P2d 194, cert den 397 US 915, 25 L Ed 2d 96, 90 S Ct 920, where a state statute prohibited an abortion upon a woman unless "necessary to preserve her life," the court concluded that under the statute, a physician was, in effect, delegated the duty to determine whether a pregnant woman had the right to an abortion, and the physician acted at his peril if he determined that the woman was entitled to an abortion, since he was subject to prosecution for a felony and to deprivation of his right to practice medicine if his decision was wrong; that rather than being impartial, the physician had a direct, personal, substantial, pecuniary interest in reaching a conclusion that a woman should not have an abortion; and that the delegation of decisionmaking power to a directly involved individual violated the Fourteenth Amendment.

On the other hand, in State v Bartlett (1970) 128 Vt 618, 270 A2d 168, where the defendant had been convicted of assisting in the procurement of an abortion in violation of a state statute prohibiting an abortion upon a woman unless "necessary to preserve her life," the court rejected the defendant's contention that the statute was subject to interpretation by a doctor who, after examination of a woman, had to make the decision whether the necessity to preserve life existed, and that this delegation of decisionmaking power to a directly involved individual violated the Fourteenth Amendment. The court stated that the defendant's argument put forward "only a general proposition not applicable to the facts presented" in the instant case, and that the defendant, by his argument was

hy the outcome of his prosecution by the state."

[i] As violative of other constitutional guaranties

In the following cases, the courts, apparently dealing in only a very general way with either due process or the Federal Constitution as a whole, have rejected challenges to the constitutionality of laws prohibiting abortions except upon restricted grounds.

Although holding state abortion legislation unconstitutional on other grounds, in People v Barksdale (1972) 8 Cal 3d 320, 105 Cal Rptr 1, 503 P2d 257, supra § 3[b], the court stated, with respect to a statutory provision which the court construed as precluding an abortion after the 20th week of pregnancy, that the legislature had the power to establish criteria limiting the decision to terminate a pregnancy when a fetus was capable of life independent of the body of a woman; that the record in the present case in no way undermined the legislative determination that 20 weeks was an appropriate time for a changed legal relationship; and that there were no constitutional impediments to the statutory provision limiting the performance of abortions to the first 20 weeks of pregnancy.

In State v Scott (1971) 260 La 190, 255 So 2d 736, where a state statute prohibited abortion, which was defined as the performance of certain acts "with the intent of procuring premature delivery of the embryo or fetus," the court rejected the contention that since the statute did not define abortion as actually causing the premature delivery of an embryo or fetus, but as merely the performance of an act with the intent of procuring a premature delivery, the statute sought to impose the maximum punishment for abortion upon one who merely attempted to procure what was universally known as an abortion, and that because actual delivery was not made a necessary element of the crime of abortion, the legislature violated due process in drafting the statute. To similar effect, see State v Pearson (1970) 256 La 201, 235 So 2d 568, wherein the court, without [illegible] particular constitutional

the same statute as was involved in the Scott Case, supra, "is unconstitutional." To the same effect is State v Shirley (1970) 256 La 665, 237 So 2d 676, cert den 401 US 926, 27 L Ed 2d 829, 91 S Ct 891, reh den 402 US 925, 28 L Ed 2d 664, 91 S Ct 1383.

See State v Elliott (1963) 234 Or 522, 383 P2d 382, wherein the court rejected, without discussion, a contention that a state statute prohibiting abortion except upon restricted grounds violated the Fourteenth Amendment.

§ 4. Prohibition of abortion upon nonresident

Relying upon the privileges and immunities clause or upon the constitutional right of interstate travel, the courts have held in the following cases that the Federal Constitution was violated by state legislation precluding nonresidents from obtaining abortions.

Invalidating a residency requirement contained in a state abortion law, in Doe v Bolton (1973) 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410, the court emphasized that the privileges and immunities clause of Article IV § 2 of the Constitution protected persons who entered a state seeking the medical services which were available there. It was noted that the residency requirement was not based on any policy of preserving state-supported facilities for state residents, for the bar was also applicable to private hospitals and to privately retained physicians; that there was no intimation that state facilities were utilized to capacity in caring for state residents; and that upholding the residency requirement would mean that a state could limit to its own residents the general medical care available within its borders.

In Corkey v Edwards (1971, DC NC) 322 F Supp 1248, vacated on other grounds 410 US 950, 35 L Ed 2d 682, 93 S Ct 1411, the court invalidated a state statutory provision permitting a woman to obtain an abortion only if she has resided in the state for at least 4 months immediately preceding the abortion. Noting that this provision was challenged on the ground that it [illegible]

right to travel guaranteed to all citizens, the court concluded that the residency requirement was overbroad; that the interest of the state in maintenance of quality medical treatment for its citizens could be effected without such unnecessary discrimination against other citizens of the United States; and that in the unlikely event that medical facilities should become overtaxed, some fair system of priority, short of flat exclusion of nonresidents, could be devised.

§ 5. Requirement that person performing abortion be licensed physician

The following cases have held or recognized that laws permitting abortions to be performed only by licensed physicians are not violative of the Federal Constitution.

Although holding that a state abortion law restricting the grounds for abortion was violative of the right of privacy under the due process clause of the Fourteenth Amendment, in Roe v Wade (1973) 410 US 113, 35 L Ed 2d 147, 93 S Ct 705, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1409, supra § 3[a], the court recognized that after the end of the first trimester of pregnancy, it was permissible for a state to regulate requirements as to the qualification of the person who was to perform an abortion and as to the licensing of such a person. To similar effect, see People v Frey (1973) 54 Ill 2d 28, 294 NE2d 257, wherein the court, although holding a state abortion statute unconstitutional, noted that in Roe v Wade, supra, the United States Supreme Court had discerned no constitutional infirmities if a state prohibited a layman from performing an abortion or if the state restricted the term "physician" to include only those currently licensed as such by the state.

See Cheaney v Indiana (1973) 410 US 991, 36 L Ed 2d 189, 93 S Ct 1516, holding that where the petitioner, who was not a physician, had been convicted for violating a state abortion statute and was challenging the statute as unconstitutional, the petition for certiorari would be denied for want of standing of the petitioner.

Although holding that state legisla-

abortion violated the constitutional right to privacy, in Doe v Bolton (1970, DC Ga) 319 F Supp 1048 (app dismd 402 US 936, 29 L Ed 2d 104, 91 S Ct 1614, 1633), mod on other grounds 410 US 179, 35 L Ed 2d 201, 93 S Ct 739, reh den 410 US 959, 35 L Ed 2d 694, 93 S Ct 1410, supra § 3[a], the court concluded that even if, under state legislation, abortions could be obtained only from licensed physicians and surgeons, and only after psychiatric consultation, the mere fact that physicians and psychiatrists were more accessible to rich people than to poor people, making abortions more available to the wealthy than to the indigent, was not in itself a violation of the equal protection clause of the Fourteenth Amendment.

While holding that a state statute prohibiting an abortion unless necessary to save the life of the mother violated the constitutional right to privacy, in Babbitz v McCann (1970, DC Wis) 310 F Supp 293 (app dismd 400 US 1, 27 L Ed 2d 1, 91 S Ct 12, and later op (DC Wis) 320 F Supp 219, vacated on other grounds 402 US 903, 28 L Ed 2d 643, 91 S Ct 1375), supra § 3[a], the court recognized that a state, under its police power, could regulate certain aspects of abortion, and that it was permissible for the state to require that abortions be conducted by qualified physicians.

In United States v Vuitch (1969, DC Dist Col) 305 F Supp 1032, revd on other grounds 402 US 62, 28 L Ed 2d 601, 91 S Ct 1294, the court, referring to evidence that infection and death still often attended clumsy, unskilled terminations of pregnancy performed by nonphysicians, stated, with respect to abortion legislation for the District of Columbia, that it was well within the police power of Congress to outlaw abortions which are not performed under a competent, that is, a qualified, licensed practitioner of medicine, and the court held that Congress had constitutionally required that abortions be undertaken only under the direction of a competent physician.

Although reversing on other grounds the conviction of the defendant, a lay-

PROPOSED BILL

For an Act entitled: "A bill limiting the use of public funds for abortions, providing for severability, and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1. AS 47.07 is amended by adding a new section to read:

47.07.035 Payment for Abortion. No funds subject to appropriation by the legislature, or to control or disbursement by any state agency or department, may be expended for abortions, induced miscarriages, or induced premature births except upon a written statement by a licensed physician certifying that such procedure is necessary for preservation of the life of the mother seeking such treatment and stating the medical basis for this conclusion. Nor may such funds be expended for such procedures necessary for preservation of the life of the mother except upon written certification by the attending physician that in his best professional judgment all reasonable efforts, consistent with preservation of the life of the mother, were made to preserve the life of the unborn child.

Section 2. Severability. It is the intent of Section 1 of this bill to disallow state funding for abortion-related procedures to the maximum extent consistent with state participation in the medicaid program established under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq,("Title XIX") as amended. Any aspect or application of Section 1 of this bill which is not consistent with state participation in Title XIX shall be deemed severable from the remaining aspects or applications, and section 1 shall continue to apply to abortion-related procedures which States are not required to fund as a condition to participation under Title XIX.

Section 3. Effective Date. This act takes effect immediately in accordance with AS 01.10.070(c).

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

November 6, 1981

Ms. Crystal W. Baker
Star Route Box 785
Chugiak, Alaska 99567

Dear Ms. Baker:

I want to thank you for your letter in which you summarized your testimony before the hearing on HB500 and HB550 on September 14, 1981. Please let me assure you that your thoughts and feelings concerning these complex issues are helpful and appreciated.

It seems likely that these two bills will be brought up early in the next legislative session. The hearing was well attended and we have gleaned much "food for thought" from the testimony presented before the committee.

Again, I want to thank you for your active participation in this important decision forming process.

Sincerely,

Mike Beirne
State Representative

MB/bw

Performing Arts Center 2:25

Mr. Chairman & Members of the Committee:

I am Chuck Wheeler & will be reading these remarks for Grant Walther who is unable to be here at this time.

Thank you for re-opening public hearings on the subject of abortion for the first time since 1970. I appreciate this opportunity to express my opinion on House Bill 500.

It is unconscionable to me that the state should be in the business of of funding the execution of children whose only crime was having been conceived through the fault of someone else. In an age where the populous finds capital punishment for hienous crimes abhorrent, isn't it unamerican for the state to be financing the painful, inhumane deaths of innocent children who have not been granted individual trials by jury or due process of law? Just as the Nazi war criminals were tried separately at Nuremberg,

Each & every unborn child deserves individual trial to determine guilt or innocence, extermination or life, not blanket state funding of capital punishment for the youngest of all Alaskans in a state where none but the unborn may be subjected to the death penalty. The horror of Abortion is more brutal than any gas chamber, electric chair, firing squad or hangmans noose, which punishments are reserved for felonious criminals of the worst degree.

I want to register my support for House Bill 500, getting the state out of the business of funding the extermination of countless little babies each year.

HIS OWN INTERPRETER, HE WILL MAKE IT PLAIN!" I BELIEVE THAT YOU DONT NEED ME OR ANYONE ELSE TO TELL YOU WHAT GOD THINKS, WE COULDN'T DO IT IF WE WANTED TO.

Ladies and gentlemen of the Committee. My name is Richard M. Madden, and I serve as pastor to the Immanuel United Presbyterian Church here in Anchorage.

I wish to begin by making it quite clear to you that I am "pro-life." I am also pro-liberty, and I stand ~~equally for~~ the pursuit of happiness. In short, I firmly accept and defend those ideals of government which grant the people of this nation the freedoms so dearly bought, ~~and paid for~~, SOME OF WHICH YOU HAVE AN UNIQUE OPPORTUNITY TO DESTROY.

I am a Christian, and just exactly what that means is known only to my God and myself. And that's as it should be, and [redacted] always has been. As a Christian, I believe it is my responsibility and my calling to speak about God. However, it is not my right, nor is it anyone else's to arrogantly presume to speak for God.

Despite the fact that you have been bombarded by many voices who tell you what God wants you to do, it is my fervent hope that you will be swayed only by the voice of your own conscience interacting with your understanding of the the just ideals which this country represents.

I am here to make a single position known to you, for the Church and individual churchmeople should be prepared to inform the state, but they must never presume to dictate to, or force their will upon, the State.

Ours is a land of pluralism....religious pluralism, which makes it quite obvious that no one can either identify or represent a single deity which could be called The One True God. Yet it should be pointed out that the vast majority of religious bodies, both Judeo-Christian and

EASTERN

in heritage have made public pronoucements favoring some form of choice on the issue of abortion. In neither the Old nor the New Testiment of the Bible is the issue of abortion even addressed, therefor there is not clear Scriptural warrant for either position. Yet even the most cursory historical perusal of the life and times of the Biblical peoples will demonstrate that the cessation of pregancy was rather common under various circumstances, and that sentient life was never thought to begin prior to birth.

So it is that, as a Christian, I can support the right of choice with a clear conscience. Yet, there are those with equally clear conscience who stand on the other side of the fence. You have to listen to both positions, after which you will make a choice. That's the system, and it's a good one. It's a system which supports freedom.

I can only urge that your free choice will not destroy the right to an equally free choice on the part of potential mothers. Grant them the same opportunity to excercise the freedom that you enjoy.

I beg you to

Suzanne Wasilczuk
Box 2424
Sitka AK 99835

Rep. Mike Beirne
Chairman, House HESS Committee
700 "H" St. Suite 8
Anchorage AK 99501

Dear Representative Beirne,

I strongly disagree with the Alaska legislature's attempt to restrict personhood on a fetus, as in H.B. 550, and with the limitation on payment for abortions, H.B. 500.

No one is happy about abortions, but until we are able to substitute widespread and readily available means of birth control and far-reaching educational programs on the facts and responsibilities of sexual life, abortions will continue. And even if all the above came true, there will always remain the unfortunate few, victims of ignorance, mischance or rape.

Personhood is a concept best left to religion and philosophy, particularly when the personhood of a fetus is under discussion. And, to essentially force a poor woman to bear a child against her will, by denying her funds that are readily available to the more affluent, regardless of the conditions — rape, poverty, overwork or ill health — is brutal

and unconscionable.

Please work to defeat both HB 500 + HB 550.

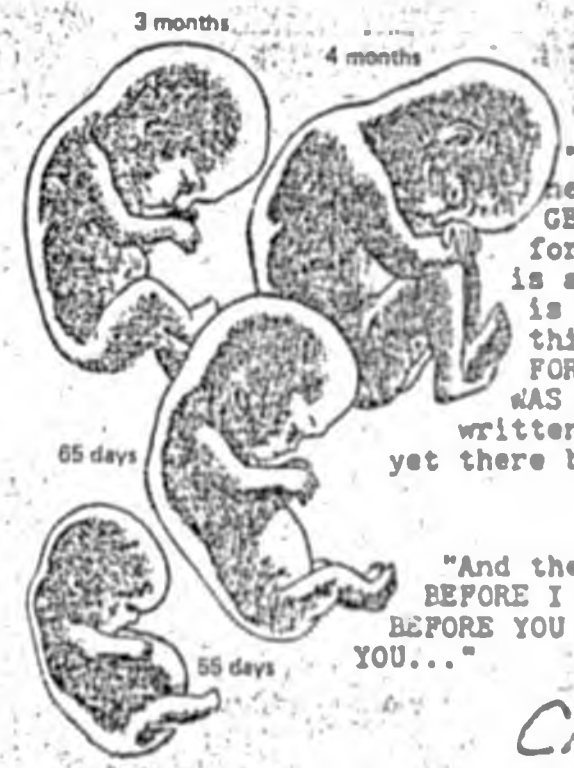
Sincerely,

Suzanne Waisbrodt

ORTHODOX AGAPE

VOL II NO. 4 JANUARY 22, 1978

THIS ENTIRE ISSUE OF ORTHODOX AGAPE IS DEDICATED TO THE MOST INNOCENT OF ALL HUMAN LIFE --- THE CHILD IN THE WOMB: FROM CONCEPTION TO BIRTH. IT IS ONE SMALL "VOICE CRYING IN THE WILDERNESS" ON BEHALF OF THE MORE THAN 6½ M I L L I O N INFANTS WHO HAVE BEEN MURDERED - PREMEDITATIVELY AND FOR PROFIT - SINCE THE SATANIC DECISION OF THE U.S. SUPREME COURT ON JANAURY 22, 1973, WHICH "LEGALIZED" THE BRUTAL DESTRUCTION INNOCENT LIFE CREATED IN THE IMAGE AND LIKENESS OF GOD.



LIFE IN THE WOMB AS TOLD BY THE PROPHET-KING DAVID (Psalm 138 (139) vss 13-16 in modern english text)

"Thou (O God) made all the delicate, inner parts of my body, and KNIT THEM TOGETHER IN MY MOTHER'S WOMB. I thank Thee for making me so wonderfully complex! It is amazing to think about. Thy workmanship is marvelous - and how well my soul knows this. THOU WERE THERE WHILE I WAS BEING FORMED IN SECRECY! THOU SAW ME BEFORE I WAS BORN, and in Thy Book shall all men be written; day by day they are formed, when as yet there be none of them."

JEREMIAH 1:4-5

"And the word of the Lord came to him saying, BEFORE I FORMED YOU IN THE WOMB, I KNEW YOU; AND BEFORE YOU CAME FORTH FROM THE WOMB I SANCTIFIED YOU..."

CHOOSE LIFE!

IV

THE CHILD IN THE WOMB KNOWS ITS CREATOR ---

"And it came to pass, that when Elizabeth heard the greeting of Mary (The Theotokos), the BABE LEAPED IN HER WOMB; and Elizabeth was filled with the Holy Spirit: And she proclaimed with a loud voice 'Blessed are you among women and blessed is the Fruit of your womb... For as soon as the voice of your greeting sounded in my ear, THE BABE IN MY WOMB L E A P E D F O R J O Y." (Luke 1:41-44)

THE INNOCENCE OF CHILDREN IS ESSENTIAL FOR SALVATION - - -

"At that time they were bringing even infants to Him, that He might touch them; and when the disciples saw it, they rebuked them. But Jesus called them to Him saying, 'Let the children come to me and do not hinder them; for to such belongs the Kingdom of God. Truly, I say to you, whoever does not receive the Kingdom of God like a child shall not enter it.' Those who heard it said, 'Then who can be saved?' But He said, 'What is impossible with men is possible with God.'" (Luke 18:15-17, 26-27).

IV

"DON'T YOU KNOW THAT YOUR BODY IS THE TEMPLE OF THE HOLY SPIRIT, WHO LIVES IN YOU, AND WAS GIVEN TO YOU BY GOD? YOU DO NOT BELONG TO YOURSELVES BUT TO GOD; HE BOUGHT YOU FOR A PRICE. SO USE YOUR BODIES FOR GOD'S GLORY." (I COR. 6:19-20) "SO IF ANYONE DESTROY'S GOD'S TEMPLE, GOD WILL DESTROY HIM. FOR GOD'S TEMPLE IS HOLY, AND YOU YOURSELVES ARE HIS TEMPLE." (I COR. 3:16-17).

Holy Trinity Greek Orthodox Church
900 Sixth Street
Sioux City, Iowa 51101

Abortion KILLS Babies Grows Life

NONPROFIT ORG.
U. S. POSTAGE
PAID
PERMIT NO. 328
SIOUX CITY, IOWA

Address Correction Requested
Dated Material

Rev. Ted Pryntzko
320 5th Street
Juneau, AK 99801

CHRIST is in the Midst of Us!

SAINT NICHOLAS RUSSIAN ORTHODOX CHURCH - Juneau - 586-1023

"Whosoever will come after Me, let him deny himself, take up his cross, and follow Me." (Mark 8:34) Oct.12,1979

To Dear Brothers & Sisters in the Lord,

Before we can follow our Lord and Saviour Jesus Christ down the 'narrow path' to our salvation, we must FIRST: d e n y ourselves AND take up our c r o s s --- two actions which CANNOT be done unless our daily lives are founded upon the gift of H U M I L I T Y.

The Personification of humility is our Lord Jesus. The ikon to the left is called "Extreme Humility." For it depicts the King of Kings, 'before Whom tremble the Angels and Archangels,' as a submissive Servant and sacrificial Lamb for His creations. The Word of God takes on the form of one of His servants and endures SUFFERING, TEMPTATIONS, MOCKINGS, AND DEATH, so that He can wash away the sins of ALL mankind and open the gates of Paradise to all who choose to follow Him.

One of the hymns from Holy Thursday Evening, further illustrates the perfect humility of our Saviour:

"Today is hung upon the Tree. He Who suspended the land in the midst of the waters. A crown of thorns crowns Him Who is the King of Angels. The purple of mockery is wrapped about Him, Who wrapped the heavens with clouds. Buffetings are received by Him, Who freed Adam in the Jordan..."

At this VERY MOMENT, our humble Saviour - the King of Glory - is calling us to observe how much humility was shown by Him for ALL of us. He is calling EACH of us to ABANDON the chains of our ego-worshipping society, and take up His "yoke" --- and learn from HIM. In this way, He can clothe EACH of us with His special GIFT of humility;which will guide us down the narrow path in this life, while He continues to make ready our HEAVENLY abode in the life to come -- a house "not made by human hands, eternal in the heavens."

Of course, our task is NOT an easy one; for being humble goes AGAINST the 'norm' of our society: Our FINITE, IMPERFECT SOCIETY tells us, 'You're number one!' The INFINITE, PERFECT WORD OF GOD tells us, 'Consider yourselves lower than everyone else.'; Our FINITE IMPERFECT SOCIETY tells us, 'Be totally independent and self-sufficient. Have confidence in your own abilities.' The INFINITE, PERFECT, WORD OF GOD tells us, 'Be dependent on God for EVERYTHING, and have no regard for your own ability.'; Our FINITE, IMPERFECT SOCIETY tells us, 'Only the strong will survive in this world. You must always give top priority to your own interests and welfare.' Our INFINITE, PERFECT WORD OF GOD tells us 'Seek a state of total weakness so that God's power can be made perfect in you. Be first concerned about your neighbor's welfare.'; Our FINITE IMPERFECT SOCIETY tells us, 'Seek open and wide acknowledgements of all your efforts and accomplishments. This is the only way to get ahead in life.'; Our INFINITE, PERFECT WORD OF GOD tells us, 'Do everything without seeking recognition from others and receive instead the recognition of your Father in heaven.'; Our FINITE, IMPERFECT SOCIETY tells us, 'Don't sit back and let people insult you or step on you! Fight back!' Our INFINITE, PERFECT WORD OF GOD tells us, 'Accept and endure the abuses and insults of others, and be ready to turn the other cheek.'.

In short, our EGO-CENTERED MATERIAL-WORSHIPPING SOCIETY is based upon P R I D E -- the 'garment of Satan.' In time, it will pass away into oblivion! But the CHRIST CENTERED, SPIRITUAL LIFE OF THE WORD OF GOD is based upon H U M I L I T Y --- the 'garment of Christ.' It TRANSCENDS time and will NEVER pass away.

THE CHOICE IS OURS, DEAR BROTHERS AND SISTERS IN CHRIST! For God will NOT force us to accept His invitation. The King of Glory awaits our decision! What will it be??? "HE WHO HAS EARS TO HEAR, LET HIM HEAR!"

Sioux City, Iowa
Fr. Jim Cargile (Reprint from the HOLY TRINITY GREEK ORTHODOX CHURCH)/

From the Writings of the Holy Fathers - - - On CHRISTIAN L I V I N G

Abba Isaiah said, "nothing is so useful to the beginner as insults. The beginner who bears insults is like a tree that is watered every day."

He also said, "When someone wishes to render evil for evil, he can injure his brother's soul by the single nod of the head."

He also gave us the meaning of these sins:

AVARICE - "Not to believe that God prays for you, to despair of the promises of God and to love boasting."

CALUMNY - "It is ignorance of the glory of God, and hatred of one's neighbor."

ANGER - "Quarreling, lying and i g n o r a n c e." (St. ISAIAH, an ascetic of Egypt (4th Cent.)

ENCLOSURE 2.

The Orthodox Church

Published by the Orthodox Church in America

VOL. 14—No. 3 | Entered as second-class matter at Syosset, N.Y. and postage paid at Additional Mailing Offices | SYOSSET, N.Y. | MARCH 1978

Patriarchate Spokesman Cites Goals of Orthodox 'Great Synod'

ISTANBUL (RNS)—A spokesman for the Ecumenical Patriarchate here said the planned first Great Synod of Eastern Orthodoxy since the eighth century will focus on two main themes: internal ecclesiastical questions and inter-Christian unity.

Metropolitan Bartolomeos of Arcondonis, director of the secretariat of the Ecumenical Patriarchate, reminded reporters at a press conference that the subjects to be dealt with at the Great Synod had been decided upon at a pre-synodal meeting in Chambésy, Switzerland, in December 1976.

At that meeting representatives of 13 Patriarchates and Churches unanimously approved a 10-point agenda for the first Great Synod.

Metropolitan Bartolomeos said there would probably be other pre-synodal conferences during 1978 before establishing the date of the Synod itself.

The agreed agenda includes questions relating to the Orthodox "diaspora"—believers living outside traditionally Orthodox areas; the situation of the "autonomous" Churches which have some independence but are not fully self-governing; procedures for granting independence (autocephaly) to various Churches; the use of the Gregorian calendar, rather than the traditional Julian calendar, now 13 days behind the rest of the Christian world; and relations of Eastern Orthodoxy to the rest of Christianity.

Metropolitan Bartolomeos said that the Orthodox "heartily desire" to strengthen the links with other Christians.

He added that the Great Synod was also expected to provide an opening of the Orthodox Church "toward non-Christian religions, particularly, Islam and Buddhism."

Woman Professor Holds Priesthood Reserved By Christ for Men Only

NEW YORK (RNS)—A Roman Catholic woman professor writes in a priests' magazine that there is "not a line in the New Testament that gives women the green light" for ordination to the priesthood.

Prof. Fortunata Calos expressed her wish that "all would-be ministering angels beseeching the Church today for ordination would be content with their roles as domestic, final and supportive angels, or wait to be ministering angels in heaven."

Ms. Calos, writing in the January issue of *Homiletic and Pastoral Review*, a monthly priests' journal, said the women of Christ's time took part in "domestic, personal, final" ministries, providing food, drink, shelter, hospitality "and whatever creature comforts" needed.

"Today's would-be ministering angels might well consider the kind of ministry of the women of Christ's life, a ministry that did not deny their 'equality' with men but in no way emphasized their differences from men, differences that in no way [illegible] or diminished them," she added.

She described as "folly" the suggestion that the example of the three boys Christ loved (including women Apostles, choosing that Jesus "did a lot of things that were contrary to the culture and custom of the time, like fraternizing with sinners and picking grain on the Sabbath."

Running through names that included Mary Christ's mother, Mary Magdalene, Anna the prophetess and Mary and Martha, Ms. Calos said Jesus did without giving a mandate of ministry to any women.

She went on to point out that neither Mary and Martha, the sisters of Lazarus who appear in St. John's Gospel, "were the twelve loved," were invited to join the Apostles, "to become fishers of men, to go out and teach [illegible] Nations."

"I do not find a line in the New Testament that gives women the green light for ordination," the scholar said.

"To say that He (Christ) was limited by the culture and manners is a denial of His divinity, as if He didn't know what would happen in 1978," she added.

Antiochian Church Forbids Bingo

ENGLEWOOD, N.J. (RNS)—The head of the Antiochian Orthodox Christian Archdiocese of North America has issued an "unequivocal directive" forbidding parishes to sponsor bingo games after the end of this year.

Metropolitan Philip (Saliba) said "all parishes and parochial organizations . . . must desist from this practice" in line with a resolution of the denomination's 28th general assembly in Montreal in 1974.

"Although we were worried that parishes would discontinue such activity on their own initiative," the metropolitan wrote, "we have discovered that (a) very few communities remain dependent on revenue derived from this form of gambling.

"Bingo," he continued, "has been proven to be a detriment which has steadily destroyed the Christian core of sacrificial giving. Moreover, bingo is not compatible with our Christian ethics and teaching. How can we teach our children that gambling is sinful and at the same time continue to gamble in our church facilities and otherwise. Gambling in the name of a good cause cannot and will not be tolerated."

The archdiocese, under the jurisdiction of the Eastern Orthodox Patriarchate of Antioch (located in Damascus), has about 150 North American parishes.

The two larger North American Orthodox jurisdictions—the Greek Orthodox Archdiocese of North and South America and the Orthodox Church in America—have likewise officially opposed to bingo and similar forms of parish fundraising.

Metropolitan Council Adopts Budget; Establishes Stewardship Department

DOUGLASTON, N.Y.—The Metropolitan Council of the OCA held its meeting December 13-14, 1977 at Cathedral College, Douglaston, N.Y. The meeting was chaired for the first time by His Beatitude, Metropolitan Theodosius, and was attended by clergy and lay representatives of the entire Church.

The main part of the meeting was occupied by a discussion of the National Church budget for 1978, which was unanimously approved in the amount of $420,000.

Among other actions taken by the Council—upon a suggestion of His Beatitude—was the creation of a Department of Stewardship in line with the program approved by the All-American Council in Montreal. Bishop Herman was appointed chairman with Fr. Vladimir Berezansky and Albert Fournier as vice chairmen.

As a first token of the new program, Council member Paul Culton of the New England Diocese presented a check for $4,500 as a Diocesan Stewardship contribution.

The Council also discussed various aspects of the National Church programs, including the future development of the Oyster Bay Cove estate, the future of the New York Cathedral, the site of the Sixth All-American Council (three cities are under consideration: Detroit, Chicago and St. Louis) and issues involving the Mission of the Church and Orthodox unity.

Orthodox Churches Cite Stand Against Abortion

PROVIDENCE, R.I. (RNS)—The newly formed Council of Orthodox Churches in Rhode Island has officially disassociated itself from the recent statement of the Religious Coalition for Abortion Rights which advocated publicly funded abortions for women on welfare.

The council of six congregations whose leaders are affiliated with the Standing Conference of Orthodox Bishops in the Americas is a member of the Rhode Island State Council of Church[illegible].

The Orthodox group said in a written statement that the president and executive committee of the church council "seemingly placed the authority of their offices in support of 'abortion rights' by lending their names to the coalition in a newspaper advertisement."

"In this instance, these officers do not speak for the entire council," it said.

"The Orthodox are opposed to abortion in principle and, as a council, are opposed to public assistance for abortions. They feel the publicity given to the coalition's statements have only polarized the religious community over this divisive issue."

The coalition's statement, published as an advertisement in the Providence Journal-Bulletin, was signed by Dr. Paul G. Gillespie, executive minister of the Rhode Island Council of Churches, and Dr. Wilbur Zeigler, the council president.

In its statement, the Orthodox Council noted that "it has been the position of the 100 million (worldwide) member Orthodox Church over the centuries that the aborting of unborn life is morally wrong. To do so, opposes the Orthodox Church, would be compromising the duty of humankind to protect human life, a duty interpreted as the will of God."

The statement also quoted Archbishop Iakovos, chairman of the Standing Conference of Orthodox Bishops in the Americas, in his statement to New York legislators during abortion reform hearings in 1968:

"We are profoundly aware that the discipline of divine love sometimes creates inequities that are difficult for human reasoning to accept, but the eternal values of divine love were not created for a man, but for mankind. . . . It is our firm conviction that one day the laws of God and man will unite in and toward the achievement that divine day of destiny we pledge ourselves to the promotion of human life, born and unborn, as a sacred trust of man's eternal covenant with God."

There are about 10,000 Orthodox Christians in Rhode Island.

Israeli Government Tries To Settle Dispute over Holy Sepulcher Church

JERUSALEM (RNS)—A high-ranking Israeli government committee has visited a section of the Church of the Holy Sepulcher in a move to settle a long-standing dispute between two Christian Churches.

The dispute—between the Ethiopian Church and the Egyptian-based Coptic Church—centers on the control of a passageway that links an Ethiopian monastery on the roof of the Church of St. Helena (in a wing of the Church of the Holy Sepulcher) with two Coptic-owned chapels in the church, known as the Chapel of St. Michael and the Chapel of the Four Beings.

The Church of the Holy Sepulcher—built over the traditionally accepted sites of Jesus' crucifixion and burial—is a complex of church, holy places and historic buildings.

No fewer than six Christian sects lay claim to parts of the church: Greek Orthodox, Roman Catholic, Armenian, Syriacs, as well as Ethiopians and Copts.

In the course of history, every stone and altar has been battled over, appropriated, and jealously guarded.

Catholics Join Greek Orthodox In Protesting Turkish Action

NEW YORK (RNS)—In a statement sent to President Carter and Secretary of State Cyrus Vance, Roman Catholic participants in a Greek Orthodox/Catholic consultation here strongly criticized the Turkish government for a "series of injurious actions" against the Greek Orthodox community in Turkey.

The statement issued by Cardinal William Baum of Washington, D.C., chairman of the Catholic Committee of the consultation, noted that the oppression of the Greek Orthodox in Turkey and the "threat to the very existence of the Ecumenical Patriarchate" is a cause for expressions of "shock and outrage."

It declared that in recent months "the Turkish government has taken a series of injurious actions against the Greek Orthodox community in Turkey," and noted that the consultation is "deeply concerned about this grave situation that violates even the most basic human rights."

The statement, initialed and drafted by Catholic members of the consultation, was signed by Cardinal Baum, Archbishop Iakovos of the Greek Orthodox archdiocese of North and South America and chairman of the consultation's Orthodox committee, and all Catholic and Orthodox members of the consultation.

The Catholic participants also propose to submit the statement of concern to the full body of the U.S. Catholic bishops with the recommendation that they consider it "a matter of grave significance and take appropriate action."

The statement noted that high taxes have been imposed on Greek Orthodox schools and churches in Istanbul and that the government has refused to issue passports for certain church leaders and many Turkish citizens of Greek descent to travel abroad.

"By such actions, Turkish officials have serious interference with the exercise of the worldwide religious responsibilities of the Ecumenical Patriarchate of Constantinople," the statement noted.

Observing that these violations are reasons for protest, the statement said "in addition, we . . . wish to underline the historic significance of the Orthodox See of Constantinople in its present geographical situation for witnessing to the continuity of the Christian Church."

The statement went on to express "shock and outrage" at the Turkish government's actions and to dedicate the signers "in fraternal concern to continued pressure against these measures."

The Orthodox Church

Published by the
Metropolitan Council of the Orthodox Church in America
Route 25-A, P.O. Box 675, Syosset, N.Y. 11791

Editorial Office:
Box 39 Saratoga, Pottstown, Pa. 19464
Business and Circulation Office:
14-24—154th Street, Whitestone, N.Y. 11357

Very Rev. John Meyendorff, *Editor*
Stephen P. Kroestonsky, *Managing Editor*
Christine Zedlovich, *Circulation Director*

The Orthodox Church is issued monthly except July and August

Annual Subscription Rates:
In the U.S.—$5.00; in Canada—$5.50; in Foreign Countries—$6.50

POSTMASTER: Return Form 3579 to:
14-24—154th St., Whitestone, N.Y. 11357

ISSN 0048-2203

Member of
Associated Church Press, Religious News Service
Ecumenical Press Service

'Right to Life'

THE ORGANIZED MOVEMENT struggling against legally liberalized abortions has recently met with increasing (although still very relative) success in using the media, and also in pressuring government agencies towards limiting the effects of the well-known decision of the Supreme Court making abortion-on-demand possible. In order to reach that result, the movement assumes the title of "Right-to-Life Movement" and uses other slogans which sound like those adopted by political groups. Such is probably the price one has to pay in order to make one's voice heard in our politicized society—that even moral, religious and human principles are to be couched in political terms.

In fact human life is so much more significant, more precious, more unique than any "right" which always conflicts with the rights of others and which necessarily belongs to the visible and fallen world of ours. The Lord Jesus Christ, when He died on the Cross and rose from the dead—and also in His entire teaching—revealed to us that human life possesses a divine dimension, that God Himself so loves each human being and humanity as a whole, that He is able to make His glory shine through the poor, the oppressed, the weak and even the dead, and provide them with new wealth, new freedom, new power and, certainly, new life. He did not simply provide them with "rights" as a court of law understands it, but gave human life a new dimension which transcends anything which can be offered by man or guaranteed by law or political structures. This is precisely why abortion, as any other form of killing, implies cooperation with Satan ("the murderer from the beginning," John 8:44) against God's work and God's purpose. God is certainly able to give new life to those who were killed—even the unborn—but this divine grace given to the victims implies also a fearful judgment upon the murderers (unless they implore God's mercy, invoking such ultimate situations as the necessity to take the life of some in order to save the lives of others).

What is implied in the struggle against legalized abortion is this divine presence in man, a presence over which man himself has no power. And it is significant that the initiative in this struggle belongs primarily to Christians. The role played by the Roman Catholic Church provides us with a comforting assurance that it upholds—better than many others—the essential content of the Christian faith in which we, as Orthodox, also fully share.

And one should certainly not blame the movement if it uses the political means provided by our free society to carry on its witness. Quite to the contrary, a society which is so concerned in preserving minority rights should become concerned again in preserving the Christian set of values which, at least in part, were those of the majority, even if it became a minority today.

There is only one area where the opponents of abortion risk being accused of pharisaism: their frequent lack of concern for the fate of unwanted children. Anti-abortion legislation should be backed by a system offering easy, humane and secure ways of offering them for adoption to the very numerous families who are ready to welcome them.

—Fr. John Meyendorff

"True Christian life is the life of Grace.

"Life is the strength to act. Spiritual life is the strength to act spiritually, according to the will of God. Man has lost this strength, therefore until it is restored to him, he cannot live spiritually, no matter how much he intends to. That is why the flow of grace into the soul of a believer is essential for a true Christian life. True Christian life is the life of grace. A man receives some religious revelation, but in order to be able to act according to it it is necessary that grace be united with his spirit. When this union is present, moral strength, hitherto evident only temporarily in his first enthusiasm, is imparted on his spirit and remains there always. This re-establishment of the moral strength of the spirit is effected by the regenerating action of baptism, through which man is granted justification and the strength to act after God in righteousness and true holiness." (Eph. 4:24)—Theophan the Recluse

Letters

COOPERATION NEEDED

To the Editor:

In reference to the article in the October, 1977 issue of The Orthodox Church: "Editorial Decries Lack of Cooperation Among Orthodox in Southern California":

This editorial was like a cry from the wilderness.

The pan-Orthodox choir that the article refers to was started by Very Rev. Sergei A. Glagolev. Under his direction the choir did a recording that sold throughout the United States. He has left the Southern California area and his music plus his enthusiasm are sorely missed.

Thank you again for your work in Christ. I read the paper all the time. I find it very informative. I feel that publications like these give Orthodox consolidarity and add meaning to our lives.

Ludmilla Hatzmann

LANGUAGE AND CONVERSION

To the Editor:

I read with interest the letter from an Anglican reader who felt that, culturally, he could not accept Orthodoxy because of its eastern tradition. On Christmas Eve I converted to Orthodoxy from Anglicanism. For a time it did seem odd to me to be an Anglican with an Italian maiden name converting to a church with a Russian tradition. Yet this is so typically an example of "melting pot America" where so many different ethnic spices flavor the way of life here. We are first of all children of God and secondly we are all Americans.

I had attended my husband's Orthodox church many times over the years but it wasn't until the liturgy was changed to English that it began to awaken a response in me. When I could finally understand it, I found a great spirituality in that little church and felt the presence of Christ in our midst as never before. After reading books on Orthodoxy and early Christianity and talking about it with our priest and his wife, I knew it was right for me.

Yes, it is painful for many people to give up their beloved old languages. Their roots are in the old countries, but they seem to forget that their ancestors came here because life was unbearable there. They endured great suffering and uncertainties that their heirs might be born in America. Many are quick to say they are Russian or Greek, Italian or Irish when most have never set foot on the soil of those lands. Does it hurt so much to be an American? When you deny your Americanism you slap your ancestors in the face.

Orthodoxy in America is like a priceless jewel in an antique setting that is crumbling. As the controversy rages over preserving the old setting, the jewel is in danger of being lost. Cling to the old languages and the young people will leave, and no one outside the narrow limits of your ethnic constituency will look you.

When the old timers are gone, who will be left to carry on? Those with any vision at all can see it clearly. Change must come so that the greater ideal of preserving the liturgy as it was given to us by Christ through the Apostles may be passed on to the generations of man. America is the right place for transplanted Orthodoxy to grow and flower into a more perfect bloom because it is free.

Patricia Nemchek
409 County Rd.
Torrington, Conn. 06790

MOURN FRIEND

To the Editor:

The late Basil "Wally" Kuzemchak passed away last August while on a vacation with relatives in northern Manitoba, Canada. He was to stay a month but sudden

(Continued on p. 8, col. 3)

Confessing Christians in Russia

By Michael Aksenov Meerson
(The first of two articles)

THE DISSENTER'S movement in the USSR is a reality recognized even by the Soviet government. After the Helsinki conference, the human rights movement and particularly religious groups have shown a new spurt of activity. The Helsinki Final Act states that "religious faiths, institutions and organizations, practicing within the constitutional framework of the participating States, and their representatives, can in the field of their activities, have contacts and meetings among themselves and exchange information." This has given midpoint to Soviet believers. They can now refer to its provisions about religious liberty, the free flow of information and freedom of association.

In spite of special campaigns by the authorities to prevent sympathy for the human rights movement from spreading to the provinces, national republics and religious communities, the movement continuously develops new contacts. It has correspondents in the far reaches of the USSR.

The movement comprises representatives of different churches and acts as an important link between them. Thus persecution of believers and the resistance which they offer is regularly reported in the movement's main publication, *The Chronicle of Current Events*. The religious dissent is widespread and growing. Its Orthodox branch is as old as the human rights movement. The first manifestation for human rights has taken place in Moscow on December 5, 1965. Ten days later the first Orthodox Christian appeal for the defense of the Church also rang out. On December 15, 1965, two Orthodox priests, Fathers Nikolai Eshliman and Gleb Yakunin wrote an open letter to the Patriarch of Moscow and all Russia Alexis and a declaration to President Podgorny of the USSR. In these letters the two priests uncovered the whole mechanism through which the Russian Orthodox Church was being deprived of its basic rights.

Since then the Russian Orthodox Church has produced a variety of active groups. Some of these have been concerned with the prevention of the closing of a monastery or a church by the authorities, or to persuade the authorities to open a new one. Others have developed a clandestine publishing activity in order to promote theological knowledge and debate. Still others have argued that the legislation on religion and the administrative practices in dealing with existing religious bodies are anticonstitutional. They have pressed for liberalization and appealed to religious and public bodies abroad. Father Gleb Yakunin was particularly active in this field. Because of their letter to the patriarch and the appeal to the presidium of the USSR, both priests have been suspended by the Church authorities. Since it is legally impossible for a priest in the Soviet Union to get a lay job, Father Yakunin worked as a church warden or an altar boy, receiving a miserable salary and being dismissed several times even from those jobs under the pressure of the KGB (secret police). But he did not give up his activity on behalf of religious freedom.

Ten years after sending his letter to the patriarch, Father Yakunin, together with Lev Regelson, an Orthodox layman and a historian of the Russian Church after the Revolution, appealed to the 50 Assembly of the World Council of Churches in Nairobi. This message became a milestone in the history of this body; it broke its silence on the issue of repression of religious freedom and human rights in the Soviet Union.

One year later Father Yakunin with two other members of the Russian Orthodox Church, Hierodeacon Varsonofy Khaybulin and layman Victor Kapitanchuk* organized the Christian Committee for the Defense of Believers' Rights in the Soviet Union.

The birth of this Christian Committee at the end of 1976 was, as it were, a reply to the Christmas letter of the Ecumenical Patriarch Dimitrios who called heads of governments, church hierarchy, laymen and believers of all denominations to make 1977 the "year of religious liberty."

One cannot exaggerate the particular significance of the creation of such a committee. For more than half a century the State and Party controlled all open associations of Soviet citizens. The secret associations were harshly repressed. Only after the organization of a Human Rights Committee, recognized by the International League for Human Rights and other post-Helsinki "watch groups," the birth of the Christian Committee also became possible.

The founders of the Committee did direct their activity against the Church hierarchy. In the declaration of the Committee it is stated: "At the present time, for various reasons, the Episcopate of the Russian Orthodox Church and the leaders of other religious organizations are not involved in the defense of believers' human rights. Under such circumstances the believers' legal defense must be a concern of the Christian public. In that connection we have considered it our Christian and civil duty to organize the Christian Committee for the Defense of Human Rights in the USSR."

The Committee does not pursue any political aims. It formally stresses its loyalty to Soviet laws and is ready to cooperate with the public and government organizations as long as such cooperation may improve the situation of the believers in the USSR. The only purpose of the Committee is to gain for believers the right to live in accordance with their conscience. The Committee pursues the following objectives:

1. To collect, study and disseminate information on the situation of the believers in the USSR;

2. To provide advice and assistance to believers in case of violation of their civil rights;

3. To contact the government agencies in reference to the problems of the defense of the believers' rights;

4. To conduct all necessary research to clarify the legal and actual situation of religion in the USSR;

5. To help implement the Soviet legislation on religion.

(Next: Committee's Work Takes Effect)

---

*Victor Vasilievich Kapitanchuk served as a deacon at the Cathedral of Moscow in the Vladimir diocese. For his preaching activity and for his support of a second movement of the Orthodox youth, he was dismissed from his parish in November 1972. Victor Kapitanchuk was born in a Communist family, converted to Christianity in 1965. Soon then he almost gave up his career as a doctoral scientist to get engaged totally in the life of the Orthodox Church.

By Michael Aksenov Meerson

Michael Aksenov Meerson, a former member of a dissident movement, is co-author with Boris Shragin of "The Political, Social and Religious Thought of the Russian 'Samizdat,'" 624 pp., Nordland, 1977. He is a graduate of Moscow University and St. Vladimir's Orthodox Theological Seminary in Crestwood, N.Y.

[Editor's Note: The fate of priest Gleb Yakunin and Victor Kapitanchuk appear to be in jeopardy, according to the Paris based *Russkaya Mysl* ("Russian Mind"). Late in December both men were summoned by the regional KGB for questioning. They were warned that if they continued their activities their case would be turned over to the prosecutor for criminal prosecution.]

Dear Mr. Chairman,

I am a Mother of 4 young boys. I am also a follower of Jesus Christ, and am strongly opposed to H.B. 500 on funding for abortions.

"Lo, Children are an heritage of the Lord: And the fruit of the womb is HIS Reward." (Psalms 127:3)

Sir, I looked up "fruit" in the Hebrew dictionary Recorded below, is what I found.

Meaning

"Fruit" (pe riyz) – bough, reward (this word comes from the word pârâh, below)

(pârâh) – to bear fruit, to Bring forth, (to be, cause to be, or to make) fruitful, to Grow, to Increase.

Three other Hebrew words concerning the "fruit of the Womb," are below.

pe rîwdâ – dispersion

pe rôwzîy – (rustic) Village

pe râjâh – open country, or town without walls

It looks to me like the "fruit of the Womb" is: something that (when it appears), is:

#1) to be brought forth

#2) to be nourished & cared for so it will grow & increase greatly (towns & villages)

Webster describes "Rustic", as country living, or lack of sophistication. A child is not

sophisticated I know, but the Word of God says:

"Verily I say unto you, whosoever shall not recieve the Kingdom of God as a little child, shall in no wise enter therein."
Luke 18:17

That verse tells me a child is extremely important to God, and that as Adults, we need to become less sophisticated.

I Can Not see killing the "fruit of the Womb"; just because Adults in all their wisdom & sophistcation have figured out how to get the job done.

I do Not feel this is right.
I Do believe there will be God's Judgement to face, for the Cruel Act of abortion upon the "Heritage of the Lord" and upon His Reward.

"Lo, Children are an heritage of the Lord: And the fruit of the Womb is His reward."
Psalms 127:3

Sincerly,

Mrs. Kenneth Kiefer

Testimony for HB 500
H.E.S.S. Committee

The issue of whether to fund or not to fund abortions should be decided as any other issue, based on facts.

The fact is: God's Word makes it clear: abortion is murder, the wanton taking of a human life; that is prohibited by The Lord God ("Thous shalt not commit murder." Ex. 20:13. Gen 9:5-7.

For those who argue that a fetus is not a human life, reference Psalms 139:13-16 which assures us the spirit of the child exists at the moment of conception. It is medically proven that the baby's heartbeat is audible on the Soundex machine 15 days after conception.

All life is under God's law. God, not the State, and not even the parents, is the Lord of life; His will governs. Man is to preserve and protect life. Physicians and surgeons once took an oath to do just that, and once the courts were such a sanctuary for the sanctity of life.

In a representative form of government wherein the people should make the final decision, the majority that approves (condones) abortion, will be held accountable; it is, in a real sense, an accomplice to murder (Num. 35:30,33; Hosea 4, Isa 59:1-9.

Abortion violates the right to life of a child regardless of the financial status of the mother. Pro-abortionists argue that if a woman is poor, she has the right to murder her child and have the government pay for it. Ability to pay cannot be considered as a criteria for abortion in a nation declared Christian, whose representatives have pledged to protect life. Freedom of choice stops when another's life is concerned.

The law is a teacher. If the law allows funding of abortions, it then teaches in favor of abortion, or against the sanctity of life it is sworn to uphold.

The U.S. Supreme Court has upheld the constitutionality of the State's right to determine whether or not abortions are to be funded. Only 6 or 8 states now fund abortions, or proclaim that it is alright for Americans to murder each other. Let's be one of those states that declares that the government does not support funding of abortions, but allows those who feel they must have an abortion, to seek private and personal funding by those who approve of their decision and action.

As a legislator, you are a "minister of God", Romans 13:1. You are in your position of authority because He allows it and you will be held accountable for your decisions. Whether or not you believe this, can you afford to gamble that the Bible is not the inerrant Word of God, when you are not willing to gamble with insignificant things such as a fire destroying your house or accidental death without purchasing an insurance policy?

Sue Miller

Submitted by Sue Miller
P.O. Box 376
Douglas, Alaska 99824

FAC-SHEET

#15 ABORTION

BACKGROUND BRIEFING

Abortion is number one killer in USA (second is cardio-vascular dieseases). Low-side estimates put number of abortions in 1979 at 1½ million (could be from 10-16% higher). Number of "legal" abortions increasing at rate of 10% a yr; 25% of women having abortions are "repeats" -- have had one or more priors.

Since 1973, when US Supreme Court approved abortion virtually on demand, more than 8 million abortions have been commited; that's an average of 2,700 each and every day since then. Today, there are three abortions for each live birth in Washington, DC. The ratio of births to abortions in New York city (and Columbus, OH) is one-to-one. As you read these pages, 12 more abortions will be commited, 12 lives snuffed out by curette, syringe, scalpel or salt.

In 1976, before state and federal govts. began closer look at public funding of abortions, some $80 million of taxpayers' money went to subsidize about 300,000 abortions. Estimated that if US Supreme Court had not upheld Hyde Amendment (which prohibits almost all federal funding of abortions) some $500 million a yr would go to pay for between 450,000 and 500,000 abortions.

Advocates of abortion on demand insist it is a woman's right to terminate an unwanted pregnancy; that it is part of her freedom of choice and control over her own body; that abortion is simply an extension of contraception, a facet of planned parenthood. Thus, it would seem, to some abortion is but a drop in the surgical bucket.

In earlier ruling against Hyde Amendment, federal judge John F. Dooling, Jr., cited statements by several denominations (including American Baptists and United Methodists) that "continuance of pregnancy ... is not a moral necessity" (no mention was made of Biblical mandate regarding abortion). Thus, decreed the judge, his pro-abortion-funding decision was "in the mainstream of the nation's religious beliefs."

Biblical Christians would not agree! They assert that wilfull termination of pregnancy and wanton aborting of an unborn child is against God's law; that it is murder; that in no other area of society is homicide condoned. Further, a woman should control her body by controlling her emotions and such control should come before, not after, the act. (Less than 3% of all abortions are performed for reasons of rape or incest.)

Pro-abortionists argue that the sexes should be equal; that since men do not bear children, women must have right to achieve such "equality" by aborting unwanted children. As for govt.-funding, they argue economically-deprived women should have available the same proceedures available to those who can afford them.

Some pro-abortionists urge termination of pregnancies as way to ease economic dislocation (poverty), remedy sexual promiscuity, and build "planned" society. Thus, physicians are to be "social executioners." And, warns C. Everett Kopp, MD, several "Nobel laureates" are now advocating that parents be permitted to "dispose" of new-born for up to three days after delivery (infanticide) if the baby does not measure up to expectations (sex, size, characteristics).

Say pro-life forces: (1) such crass economic determinism of life, if once accepted, would lead to ridding society of the "non-productive" such as handicapped, elderly, unemployable; (2) committing abortion to escape fruits of promiscuity simply adds one sin to another; (3) issue of public funding of abortions (equality under law) should be resolved not by subsidies but by prohibiting abortion, and (4) suggestions of either pre- or post-partem murder reveal the total disregard for sanctity of life on part of abortionists and "planners."

Published by the PLYMOUTH ROCK FOUNDATION, P.O. Box 425, Marlborough, NH 03455

Single copies, no charge (please send self-addressed and stamped envelope.) 10 copies, $1.00, 25 copies, $2.00, 50 copies, $3.50, and 100 copies for $6.00. For quantities in excess of 100, please contact Plymouth Rock for prices.

CONSIDER THE BIBLICAL PRINCIPLES

God's word makes it clear: abortion is murder, the wanton taking of a human life; that is prohibited by The Lord God ("Thou shalt not commit murder" Ex 20:13. See also Gen 9:5-7)

✱ Ex 21:21-23 -- *"If men strive and hurt a woman with child so that her fruit depart from her ... and if any harm follow (i.e. if the child dies), then thou shalt give life for life."* If God requires capital punishment in the case of accidental abortion, surely His penalty for premeditated abortion can be no less for those who are party to the murder.

All life is under God's law. God, not the State, and not even the parents, is the Lord of life; His will governs. Man is to preserve and protect life. Physicians and surgeons once took an oath to do just that, and once the courts were such a sanctuary for the sanctity of life.

Pro-abortionists claim terminating a pregnanc is not murder because the fetus is not a human life. Thus, the question: When does life begin? The Bible, and science, gives a positive answer: life begins at the moment of conception, when the zygote (the "genesis" cell) is formed by the fusion of the sperm and the egg.

"Marvelous are Your works, and that my soul knows right well! My substance was not hidden from You when I was made in secret and intricately wrought ... Your eyes did see my substance, yet being unformed; and in Your book all my members were written, which in continuance were fashioned, when as yet there was none of them" (Ps 139:14-16).

(Matthew Henry comment) Each individual is God's work, according to the divine model; eternal wisdom formed the plan and mold. As a great mercy, all our members in continuance were fashioned as they were written in the book of God's wise counsel when as yet there was none of them. Thus, who would destroy His handiwork and purpose? And, at what stage of life's development and span? Six days, six weeks, six months, or sixty years?

✱ *"Before I formed you in the womb, I knew you; and before you came forth from the womb, I sanctified you, and I ordained you..." (Jer 1:5).* God did not sanctify a glob of protoplasm, He sanctified unto His work a living human being of great potential. (See Eph 1:4-5)

Isaiah also testified to the beginning of life: *"Thus says The Lord, Your Redeemer, and He Who formed you from the womb: I am The Lord Who maketh all things" (Isa 44:24).*

And, consider the words of Job (measure them against what we know about the development or gestation within the womb): *"Hast Thou not poured me out as milk, and curdled me like cheese? Thou hast clothed me with skin and flesh, and hast fenced me with bones and sinews. Thou hast granted me life and favor, and Thy visitation hath preserved my spirit" (Job 10: 10-12).*

It is God who has made us, male and female; God, not man, and not the State, and not as unisex. It is God who has written the span and stretch of life, not "planners." We are but instruments of His power and providence in procreation (Gen 1:27,28). The soul, that animates the body, is His gift. The astounding structure of the body, that which the abortionist would destroy in its earliest moments, is the product of His wisdom and power and goodness; into it The Creator breathes the soul of a life that is capable of becoming a temple of The Holy Ghost. Mark this well, abortionists: this is what you would destroy!

Are not magistrates to be servants ("ministers") of God (Rom 13:1-4)? How, then, can magistrates serve God by declaring that abortion is "legal" when it breaks God's law? But, the "bottom line" is this: [illegible] representative form of govt., wherein the people should make the final civil decision[s], a majority that approves (condones) abortion will be held accountable; it is, in a real sense, an accomplice to murder (Num 35:30,33; Hosea 4, Isa 59:1-9).

ENCLOSURE 1

Moral

The Orthodox Church

Published by the Metropolitan Council of the Orthodox Church in America

POSTMASTER: Return Form 3579 showing new and corrected address in a legible manner to: 14-24—154th Street, Whitestone, N.Y. 11357

VOL. 11—No. 12 | Entered as Second-class Matter at Flushing, N.Y. and postage paid at Additional Mailing Offices | SYOSSET, N. Y. | DECEMBER 1975

Christmas Message

By HIS BEATITUDE, METROPOLITAN IRENEY
Primate of the Orthodox Church in America

To the Archpastors, Pastors and Faithful of the Orthodox Church in America

Today the whole creation rejoices and is jubilant. For Christ is Born of the Virgin. (Christmas Canon)

Dearly Beloved in Christ:

On this day, my beloved flock, we celebrate the birth of God in the flesh. God is born of a woman and becomes fully human, without ceasing to be God. Commenting on this great mystery, St. Gregory Palamas writes: "Christ is born of a Virgin because—had he been born of male seed—he could not have been the initiation of a new life destined never to vanish. Made within the old mold, he could not have received within himself the fullness of divinity, and he could not have made his flesh an inexhaustible source of divinity."

God is born of a Virgin in order to break the cycle of sin and death in which we were enslaved as sons of the first Adam. He is born of a Virgin in order to inaugurate a new life, a new humanity "destined never to vanish." He becomes human so that, through His body, we might have communion with His glory and divine immortality. As sons of the first Adam, we were men of dust because the first man was "from the earth, a man of dust." As sons of the second Adam, Christ, we have become men of heaven, for the "second man is from heaven."

Dearly beloved! Our time witnesses a violent attack made against Christ, an attack that seeks to destroy the new life Christ has given to us by

Continued on page 3, col. 4

Fourth All-American Council Commits Church to 'Mission;' Takes Stand on Moral Issues

The Fourth All-American Council of the Orthodox Church in America, meeting in Cleveland, Ohio, November 10-13, 1975, made a major commitment to mission, issued seven resolutions on vital moral questions facing the American people, and in an unprecedented act addressed a letter to the Episcopalian Church in America expressing its concern over the recent trends in the Anglican communion to ordain women priests. The Council for the first time decided to enter the Orthodox Church in America into the mainstream of American life as a genuinely American Church with a mission to this nation and its neighbors.

EXPANDED COVERAGE

Because of scheduling problems, expanded coverage of the Fourth All-American Council will be carried in the January 1976 issue of *The Orthodox Church*.

The Council, made up of approximately 400 delegates—bishops, priests and laymen—is the highest spiritual and administrative authority of the fully self-governing Orthodox Church in America (OCA), which comprises 483 parishes and missions across the United States, Canada and Mexico.

The OCA is the youngest independent branch of Eastern Orthodoxy in the world. It was granted "autocephaly" or independence by the Orthodox Church of Russia in 1970.

This was the first Council in the 200-year history of the Church in America that the delegates turned from problems of survival, administration, identity and organization and addressed itself to essential questions of content, purpose and direction.

In a major commitment to mission, the Council voted to appropriate funds to support the missionary dioceses in Mexico, Canada and Alaska, to aid in the development of documentary films and other information about the Church and to sustain the Church's ten seminaries with increased funds.

After hearing the report of Bishop Jose, the head of more than 20,000 Mexicans who have embraced Orthodoxy, and of Father John Timchak of the Canadian diocese, the delegates, in a spontaneous drive, collected more than $10,000 from the floor of the Council for missionary activity.

Acting on the recommendation of the Council's Moral Issues section, the 13-member Holy Synod of Bishops issued seven resolutions on the vital moral questions of the day. Reaffirming that human life is created in the image and likeness of God, the Church declared:

—that the only true liberation is through the spiritual and moral values given to man by God;

—that all attempts to reduce the differences between man and woman to purely biological attributes without social, moral, spiritual and theological significance are to be rejected;

—that all sexual activities outside marriage—fornication, adultery, homosexuality—are sinful deviations from normal human life;

—that extraordinary prolongation of life or premature destruction of life is inconsistent with the image of God;

—that abortion is an act of murder;

—that euthanasia cannot be justified for any reasons;

—that the violence in our society must be rejected.

The Council also sent a letter of protest to the U.N. Commissioner of Human Rights and to the Soviet Union voicing its "profound indignation" over the closing of the Cathedral of the Dormition of the

Continued on page 8, col. 1

Panel on Rights Dubious on Soviet Religious Freedom

An unofficial panel meeting in Copenhagen, Denmark, after three days of hearings on the state of human rights in the Soviet Union, concluded that there was "strong reason to doubt" that Moscow was observing international agreements on human rights.

"The hearing has given the panel strong reason to doubt that the Soviet Union is observing the principles laid down in the international covenant on civil and political rights, ratified by the Soviet Union in 1973 and in the Helsinki declaration of 1975," the 15-member panel said.

The hearings were called The International Sakharov Hearings, after Andrei Sakharov, the Soviet physicist and human-rights advocate.

The three days of hearings—which were called in the old opera-house chambers of Parliament—produced a lot of second-hand testimony, much of it dating from the Stalin era.

"The majority of the witnesses, however, made plausible statements of their own personal experiences during the years 1965-75, in most cases with exact information as to the time and place of the events mentioned," the final panel statement said.

The panel emphasized that it was not meeting as a court and thus was not passing any judgment on the Soviet Union.

The final statement said:

"In the Soviet Union, freedom of thought and expression is restricted, non-conformist behavior encounters harassment in vital conditions of life. Freedom of movement inside the country, foreign travel as well as emigration are severely restricted. Religious freedom is substantially restricted.

"In the Soviet Union there are people in prisons, camps and psychiatric wards who are deprived of their liberty, often under inhuman conditions, people who must clearly be termed political prisoners."

Just how many such prisoners there may be in the Soviet Union was a matter the panel would not comment on, because of the varying estimates given—from several hundreds to many thousands.

The panel report did not comment directly on the case of the man in whose name the hearing was called, but it did back up Mr. Sakharov's appeal that the hearing speak out for a general amnesty for political prisoners in the Soviet Union.

"The panel wishes to join Nobel Peace Prize winner Andrei Sakharov in his appeal to the Soviet Government for a general amnesty for political prisoners, considering this a first step toward the fulfillment of the Helsinki declaration," the report said.

The hearings were sponsored by an International Honorary Committee, which included the Rt. Hon. Diefenbaker, former Prime Minister of Canada, Authors Eugene Ionesco (of the French Academy), Robert Conquest and Hannah Arendt, as well as His Eminence, Abp. John of San Francisco. The Orthodox Church in America has made a financial contribution to cover the expenses incurred by the hearings.

The Orthodox Church

Published by the
Metropolitan Council of the Orthodox Church in America
Route 25-A, P.O. Box 675, Syosset, N.Y. 11791

EDITORIAL OFFICE: Box 39 Saratoga, Pottstown, Pa. 19464
BUSINESS AND CIRCULATION OFFICE:
14-24—154th St., Whitestone, N.Y. 11357

Very Rev. John Meyendorff, *Editor*
Stephen P. Kapostasby, *Managing Editor*
Christine Zedlovich, *Circulation Director*

Entered as Second-class Matter at Flushing, N.Y.
and postage paid at Additional Mailing Offices.

The Orthodox Church is issued monthly except July and August
Annual subscription rates: in the U.S.—$4.00, in Canada—$4.50, in Foreign Countries—$5.50

POSTMASTER: Return Form 3579 to:
14-24—154th St., Whitestone, N.Y. 11357

In Defense of Life

THE Fourth All American Council of the Orthodox Church in America will be remembered primarily for its forthright and compelling statements "concerning human personal and social behavior," worked out in one of the Council's sections and subsequently approved by the Holy Synod and the entire Council.

Other useful decisions were also taken in reference to the Mission of the Church—including some which are likely to improve the quality and distribution of this newspaper—but the statements on moral issues stand up as a really important sign, showing that our Church is now able to speak articulately on the burning issues of human life, both individual and social.

The statements cover two major areas: human sexuality and the sanctity of life.

On the first point, the Council reaffirms unambiguously that the community of marriage is the only normative framework for the fulfillment of human sexuality, as created and sanctified by God. This reaffirmation, as well as the condemnation of all other sexual activities, as "sinful deviations," is not proposed, however, in terms of a blunt moral imperative only. It is based on a theological and spiritual foundation: the differences between men and women are not "merely biological;" they possess a "social, moral, spiritual and theological significance." This implies that the Christian faith is inconsistent not only with the misuse of sexuality (such as homosexuality), but also with a view which would consider men and women as interchangeable in their social functions. The implications of that very important statement of the Church begs for further development and explanation, especially in reference to a proper understanding of contemporary movements towards the "liberation of women." An urgent task for our theologians!

The second part of the statement on moral issues deals with "life." It condemns [illegible]ion, euthanasia and violence, and bluntly affirms that in [illegible]e and under no circumstances can humanity profit from the destruction of life. Quite significantly, abortion, euthanasia and violence (e.g., war) are grouped together as three different aspects of a single problem: in all three cases, there may be extreme cases (as formally recognized by the statement) when an individual, a family, a doctor or a political leader may be confronted with the horrible responsibility of choosing between two options, both implying some form of killing (abortion to save the mother's life, "pulling the plug" for a terminal patient, use of arms to defend a country against violent aggression, etc.). In these cases, the statement urges "understanding," but warns against any "glorification" of those options, which are only "the least of evils," requiring repentance.

Our future editorials will attempt to discuss the various issues related to the statements, and we urge all our readers to send us such questions and suggestions as may further contribute to the clarification of these vital issues.

—*Fr. John Meyendorff*

Orthodoxy in America:

Impressions of a Recent Orthodox Immigrant

By ARCHIMANDITE ROMAN BRAGA

WHAT I am going to say may not be to everyone's liking. Nevertheless, because I consider it essential to the Orthodox perspective that we face reality and not avoid responsibility, I dare to expose a few matters regarding the Orthodox Church in America.

So, let me begin with my own confession.

Although I often wish to speak about Orthodoxy to the American people, I hesitate and, sometimes, even feel embarrassed, not so much because of the inadequacies of my language and expression, but rather because of the psychological structure which separates us. I realize that the psychology and mentality of the American is different from those of us who are from Eastern Europe and the Middle East. American society is very technological. Its people are pragmatic and tend to be utilitarian even in their religious expression. Orthodoxy in the Orient is more contemplative. However, in America we cannot keep or prescribe the same patterns of Orthodoxy as it is practiced in the Orthodox countries abroad. It is necessary for America to find its own place in Orthodox life, a proper style and method of expression. How? In what way? This is the question.

Orthodoxy is an exceptional flower but it must be adapted to the environment. I mean, it must be careful in this respect.

As a priest, I believe that God sent us to this beautiful country to plant Orthodoxy and to acclimatize it. It would be regrettable to retreat into the shell or borders of our own ethnical groups and to consider Orthodoxy as a tool for the preservation of national identity and cultural traditions in this country. We must not use Orthodoxy as an instrument to resist assimilation into American society. This would be a sin. This is a wrong way. The Church cannot be such an instrument. The Church has her own purpose for existence. Thank God, we have very good Orthodox Christians in America who support our Church. However, most immigrants in this country attend church merely to feed their national sentiments. In the Church they feel that they are Romanians, Russians, Greeks or Syrians. Of course, this is a natural feeling. We are longing for our native country. For this reason, sometimes, we go to the church to enjoy Russian music or Romanian language. But I consider it a sin to love the Church in the same measure as we love "pirogi", "tabuli" or Romanian specialities.

In this respect, we must be realistic. When Jesus sent the twelve apostles to preach in the world, he did not tell them that they must resist assimilation into the local society. He didn't tell them to keep their Jewish identity, purity of race, language or customs. On the contrary, he said: "Go thou to all people everywhere and make them my disciples". More than that, St. Paul, the apostle to the Gentiles, said: "I became all things to all men that I might save some of them by any means possible. Living among the Jews I was a Jew, among the Gentiles I lived like a Gentile, among the weak in faith I became weak in order to win them".

BIOGRAPHICAL NOTE: Fr. Roman came to the United States in 1972. He is currently at the headquarters of the Romanian Episcopate of the Orthodox Church in America. The above talk was delivered to the Orthodox Catechetical Conference held near Detroit in August 1975.

So as Orthodox Christians in America, "true-believing" and "true-praising" Christians, why don't we put our national feelings, cultural traditions and ethnical background aside when we preach Orthodoxy in this country? Only in this way can we raise our voices along with St. Paul's saying, "Among the Americans I was as American, among the Canadians I lived like a Canadian... etc. I became all things to all men that I might save some of them".

Surely, Orthodoxy is not a cultural way. It is a universal religion. But precisely for this reason Orthodoxy was adapted to various national types and customs (among the Jews I was a Jew, among the Gentiles a Gentile... etc.) The same religion takes on various styles because people in various countries are different. I think this is very beautiful. It is the result of the divine law of adaptability to the environment. All people must use their language, customs and cultural traditions to express the faith. Let the Orthodox Church in America become American in this way, and only in this way, because not everything that is American is good. But, anyway, we must not allow our ethnical origins and traditions to become an impediment to this process of adaptation.

In the fifteenth chapter of Acts and in the epistle to the Galathians there is an account of the Apostolic Church Council which disagreed with St. Peter. St. Peter was rebuked because he insisted that all of the pagans must accept the Law of Moses and circumcision in order to be accepted into the Christian Church. The Church Council rejected St. Peter's attitude because St. Peter was trying to impose the tradition of the Jews upon the non-Jews. On this occasion, St. James, who presided at the Council, said specifically: "We should not trouble the Gentiles who are turning to God." If we read the New Testament carefully, we observe that St. Paul, who "became all things

Continued on page 4, col. 3

Patriarch of Alexandria Interferes with Serbs

[illegible]

According to "The Diocesan Observer", published by the Serbian ecclesiastical group headed by Bishop Dionisije (separated from the Serbian Patriarchate), the Greek Orthodox Patriarch of Alexandria, Egypt, Nikolaos VI, "extended his spiritual protection to Bishop Irenej (an auxiliary bishop of Dionisije, consecrated by Ukrainian bishops in exile—Ed.) and extended blessings to (Dionisije's and Irinej's) clergy and people".

The "Diocesan Observer" also publishes pictures of Bishop Irenej's visit with the patriarch, but no official document which would have defined the patriarch's action in canonical terms. From the evidence published so far, it does not appear that the patriarch has formally accepted the Serbian group into his jurisdiction. Some observers have expressed the view that the patriarch's action is similar in content to the decision of the Holy Synod of the Orthodox Church in America, which foresees the possibility of admitting into the communion of the Orthodox Church those clerics, whose orders stand in the unbroken Apostolic succession, even if they were ordained in the framework of the uncanonical "Ukrainian Church", which, since 1921, does not recognize apostolic succession as an absolute pre-requisite for episcopal ordinations.

In any case, the unilateral intervention of still another foreign church in the affairs of the Orthodox Church in this country, illustrates the absurdity of a situation in which all possible canons of the Church are quoted (and mis-quoted) except the obvious ones, which require that there be only one [illegible] on each place. The existence in America of parallel and competing Orthodox jurisdictions, as long as it exists, will inevitably lead to further divisions and canonical chaos. An ultimate and final solution can be found only in canonical unity inside the Autocephalous Orthodox Church in America, where all ethnic groups (including Americans!) would find their traditions maintained and protected in the framework of a single, canonically organized Orthodox Church.

It is worth noticing that the existence of such a unity in America before 1923 is recognized in the recent court findings on the Serbian case, which has now reached, in the final instance, the U.S. Supreme Court.

The political events and the many human mistakes which lead to the breakdown of that original canonical unity are known to all. They are described in some detail in the recently published book, *Orthodox America, 1794-1976* (Syosset, N. Y., 1975). The tragic history of the Serbian schism in the last decade should be able to indicate, better than all the formal court orders, that a return to that unity is the only solution for our Serbian brothers and sisters, as well as for others. Such unity will not be realized "under the Russians" (as in the past), but a common sharing of responsibility for a united autocephalous Church in America.

Opinion and Review

Orthodox Statement on Abortion

The Orthodox Church has a definite, formal, and expressed attitude toward abortion.

It condemns all positive procedures purporting to abort the embryo or fetus, whether by surgical or by chemical means.

The Orthodox Church brands abortion as murder; that is, as a premeditated termination of the life of a human being.

Doubts as to when life that can be called human beings in the womb have been dispelled by very recent genetic studies.

According to the findings of these studies, all the characteristics of the human individual, as we know it, are present in the embryo as soon as the process of conception is completed.

These studies indicate that hereditary and personality traits by which the new individual will be known are not added or developed gradually, as was believed before.

Thus, it makes no difference whether abortion is performed after the determination of pregnancy or later on. In both cases, a human individual is aborted.

This is the reason for which in the eyes of God and the Church abortion is tantamount to taking a life.

The only time the Orthodox Church will reluctantly acquiesce to abortion is when the preponderance of medical opinion determines that unless the embryo or fetus is aborted, the mother will die.

Decisions of the Supreme Court and State Legislature by which abortion with or without restrictions is allowed should be viewed by practicing Christians as an affront to their beliefs in the sanctity of life.

Abortion: Questions and Answers

Q. Just why is abortion wrong anyway?

A. The principal reason why abortion is wrong is that it involves taking the life of an innocent, unborn human being. The child in the womb is human in origin, destiny and make-up. This newly conceived child is one of us. Human life comes into being at conception, and from conception on each new human being possesses all that is internally required to grow and develop into a mature adult.

Q. But isn't abortion basically a private matter?

A. No. An abortion involves not just a woman and her doctor. Even more directly and intimately involved is a third human being — the mother's unborn child, the doctor's unborn patient. If the unborn child did not exist, there would obviously be no question of performing an abortion.

Also, the generation of new human life has broad social consequences. Both a mother and a father are involved. And society as a whole has an interest in the well-being of its members and, in a special way, the well-being of the family.

Finally and most important, we are not the absolute owners but the stewards of our being, body and soul, and in all things accountable to God. Says St. Paul: "You must know that your body is a temple of the Holy Spirit, who is within — the Spirit you have received from God. You are not your own" (1 Cor. 6:19-20).

Q. What about the problems of poverty, overpopulation, and out-of-wedlock pregnancy? What about pregnancies that result from rape or incest? Aren't these reasons that would justify abortion?

A. Abortion is proposed as a solution to various personal and social problems. In many cases, though, abortion merely postpones or obstructs the search for solutions which go to the heart of the problem. Furthermore, the crucial fact is that every abortion destroys an innocent human life. Killing the innocent is not a fit way to solve anything. It is a barbarous approach to problem-solving. Its effects on society are no less deadly than its effects on the unborn child.

It is far better to respond to problems constructively and with compassion. Each of the above-named problems is important and complex. A lasting solution to each requires its own specific answers — not abortion.

The Word
January 1980

DIARY OF AN UNBORN CHI

OCTOBER 5 — Today my life began. My parents do not know it yet, I am as small as a seed of an apple, but it is I already. And I am to be a girl. I shall have blond hair and blue eyes. Just about everything is settled though, even the fact that I shall love flowers..

OCTOBER 19 — Some say that I am not a real person yet, that only my mother exists. But I am a real person, just as a small crumb of bread is yet truly bread. My mother is. And I am.

OCTOBER 23 — My mouth is just beginning to open now. Just think, in a year or so I shall be laughing and later talking. I know what my first word will be: MAMA.

OCTOBER 25—My heart began to beat today all by itself. From now on it shall gently beat for the rest of my life without ever stopping to rest! And after many years it will tire. It will stop, ond then I shall die.

NOVEMBER 2—I am growing a bit every day. My arms and legs are beginning to take shape. But I have to wait a long time yet before these little legs will raise me to my mother's arms, before these little arms will be able to gather flowers and embrace my father.

NOVEMBER 12 — Tiny fingers are beginning to form on my hands. Funny how small they are! I'll be able to stroke my mother's hair with them.

NOVEMBER 20 — It wasn't until today that the doctor told mom thot I am living here under her heart. Oh, how happy she must be! Are you happy, mom?

NOVEMBER 25 — My mom and dad are probably thinking about a name for me. But they don't even know that I am a little girl. I want to be called Kathy. I am getting so big already.

DECEMBER 10 — My hair is growing. It is smooth ond bright and shiny. I wonder whot kind of hair mom has.

DECEMBER 13—I am just about able to see. It is dark around me. When mom brings me into the world it will be full of sunshine and flowers. But what I want more than anything is to see my mom. How do you look, mom?

DECEMBER 24 — I wonder if mom hears the whispering of my heart? Some children come into the world a little sick. But my heart is strong and healthy. It beats so evenly: tup-tup, tup-tup. You'll have a healthy little daughter, mom!

DECEMBER 28 — Today my mother killed me.

TO: Billy Berrier

Last week I requested a legal opinion from David Walker about House Bill 550 (copy attached) as to whether its order of referral can be changed from House Judiciary/House HESS to House HESS/House Judiciary by the Speaker. He verbally informed me that that was OK. At this point I have not received the written opinion and will need it before our hearing on September 14th.

As you can see, I have received the OK from Speaker Hayes, yet I want to cover all bases since this is such a controversial issue. Especially since we have already received a letter signed by 60 individuals stating that we were having an "illegal" hearing.

I would appreciate your giving me a call at 277-6219 or 278-4912 when you have a chance.

Thanks

Jens Zehbe
Mike Beirne's office

House HESS Committee Hearing on HB 500,
September 14, 1981
Holli I. Ploog, Attorney-at-Law

My name is Holli Ploog and I am an attorney in private practice in Anchorage. As you know, Rep. Beirne, I was legal counsel to the HESS Committee during the 1980 Legislative Session when Rep. Clocksin chaired the committee. Today I am speaking for myself and I wish to address my remarks to HB 500, specifically the constitutionality of this piece of legislation. My intent is to analyze this bill in light of recent state court decisions which were decided under state constitutional provisions similar to those contained in the Alaska Constitution and enunciated by the Alaska Supreme Court.

Recently the highest courts in California and Massachusetts have ruled on state constitutional grounds that if their state's Medicaid program pays for childbirth it must also fund medically necessary abortions.

Both courts interpreted their respective state constitutions to afford greater protection to the right to abortion than the U.S. Supreme Court found in the U.S. Constitution. In McRae v. Harris, 48 LW 4941 (1980), the Supreme Court held that the Federal Constitution does not require the federal government or the states to pay for abortions, even when they are medically necessary. The Court concluded that restricting funding for abortions, while paying the full costs of childbirth, did not significantly interfere in a woman's right to decide about abortion and served the government's legitimate interest in protecting potential human life.

The California and Massachusetts courts determined, however, that under their state's constitutions a woman's right to decide whether to terminate a pregnancy was jeopardized by the funding

restriction and outweighed the state's interest in potential life.

Similarly, the Alaska Supreme Court has made it clear that our constitution provides broader protections than the U.S. Constitution [see Shagloak v. State, 597 P.2d 142 (1979)]. The Alaska Constitution contains an explicit guarantee of the right to privacy which has no parallel in the federal constitution. Alaska Constitution, Article I, section 22. It also sets a higher standard for the doctrine of equal protection. [see State v. Erickson, 574 P.2d 1 (1978); Williams v. Zobel, Op. No. 2170 (Sept. 9, 1980)]. Because the California decision is written in the context of a state constitutional right of privacy, the decision seems predictive of what the Alaska courts may do if faced with the same question.

The issue is whether the state, having enacted a general program to provide medical services to the poor, may selectively withhold such benefits from otherwise qualified persons solely because such persons seek to exercise their constitutional right of procreative choice in a manner that the state does not favor and does not wish to support.

Elective abortions have been covered under the General Relief Medical Assistance program since 1970. Chapter 103, SLA 1970. Medicaid funds became available in 1972 when the State of Alaska enrolled in the Medicaid Program (see AS 47.07.010-080). Assistance is defined in AS 47.25.300 as "... financial assistance to or on behalf of a needy person, including ... medical needs (including but not limited to, hospitalization, nursing and convalescent care)...." Existing regulations of DHSS specifically provide that payment will be made for family planning services, including abortions not available under Medicaid. See 7 AAC 43.005(c), 7 AAC 43.140(b), 7 AAC 43.835, 7 AAC 47.170.

So, too, the state Medi-Cal program funded outpatient and inpatient medical services for recipients of public assistance and the medically indigent. Abortions, in the absence of funding restrictions, would be funded under the Medi-Cal program.

However, in 1978, 1979 and 1980, budget acts restricted Medi-Cal funding of abortions to occasions 1) when pregnancy would endanger the mother's life, 2) when pregnancy would cause severe and long-lasting physical health damage to the mother, 3) when pregnancy was the result of illegal intercourse, or 4) when abortion was necessary to prevent the birth of a severely defective infant, giving greater latitude in performing abortions than does HB 500.

"By virtue of the explicit protection afforded an individual's inalienable right to privacy by... the California Constitution, the decision whether to bear a child or to have an abortion is so private and so intimate that each woman in this state - rich or poor - is guaranteed the constitutional right to make that decision as an individual, uncoerced by government intrusion," Justice Matthew O. Tobriner wrote for the court. "Because a woman's right to choose is explicitly afforded this constitutional protection... the question of whether an individual woman should or should not terminate her pregnancy is not a matter that may be put to a vote of the Legislature."

The court further held that a public benefits program, that offers such benefits in a fashion that discriminates against the exercise of constitutional rights, can only be upheld if the state can show that the restriction is related to the purposes of the benefit program, that it outweighs any impairment of constitutional rights that may result and that there is no less offensive alternative. This test is similar to the 3 tier test enunciated by the Alaska Supreme Court as a standard for equal protection.

The California Court analyzed the statutory program under this test as follows:

1) The restrictions imposed on poor women's right of procreative choice did not relate to the purposes of the Medi-Cal program. The stated purpose of the program is "to afford health case... to recipients of public assistance and to medically indigent...." The restrictions, in fact, impede this fundamental purpose.

2) In light of the fundamental and intimate nature of the constitutional right of procreative choice and the severe impairment of that right that would in practice result from the restrictions at issue, the utility of imposing such restrictions does not manifestly outweigh the resulting impairment of constitutional rights. What the restriction actually does is threaten the woman's interests in life, health, personal bodily autonomy and her right to decide for herself whether to parent a child. The state is utilizing its resources to ensure that women who are too poor to obtain medical care on their own will exercise their right of procreative choice only in the manner approved by the state. Moreover, the state has not undertaken to protect the potential life of all fetuses by promoting their interests over the consitutional rights of all women, but has singled out poor women and has subordinated only their constitutional right of procreative choice to the concern for fetal life.

3) The scheme does not serve the state interest in providing medical care for indigents in a manner least offensive to the woman's right to procreative choice. The state could readily meet the needs of indigent women without burdening their right of procreative choice simply by funding impartially the expenses of childbirth and abortion.

Recently the Alaska Attorney General reviewed for the governor state choices on funding of general relief abortions in Alaska.

His conclusion was that the only choice that was free from legal difficulties was the choice to continue funding general relief elective abortions. In addition, he concluded that the only choice that might be valid apart from the status quo would be a legislative decision to terminate all elective surgery for those on assistance. Since he concluded that the only choice free from doubt on state funding of medicaid abortions is a decision to continue funding it seems HB 500 cannot withstand constitutional scrutiny and therefore, should not be enacted by this Legislature.

House HESS Committee
House of Representatives
Pouch V
Juneau, AK 99811

Sept. 12, 1981

Dear Committee members:

As I am unable to attend the hearings on 9/14/81 regarding HB 500 and HB 550, please accept this letter as written testimony on the two bills.

House Bill 500, proposing elimination of state funds for abortions for low-income women, would deprive a significant segment of the population of the ability to obtain a legal abortion. I am strongly opposed to this legislation for several reasons. First: it is simply unfair for people to be denied access to this form of health care simply because they are poor.

Second, the implications of denying these women abortions are 1) that they will have the baby anyway, ultimately costing the state more money for hospital costs & welfare support of these children; or 2) that these women will resort to illegal, unsafe methods of abortion - again will the potential for costing the state more money in medical care for the woman than the abortion would have cost, to say nothing of the emotional degradation that such a "choice" would inflict on her life.

Whether you look only at dollars and cents, or will when you also consider moral implications, the need for state funding of abortions for low-income women is obvious. I oppose HB 500.

I also oppose HB 550 on the grounds that the language is

ambigious and could be interpreted in such a way as to make abortion punishable as murder. I do not believe abortion can be rationally or morally termed a criminal act and I strongly oppose any attempts to codify it as such. Women do not have abortions because they want to, because it's a thrill, because they are deranged or socially aberrant, or ~~as~~ as an act of violent passion. It is not a happy choice for a woman to make, but it is a choice that we must have.

I have lived in Alaska three years and I am not pleased that the legislature would seriously consider such oppressive, discriminatory piece of legislation

Thank you for considering my opinions.

Sincerely,

Lisa Hookehead

LISA HOOKEHEAD
1026 W. 10th
ANCHORAGE, AK 99501

September 14, 1981

Mrs. Kristine M..Fardig
3404 Oregon Drive
Anchorage, Alaska 99503

Ladies and gentlemen of the committee:

My name is Kristine Fardig and as President Emeritus of Alaska Right to Life, Inc., I represent in excess of 20,000 registered voters. Almost our entire membership has been built by circulating petitions, and now an initiative drive, always addressing the issue of state-funded baby killing. We have the Hyde amendment on the Health and Human Services budget, a similar restriction soon to govern the Indian Health Service, and already 2/3 of our states have stopped their bureaucratic war on poverty, which is de facto war against the poor. Alaska is quickly becoming a dinosaur.

Racism and social elitism are the true issues here. The majority of poor people are white, but are still a minority of the white population. On the other hand a majority of minority citizens are poor, socially and economically disadvantaged and easy prey for the racist, elitist philosophy of groups like Planned Parenthood, which attempts to eliminate poverty by exterminating the poor. This translates into genocide for our black, Hispanic and Native American brothers and sisters.

In California 40% of the abortions are paid for by Medi-Cal to the tune of $38,000,000 annually. Dr. Edward C. Allred, who owns 12 baby killing factories in California, collects a third of that fortune. He thinks that Hispanics are a threat to white society and proposes free sterilization and abortion clinics along the Calexico border to intercept Mexican women before they can further pollute our lily-white lives with their brown babies. Dr. Allred has the same contempt for blacks and [redacted] offers abortions free or at reduced cost to the racially impure.

Black Americans comprise a maximum of 14% of our population, yet black women are having 1/3 of the nearly 2,000,000 abortions performed annually in the U.S.

In Alaska the Alaska Native Medical Center continues to kill Eskimo and Indian babies, defying the clear intent of Congress to stop federal assistance. We have been informed by nurses on the obstetrical service at ANS that from March through July, 1981, an average of 20 babies per week were being killed, 25% of them older than 12 gestational weeks. It has been further alleged that at least two women were aborted without their knowledge, one before she even knew she was pregnant. Alaskan Natives are traditionally and culturally pro-life, and it is only through the brainwashing of government employees and Planned Parenthood, deceptive, fraudulent coercive counselling and what can only be described as criminally abusive practices which parallel those of the Third Reich, only through lies that the death peddlers have managed to endanger their survival as a people.

Any poor woman who ever wanted to keep her baby can testify to the pressure exerted by so-called counsellors to abort. I was told eight years ago to abort my son Jonathan and that I could have him (not another baby, but him) later. I was also told that it would be easier for me to qualify for abortion money than for prenatal aid. I opted for life and scraped the money together. So much for the benevolence of state welfare office.

Freedom to choose (to kill unborn babies) is supposed to be a matter of privacy yet the anti-life agitators are constantly pushing to make it a matter of public policy through the use of public money, while they hawk this abhorrent practice as good. Poor people are poor because our generally racist, socially elite society cripples them with greed and prejudice. THEY ARE NOT POOR BECAUSE OF OVERPOPULATION!!! The poor need decent educational opportunities, housing and a sound social policy which encourages economic independence and political enfranchisement not to mention equal opportunity and due process. Instead we hustle poor women into surgery under enormous social, legal and economic pressure to kill their children, effectively

eliminating even the thought of free choice. When we have killed their babies and mutilated their bodies have we helped them secure a better education, taught them a skill or given them dignified, productive work?

Every person has the right to expect basic, medically necessary care and I don't mind paying for it. I do object, resent and vehemently protest the use of my money to destroy our ethnic populations. Already 25% of American Indian women have been sterilized, most in early adolescence and most without their knowledge or consent. Indians and Eskimos don't have a birth rate anymore, they are vanishing, and what the Supreme Court could not accomplish with Custer and the cavalry, it will accomplish with the curette and the all too willing help of physician-executioners.

It is an obscenity to squander our money and pretend that we are helping women by killing their children and mutilating their bodies. That is discrimination against the poor.

Sept. 14, 1981

Testimony of Kathy Johnston 459 Pearl Dr. #1
Anch. Ak. 99502 District 11

Mr. Chair and members of the committee, I appeal to you all against Bill 500. Even though the Hyde amendment is in effect nationally, there is no reason for Alaska to match the federal government in barbarism. There are not even exceptions for rape and incest victims.

If you cut off funding for poor women's elective abortions, you create desperate women. I drive a taxi part of the year and am a full time student the rest of the year. Several weeks ago, before school started, I had a very desperate young woman in my taxi. She was on her third pregnancy, had a battering husband, and she needed an abortion. She was too afraid of her husband to ask for money, she knew no one else to ask, so she raised the rather large sum necessary by working in a local massage parlor for 4 fourth nights.

If Bill 500 is passed, how many more desperate women will be forced to act in this way? And who will be responsible? I would say Mr. Merlin, Mr. Metcalfe and Mr. Evans.

I am also opposed to Bill 500 because of its ambiguous wording and questionable intent. I feel this is another back door attempt to make abortion illegal. If concern for pregnant abused women could be better shown via strengthening battery laws.

Memorandum to Bernard Berelson (President, Population Council) found in "Activities Relevant to the Study of Population Policy for the U.S." 3/11/69 by Frederick S. Jaffe (Vice-president of Planned Parenthood - World Population).

TABLE 1. Examples of Proposed Measures to Reduce U.S. Fertility, by Universality or Selectivity of Impact

Universal Impact	Selective Impact Depending on Socio-Economic Status		Measures Predicated on Existing Motivation to Prevent Unwanted Pregnancies
Social Constraints	**Economic Deterrents/Incentives**	**Social Controls**	
Restructure family: a) Postpone or avoid marriage b) Alter image of ideal family size	Modify tax policies: a) Substantial marriage tax b) Child Tax c) Tax married more than single d) Remove parents tax exemption d) Additional taxes on parents with more than 1 or 2 children in school	Compulsory abortion of out-of-wedlock pregnancies	Payments to encourage sterilization
Compulsory education of children		Compulsory sterilization of all who have two children except for a few who would be allowed three	Payments to encourage contraception
Encourage increased homosexuality			Payments to encourage abortion
Educate for family limitation	Reduce/eliminate paid maternity leave or benefits	Confine childbearing to only a limited number of adults	Abortion and sterilization on demand
Fertility control agents in water supply	Reduce/eliminate children's or family allowances	Stock certificate type permits for children	Allow certain contraceptives to be distributed non-medically
Encourage women to work	Bonuses for delayed marriage and greater child-spacing	Housing Policies: a) Discouragement of private home ownership b) Stop awarding public housing based on family size	Improve contraceptive technology
	Pensions for women of 45 with less than N children		Make contraception truly available and accessible to all
	Eliminate Welfare payemnts after first 2 children		Improve maternal health care, with family planning a core element
	Chronic Depression		
	Require women to work and provide low child care facilities		
	Limit/eliminate public-financed medical care, scholarships, housing, loans and subsidies to families with more than N children.		

As it appears in Planned Parenthood's journal "Family Planning Perspectives"
#

IN THE HOUSE: Honorable Jim Duncan, Speaker

Representative Meekins, Majority Leader
Representative Gardiner, Caucus Chairman
Representative Fuller, Majority Whip
Representative hayes, Minority Leader
Representative Halford, Caucus Coordinator
Representative O'Connell, Minority Whip

INTRODUCTION OF BILLS (House)

Killing of a Fetus (criminal penalties)

HOUSE BILL NO. 550, by Rep. Martin. Amends the definitions of first and second degree murder contained in AS 11.41.100 & 110 to include the killing of a fetus (e.g. a person commits first degree murder if, with intent to cause the death of another person he (1) causes the death of any person "or a fetus", etc.). Adds a new section to AS 11.41 listing the exceptions when the killing of a fetus does not constitute first or second degree murder. These are: (1) when the act complied with AS 18.16.010 (Regulation of Abortions); (2) when the act was committed by a doctor licensed in the state in a case where the mother was likely to die in childbirth; (3) when the act was "solicited, aided, abetted, or consented to by the mother of the fetus." Provides for an immediate effective date.

Introduced May 4 and referred to Judiciary and Health, Education & Social Services.

Municipal Land Disposal (financial assistance)

HOUSE BILL NO. 551, by Reps. Grussendorf, Duncan and Gardiner. Establishes a program whereby municipalities may apply to the state for financial assistance in the form of a loan to plan a program to dispose of municipal land to the public. Loan applications must be accompanied by a disposal plan including (1) an estimate of the amount of land to be disposed of; (2) an estimate of the period of time during which the land will be disposed of; (3) a general description of the land to be studied for possible subdivision and disposal or a copy of a proposed subdivision plat of land to be disposed of; and (4) a resolution by the governing body that the purpose of the proposed subdivision is to make land available to the public and that the loan will be applied exclusively to the costs of subdividing land for disposal.

Municipalities may also apply for a loan to install improvements on a subdivision of land to be disposed of to the public. Such a loan application must include (1) a copy of the recorded subdivision plat of land to be disposed of; (2) an estimate of the costs of improvements for the subdivision; (3) a resolution by the governing body that the loan will be used exclusively for improvements on the land and that the proceeds of the sale of lots will be used to repay the loan.

Repayment must begin after disposal of the land or three years after receipt of the loan, whichever is earlier. Maximum term is 20 years and interest may not exceed 6%. A loan becomes an encumbrance on all lots in a subdivision developed with money from the loan. It has priority over all other encumbrances and the proceeds from the sale of each lot shall be used to repay the loan until the entire balance including interest is repaid. The encumbrance on an individual lot shall be released when payment for the lot is received by the state. An amendment to any subdivision plat which

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

IN SESSION

POUCH V
JUNEAU ALASKA 99811
TELEPHONE (907) 465 4948

SUITE 1 1020 "I" STREET
ANCHORAGE ALASKA 99501
TELEPHONE (907) 277-6219

REP. M. F. "MIKE" BEIRNE
DISTRICT 7 - ANCHORAGE

MEMBER OF
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE
ELEVENTH STATE LEGISLATURE

COMMITTEES
HEALTH
EDUCATION AND
SOCIAL SERVICES
COMMITTEE FOR REVIEW
OF REGULATIONS

September 14, 1981

TO: All interested parties

FROM: Representative Mike Beirne, Chairman, House H.E.S.S.

REGARDING: Hearing Guidelines

The most important thing to remember is that we have over 90 people who have requested to speak before this committee today. Therefore, to keep things moving along as quickly as possible, I would like to ask for your cooperation to ensure that everyone has a chance to speak and ask that you follow these simple guidelines.

1) The first row of the theatre is reserved for those persons who plan on testifying. Obviously not all 90 people can sit in the first row so I would request that you come down there 15 minutes before you are scheduled to speak. That way we can avoid wasting the time it takes to come down to the stage.

2) I have a list of all those people wanting to testify and will call your name. You may then proceed onto the stage. Once you sit down, your 5 minutes begins. There is a timer which will ring, indicating that your time is up. Should you have a copy of the schedule, you might want to proceed onto the stage just before the person ahead of you has finished.

3) In the interest of fairness, I would ask that you keep your comments brief and to the point. Everyone is allotted 5 minutes of speaking time but some of you may decide to take less. This will be greatly appreciated in that it will help us stay on schedule.

4) Finally, there are to be no outbursts or demonstrations while the committee is in session. Failure to comply could result in your removal from the hearing. The whole point of this hearing is to air an issue which has not been addressed by the legislature in 11 years. The members of the committee are here to listen to your comments. In order to accomplish this we ask for your help and cooperation.

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

IN SESSION

POUCH V
JUNEAU, ALASKA 99811
TELEPHONE (907) 465-4948

SUITE 1, 1020 "I" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 277-6219

REP. M. F. "MIKE" BEIRNE
DISTRICT 7, ANCHORAGE

MEMBER OF
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE
ELEVENTH STATE LEGISLATURE

COMMITTEES
HEALTH
EDUCATION AND
SOCIAL SERVICES
COMMITTEE FOR REVIEW
OF REGULATIONS

September 11, 1981

TO: All Interested Parties

FROM: Representative Mike Beirne

REGARDING: September 14th Public Hearing on House Bills 500 and 550

The following is the final schedule for all of you that have requested time to testify before the House Health, Education and Social Services Committee. Just as a reminder, the hearing is scheduled to begin at 10:00 am at the Performing Arts Center of the Anchorage Community College, located at 2533 Providence Drive.

Since we have 90 people wishing to appear before the committee, I want to stress that it is important that everyone be present at their assigned times, otherwise you may not have the opportunity to speak. We will however allow for substitutions should the need arise but please notify one of my staff.

With your cooperation, I hope to make this an orderly and informative public hearing. Thanks.

10:15 am Dr. Jack Wilke
10:30 am Reverend Richard Gay
10:45 am Joan Temple
10:50 am Dr. Jay Paul Dietrich
10:55 am Mary Wheelock
11:00 am Joyce Rivers
11:05 am Dave Buchanan
11:10 am Dr. Jose Grande
11:15 am Kathy Johnson
11:20 am Tim Bell
11:25 am Lynn Garvey
11:30 am ~~Susan Winslow~~ Harry Donahue
11:35 am Robert Flint
11:40 am Gale Mitchell
11:45 am Pudge Kleinkauf
11:50 am ~~Russell Jackson~~
11:55 am ~~Patti Carter~~ Susan Winslow Carol Ferrell
12:00 Noon-1:30 pm BREAK FOR LUNCH XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Marchine Rogoff
Patric Abbott

AFTERNOON SESSION

1:30 pm ~~Kit Evans~~ Karla Huntington
1:35 pm Shawn Hawbold
1:40 pm Dorothy Patterson
1:45 pm Carolyn Kannava
1:50 pm Holli Ploog
1:55 pm Paul Fischer
2:00 pm Madeline Holdorf
2:05 pm Tom Harvey
2:10 pm Kalen Saxton
2:15 pm Pastor Richard Benjamin
2:20 pm Susan Villancourt
2:25 pm Bill Moffit
2:30 pm Teresa Williams
2:35 pm Grant Walther
2:40 pm Ilene Self
2:45 pm Mike Haight
2:50 pm Carla Forsythe
2:55 pm Sherallee Howe
3:00 pm ~~Karla Huntington~~ Kit Evans
3:05 pm Joseph Grove
3:10 pm Annalee Girard
3:15 pm Christina Fardig
3:20 pm Katie Hurley (May have a substitution)
3:25 pm Carol Hudson
3:30 pm - 3:45 pm BREAK XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
3:45 pm Fred Dyson
3:50 pm Jane Dyson
3:55 pm Eileen Sackett
4:00 pm Richard Strutz
4:05 pm Charles Franson
4:10 pm Rosemarie Spencer
4:15 pm Bert Carney
4:20 pm Leslie Goss
4:25 pm Carolyn Glover
4:30 pm Linda Kinnunen
4:35 pm Reverend Richard Muddm
4:40 pm Angie Renaldo (STAR- Stand Together Against Rape)
4:45 pm Gary Overstad
4:50 pm ~~Dorothy Jones (Commission on the Status of Women)~~ Susan Georgette Perrott
4:55 pm George Brown
5:00 pm - 7:00 pm BREAK FOR DINNER XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

EVENING SESSION

7:00 pm Mike Siegfried
7:05 pm Pam Siegfried
7:10 pm Emily MacAllister
7:15 pm Dorothy Bassett
7:20 pm Bonnie Boodocker
7:25 pm Christal Baker
7:30 pm Robin Crittenton

EVENING SESSION (continued)

7:35 pm Leslie Ruskowski
7:40 pm Eileen Smith-Levinson
7:45 pm Kathy Miller
7:50 pm Jennifer Mobley
7:55 pm Darlene Olsen
8:00 pm James Bendell
8:05 pm Irene Ramirez
8:10 pm ~~Richard Garnett~~
8:15 pm Cindy Pentony
8:20 pm Marie Dickey
8:25 pm Robin Proomfield
8:30 pm Marthi Johnson
8:35 pm Laura Noland
8:40 pm Jeannine DeFeo
8:45 pm Joe O'Connell
8:50 pm Jim Curran
8:55 pm George Mason and Sally Slaughter
9:00 pm - 9:10 pm BREAK XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
9:10 pm Laura Easley
9:15 pm Margie Ennis
9:20 pm Elizabeth Sprague
9:25 pm Nancy Gordon (ACLU)
9:30 pm Suzette Willing
9:35 pm John McKay (ACLU)
9:40 pm Dr. Pettijohn
9:45 pm Leslie Kleinfeld
9:50 pm Rick Kaminskis
9:55 pm Ruthay Coney

10:00 pm END OF HEARING XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Thanks to all of you that took the time to appear.

WAITING LIST as of Sunday, September 13th (taken in the order called)

~~Elizabeth Sprague~~ (would like a time between 7:00 pm and 9:20 pm)
~~Allan Georgatos~~ (w) 274-3621 (h) 276-7986
Laurie Terrell (w) 344-3435 (h) 344-5110 — Held
Virginia Lewis (h) 243-8313 (available in the afternoon)
Dorothy Krone (h) 279-3864 (may be in the audience)

Marchina Dexter

JAY S HAMMOND
GOVERNOR

PHONE
(907) 276-3003

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 890
ANCHORAGE ALASKA 99501

REVISED May 1, 1981

NAMES AND ADDRESSES	TELEPHONE NUMBERS	TERM EXPIRES
AZAR, Evalee 4530 Montrose Circle Anchorage, Alaska 99502	243-8099 (home) 276-2255 (msg only)	October 6, 1983
BERKOWITZ, Herbert 3216 Madison Way Anchorage, Alaska 99504	274-4724 (home) 276-5121 (work)	June 30, 1983
DALE, Barbara, vice-chair 9511 Speel Way Juneau, Alaska 99801	789-2971	October 6, 1983
HENRY, Mary Anne 941 Fourth Avenue Anchorage, Alaska 99501	277-8622 (work)	
JONES, Dorothy SRA Box 5203 Eagle River, Alaska 99577	694-2055 (home) 274-6663 (work)	October 6, 1983
LEE, Roxane P.O. Box 747 Petersburg, Alaska 99833	772-3256 (home) 772-4229 (work)	June 30, 1983
SCHUHMANN, Barbara, chair P.O. Box 810 Fairbanks, Alaska 99707	452-1855 (work)	October 6, 1981
SLAUGHTER TIMPONE, Carla c/o Sally Smith Pouch V Juneau, Alaska 99811	465-4983 (work)	October 6, 1981
SOCKPEALUK-PERRY, Teresa 1555 D St., #8 Anchorage, Alaska 99501	279-3995 (home) 265-1288 M-Th 5-9 pm F 1-5 pm	June 30, 1983
von DOHLMANN, Jean 2810 "C" Street Anchorage, Alaska 99501	278-9363 (home) 272-8222 (work)	October 6, 1981

Katie Hurley, Executive Director
Christine Callahan, Research Analyst
Kathy Wisnoff, Public Information Officer
Laurie Anderson, Secretary

9/13/81

Since the hearing begins at 10:00 am and the first speaker, Dr. Jack Wilke, National Director of Right-to-Life doesn't start until 10:15 am, you'll have to open up the meeting with some comments.

I think the most important thing to stress is that this is simply a hearing and that you don't expect a lot of exchange between the members and the audience. Mainly due to the fact that there are over 90 people who want to testify. We have 2 bills on the agenda today but obviously you can't limit what people want to say yet above all don't encourage them to try and cover the entire issue in 5 minutes. If that happens there goes the schedule.

The last time the legislature addressed this issue was 11 years ago and you feel as chairman, that the time has come to give the people of Anchorage and/or the state, the opportunity to speak their minds on whether we should continue public funding of abortions. And for that matter, what role the state should play in this area. I think it is important, just so you don't get branded as a right-to-lifer from the start of the hearing, to emphasize that the United States Supreme Court has ruled that abortion is OK. Therefore, the State Legislature, and particularly your committee, has no intention of seeing that abortion is outlawed. Until such time as that issue is addressed on the national level, we really can't do anything. Again, stress that this is a hearing. Since we are in the interim period anyway, the committee cannot pass these 2 bills out. That can only happen after we go back in, in January.

I have also typed up some "hearing guidelines" which Jody and I will distribute as the people come in. One of us will be out front as the hearing begins and the other on the stage watching the tape recorder. We will alternate throughout the day. Everyone coming in will also receive copies of the 2 bills plus the most recent schedule of testimony. Since we mailed out the preliminary schedule last week, the majority should know when they're supposed to speak.

I also decided to reserve the first row for those people who are near speaking time so that they don't have to use the time walking down the stairs. They've been instructed in that "hearing guideline" to come down 15 minutes early and await your announcing their name. Then they can proceed onto the stage, once the person ahead is finished.

As I said before, most people should have a schedule in hand so the thing should run relatively smoothly. There is the possibility that some people may not show. I've stressed the importance of being on time so i don't think they can bitch if we go on to the next person should they not be there. If by some chance we should start to run way ahead of schedule, you might want to call a break or see if anyone in the audience who was not scheduled might want to speak. Throughout the day, I'll try to stay on top of new people coming in who want to speak and give you an updated waiting list.

One final thing. I told both "sides" that they could set up a table outside the theatre by the main entrance pass out literature or whatever. And I also put into that "hearing guideline" that no demonstrations or outbursts will be allowed while the committee is in session. That would be cause for removal. You said the other day that that might mean an early adjournment of the hearing too. I didn't say that in the guide because that might tend to backfire. I could just see the pro-choice people causing a disturbance to end the meeting since they've never wanted to have one from the beginning.

Otherwise I can't think of anything else. I've taken all the stuff with me tonight and will go directly to the theatre around 8 am tomorrow. I'm assuming you will come to the office first and then head on out there. Reminder that the hearing is in that big building on the left, on Providence Drive at the Anchorage Community College.

Jens

p.s. I talked with Sally Smith over the weekend in Fairbanks and she plans on writing letters to relatives, maybe catching up on some reading while she sits through this thing. Although I don't expect her to ask many questions, you might want to mention to Terry Martin that we ought to hold questions to the speakers at a minimum since it only adds more time to this already long day.

House Bill 500- Summary

An Act limiting the use of state money to pay for abortions

This bill amends Title 47, Chapter 7 regarding Medical Assistance for Needy Persons. As stated, it would prohibit the use of state money to pay for abortions unless the physician certifies in writing, that the life of the mother would be in danger were the pregnancy to continue.

This act takes effect immediately.

September 11, 1981

Mr. Jens Zehbe
H.E.S.S Committee Office
700 H Street, Suite G
Anchorage, Alaska 99501

Dear Mr. Zehbe,

I understand that the House Health Education and Social Services Committee will be taking testimony on HB 500 and 550 this Monday. I would appreciate this letter being forwarded to H.E.S.S. committee members as testimony.

I am concerned over the possible ramifications of HB 500. I can understand concern that state money is spent on abortions. But consider the alternative: unwanted children would be born, with a bleak future ahead for them. This would likely lead to a substantial increase in Aid to Families with Dependent Children payments, as well as more child abuse and neglect. As a woman, I can understand the anguish that can accompany the decision to have an abortion. Any woman who has ever had one will assure you it is not a viable alternative to other forms of birth control. If a woman has the courage to seek an abortion, it should be available to her.

The possible effects of HB 550 are less obvious. The legislation could conceivably limit a woman's right to control her own body, giving instead rights to the unborn fetus. I realize that the bill as now proposed allows for the "killing of a fetus" if the mother consents. But I see no purpose for the legislation at all. I anticipate that this bill will be the forerunner for more limiting bills. Our elected lawmakers are not charged with legislating morals. The question of when life begins is impossible to answer. Scientists will tell you life began when the first strands of DNA coded the blueprint for life, and life has been continuing ever since, flowing through being after being. Rather than being concerned with the "murdering of a fetus," I feel that legislators should concentrate on safeguarding the lives and liberties of parents and the children they choose to have.

Finally, I would like to note that the Right to Life group has been gathering signatures for a petition supporting limiting state funds for abortions through misleading means. These people are interjecting posters and pamphlets graphically portraying the result of abortions(i.e. fetuses in garbage bags). These serve to emotionally charge the issue, and I feel that many signers of the petition did not fully understand the issue before them. It is also my understanding that many of those signing the petitions were not registered voters, or even residents of the State of Alaska. I am basing that statement on observations at the Tanana Valley State Fair last month in Fairbanks. I understand that the Right to Life group is meeting in Anchorage at the same time testimony on HB 500 and 550 is being accepted. I ask that you bear in mind that the radical, limiting view that this group advocates is probably not the majority view of Alaskans.

I welcome any comments, clarifications, or justification for H.B. 500 and 550, from either the H.E.S.S. committee or its staff. I would also appreciate knowing the timetable for these bills, and how long testimony regarding them will be accepted.

Sincerely,

Julie Scott

Julie Scott
P.O. Box 80435 College
Fairbanks, Alaska 99708

PRO-LIFE MINORITIES OF CALIFORNIA

Confederacion Pro-Derecho A La Vida

P.O. Box 761 Davis, CA 95616

Re: Tax-paid Abortion

Dear Members of the Alaska Legislature:

Representing several minority organizations and our affiliated hispanic and eskimo members in the State of Alaska request that tax-paid abortion be suspended for the following reasons:

1.-People on welfare, many of them minority groups have never lobbied or demanded that abortion be giving to them using the taxpayers money. It has been imposed and lobbied by organizations such as Planned Parenthood, Zero Population Growth and these so called doctors involved in making money on abortion.

2.- Tax-paid abortion has not solved anything for the poor. It hasn't gotten rid of poverty, it merly has gotten rid of our children and detroyed the health of minority women .

3.- Tax-funded abortion money never goes to the poor, it goes to those who profit form them, those who are carring out the task of eliminating poverty by eliminating the poor.

4.-Tax money ought to be better spent in taking care of our problems of eduction, housing, equal opportunity for jobs and not elimianting our children.

5.- Our leaders have spoken clearly on this issue. Cesar Chavez head of the United Farms workers,Dick Gregory, Rev. Jesse Jackson, ErmaCraven of the Urban League, Indian Leader Dr. Constance Redbird Uri, Dr. Mildred Jefferson first Black woman Harvard Graduate, as well as the Southern Cristian Leadership Conference. Therefore we request that you stop all tax funding of abortion in light of these reasons.

6.- Those who perform abortion have embarqued themselves in a population control program against minorities and economically disadvantaged groups. Dr. Edward Alred' one of the pioneers in the abortion business has 12 aborion clinics and received 12 million dollars in tax-funded aborions in 1980. He has publically stated " Take the now influx of hispanic inmigrants. Their lack of respect for democracy and social order is frigtening. I hope ;I can do something to stem that tide I'd set up a clinic in Mexico for free if I could. Maybe one in Calexico would help... The aid to Families With Dependent Children program is the worst boondogle ever created..When a sullen black woman of 17 or 18 can decide to have a baby and get welfare and dood stamps and

and become a burden to all of us, it's time to stop. In parts of South Los Angeles having babies for welfare is the only industry people have." There is no question in our minds that abortion lis then being used as a method of population control of genocidal proportions.

7.- Finally there is stroght evidence that tax-paid abortion leads to fraud, many so-called doctors charge mediaaid more that to private patients. We encourgge the Alaska legislature to investigate every abortionist that receives money from the state.

Jose J. Granda
President

Jose J Granda P.E.

OUR OPINION

On the edge of the pit: abortion as a racist tool

The great danger of uncontrolled abortion is that it will be used for politically motivated purposes.

How close are we to the brink of that fiery pit when an abortion specialist, earning more than $12 million a year by performing 50,000 to 60,000 abortions, publicly announces that he has a consuming interest in curbing the birth rate of certain populations, namely Hispanics and blacks?

Dr. Edward Allred, whose chain of abortion clinics is under investigation for possibly paying kickbacks to a state-supported family planning agency in exchange for customers, speaks with Hitlerian preciseness about his personal and professional "population control" program.

"Population control is too important to be stopped by some right-wing pro-life types," Allred is quoted by the San Diego Union as saying. "Take the new influx of Hispanic immigrants. Their lack of respect for democracy and social order is frightening. I hope I can do something to stem that tide; I'd set up a clinic in Mexico for free if I could. Maybe one in Calexico would help. The survival of our society could be at stake . . . The Aid to Families With Dependent Children program is the worst boondoggle ever created. When a sullen black woman of 17 or 18 can decide to have a baby and get welfare and food stamps and become a burden to all of us, it's time to stop. In parts of South Los Angeles having babies for welfare is the only industry the people have."

Abortion raises ethical questions for anyone who engages in serious thought. Most people have wrestled with the question and have arrived at a position with which they are comfortable. Some take the absolutist position that abortion is wrong in every instance. Others, including this newspaper, have taken the less rigid view that abortion is essentially a private matter between a woman, her husband and her doctor and that rape, incest, threat to the life or health of the mother or the prospect of bringing an unwanted and unloved child into the world are legitimate reasons for the procedure.

But we are appalled and revolted by the chillingly racist view adopted by Dr. Allred, who rails against welfare but nevertheless obtains a fourth of his revenue from tax dollars through Medi-Cal. Is this Tom Metzger, the Ku Klux Klan leader, in medical garb? Those who warned how easy it would be to misuse abortion as a tool of genocide certainly have an in-the-flesh example of what they meant.

There is no indication so far that any of the women who had abortions did so other than willingly, but the state is investigating whether the alleged kickback scheme provided for the family planning agency "an economic motive to advocate that its clients choose abortion." The overuse of abortion to regulate family size, rather than reliance on less controversial contraceptives, is a matter drawing increasing public attention as the number of abortions skyrocket, prolonging the acrimonious debate and contributing unnecessarily to damaging divisions in our society.

The State of California most definitely should not be subsidizing any operation which has as its primary goal the elimination, or severe curtailment, of populations deemed undesirable by a millionaire doctor who on one hand condemns tax support for dependent children but with the other hand grabs all he can get from the public treasury for terminating pregnancies.

Do you have an opinion on this subject? Send it to YOUR OPINION, The Daily Californian, Drawer 1365, El Cajon, Calif. 92022

Por Nuestra Dignidad y Honor Alzamos Nuestra Voz

LA PRENSA SAN DIEGO

For Our Dignity & Honor We Raise Our Voice

VOL. IV No. 46 La Prensa San Diego 1950 Fifth Avenue, San Diego CA 92101 (714) 231-2874 Oct 24, 1980

Abortion-Clinic Investigation Asked For!

Assemblyman Pete Chacon (D-San Diego) announced today that he had requested the State Attorney General's office to investigate alleged kickbacks by abortion clinics to a state supported family planning agency inexchange for abortion referrals. The San Diego Democrat sent a letter to Attorney General Deukmejian after the alleged criminal investigation was reported in a recent San Diego newspaper article.

In his letter Chacon expressed his concern that investigations and audits had been initiated two years ago and to date no action has taken place by state health officials. "I am distressed that a purported Medi-Cal audit report concluded that the State could collect $600,000 from one of Dr. Edward Allred's hospitals for having overbilled Medi-Cal in 1977, and yet no further state action has occurred said Chacon. Assemblyman Chacon also sent a letter to the Board of Medical Quality Assurance inquiring about alleged improper misuse of Medi-Cal funds and allegations of substandard medical care at an Allred-owned hospital.

Chacon was also extremely upset at comments by Dr. Edward Allred referring to the need to "stem the tide of Hispanic immigrants." "I am outraged by the admission of Dr. Allred that he feel it necessary to stem the tide of any ethnic group by means of abortion." said Chacon. He continued by stating, "Dr. Allred's remarks about a 'bullen black woman,' and that 'Hispanic immigrants' lack of respect for democracy and social order reflects his racial bias." "Although Dr. Allred claims that he refuses to debate morality, he obviously feels that he is free to make moral judgement about ethnic groups and determine which ethnic

Con't on pg.12

Chicanos React Angrily To Racist Doctor

San Diego, CA—Dr. Edward Allred, owner of 12 Abortion Clinics in California and recipient of more than $4 million from Medi-Cal abortion reimbursements for 1980, took a highly genocidal position to justify his involvement in the abortion-mill business.

Dr. Allred confirms charges which had been made repeatedly in past editions of La Prensa San Diego, "that the abortion system had as its basic premise the elimination of third world children through abortion, contraceptions, and sterilization."

Dr. Allred stated, "I was interested in population control even before I went into the abortion business. Population control is too important to be stopped by some right-winged Pro-Life ...s." He continued, "Take ...ase influx of Hispanic ...migrants, their lack of ...espect for Democracy and social order is frightening. I hope I can do something to stem the tide. I'd set up a clinic in Mexico for free if I could. Maybe one in Calexico would help. The survival of our society could be at s...."

"If the state were to eliminate Medi-Cal funding for abortions, Allred said his clinics might continue giving free abortions to poor women "for the social good." (Dr. Allred didn't specify whose particular social good.)

Dr. Allred who owns the largest chain of abortion-mill clinics in the state proudly claims to having made over $12 million for performing abortions. "I have personally aborted 250,000 babies since 1968," he said. A new clinic will open in Long Beach this January and one in Calexico to help stem the Hispanic tide into the United States.

Appalled at Dr. Allred's public statements, the California Pro-Life Medical Association issued an urgent statement asking for an immediate, thorough investigation of Dr. Allred and his clinics based upon the gross patient neglect evidence in the 1977 Department of Health's SUR Report. Further, Nancy T. Mullen, M.D., President of the organization, asked that "all legislators join them in asking Mario Obledo, Secretary of Health and Welfare, for the immediate removal of Dr. Edward Allred and his 12 clinics from the Medi-Cal reimbursement provider list."

"Dr. Edward Allred is the Tom Metzger of the Medical Profession," stated Dr. Mullen. "He must no longer be a paid agent of the State or the State becomes party to his outrageous program against minorities."

Jose Macias, President of the Chicano Democratic

Con't on pg. 12

Dr. Reyes

New Assistant Secretary Of The Navy

Dr. Domingo Nick Reyes sworn in by the General Counsel of the Navy, Coleman Hicks. Dr. Reyes was appointed as the Special Assistant to the Secretary of the Navy Edward Hidalgo (extreme right). Also present for the ceremony are Dr. Reyes' wife Conchita and three of their children; (from left to right) son Esteban, and daughters Sabrina and Athena.

Dr. Domingo Nick Reyes was sworn in as Special Assistant, for Minority Affairs, to the Secretary of the Navy in a Pentagon ceremony late last month.

Secretary of the Navy Edward Hidalgo conducted the ceremony in his office and the General Counsel of the Navy, Mr. Coleman Hicks, administered the oath of office.

Dr. Reyes wife, Conchita and three of their children, Sabrina and Athena and son, Esteban, were present for the swearing in.

In his position as advisor to the Secretary on minority affairs Dr. Reyes will be intimately involved in the Navy's Hispanic Demonstration Project. The project, initiated by Secretary Hidalgo in November 1979, stresses the many enlisted and officer programs available to Hispanics in the Navy. It is an important first step toward increasing the representation

LA PRENSA
SAN DIEGO

A Publication of
La Prensa Mundial, Inc.
Founded Nov. 1978

1950 Fifth Ave., San Diego,
California 92101
Tele: (714) 231-2874, 231-2874

Publisher Daniel L. Munoz

Editor Daniel L. Munoz
Advertising Director Lydia Hinojos...
Asst. Editor Daniel R. Munoz
Typesetter Rosalyn Garrison
Office Staff Priscella Hunt

La Prensa San Diego is a legally established newspaper of general circulation in the City of San Diego, County of San Diego, and Judicial District of the Municipal Court of San Diego (#413748).
La Prensa San Diego is a minority owned community publication published weekly, which serves the 250,000 bilingual (Spanish/English) population of San Diego County.

Cont from pg. 1

DOCTOR'S RACIST STATEMENTS BRING STRONG CONDEMNATION

Association (CDA), said, "I am outraged at the racist statements of Dr. Allred. Our organization will be looking very closely at any and all politicians who support the funding of abortion centers and providers." Macias continued, "Any Democrat who in any way is supporting abortions will certainly not receive the support of the Chicano Democratic Association."

Irma Castro, Executive Director of the Chicano Federation, when informed of the genocidal statements of Dr. Allred in support of abortions was aghast. "Certainly we, the Chicanas have never supported abortion as a means of denying people their rights to the goods and services of this country. When abortions are being used with this end in mind, then we as Chicanas, must use this knowledge. To condon the use of abortions for this purpose, is not our intent. We are going to have a real problem with those politicians who support abortion in the future."

Not forgotten by the Chicano community was the voting of public funds in support of Planned Parenthood by **Supervisor Lucille Moore, Supervisors Tom Hamilton, Supervisor and Chairman of the Board, Rodger Hedgecock**, and **Supervisor Jim Bates**. All voted to support the funding of Planned Parenthood. It was noted that Hedgecock's wife, Cindy, sits on the Board of Directors of Planned Parenthood.

Jose Loza, President of the Executive Commission for the Spanish Speaking of the Diocesis of San Diego, reacted with swift anger over the continued funding and supporting of abortions. "We will be having a meeting of the full Commission to decide what our course of action will be concerning abortion and in particular the statements made by this guy, Allred. Some of our members are very angry and are saying that they wish they could get their hands around his throat. We intend to take action on this guy. His comments were very much out of line."

Lilia Lopez, of the Organizacion Femenil, and past supporter of Supervisor Jim Bates, was angered. "The Chicana woman will be angry at Allred's comments. We can't support those who would support this kind of program. We support the woman, not abortion. When we held the fundraiser for Bates, we did not know his position on this issue. Now our position on this issue. Now our group will have to decide what we are going to do. But I have confidence that our women will do what's right."

Orlando Rivers, Minister of the First United Methodist Church, was one of the few who indicated that perhaps abortion was correct in cases of rape, incest, or other such times. "In Puerto Rico, the United States has carried out a program of genocide in order to minimize our population. In places like this where it is used as genocide, (as Dr. Allred indicates) we oppose abortion."

Dr. Allred perhaps accomplished what Chicanos had not been able to do. . . make the general public perceive the racist nature of the **Abortion Movement**.

Herman Baca, Chairman of the Committee on Chicano Rights, summed up the general feeling that La Prensa sensed throughout the Chicano community: "Dr. Allred's facist statements that he had personally killed 250,000 babies since 1968, makes it true that Adolph Hitler is alive and well in 1980. His racist statements that Mexican immigrants lack respect of Democracy and social order, that he would stem the tide by setting up abortion clinics in Mexico and Texas, represents a new low in the immigration issue."

Baca continued, "Dr. Allred's statements should be a clear indication to the Chicano movement that the Facist Right which is controlled by the White Supremist, nativist, and Border Patrol apologist, who have advocated shooting Mexicans at the border, and the Liberal Left, composed of Politicians, environmentalists, Zero Population Movement, White Anglo Feminists and the **Abortion Movement**, have now politically merged to legitimize the policies of genocide upon the most defenseless sector of our community, Our Children. What is at stake here is our Basic Right to survive as a people!

"It is our position that the stopped by the Chicano political movement of the 1 movement. If we are to type of people must be survive," concluded Baca.

Cont from pg. 1

ABORTION CLINICS INVESTIGATION

group should be allowed to bear children and which should not be," said the San Diego Democrat.

"What right does Dr. Allred have to exploit the poor and disadvantaged for his own personal gain," continued Chacon. "Taking the lives of innocent unborn children does not benefit the survival of our society," noted Chacon.

Jens,
Mike might want to be a circulator of record.
Bob

ISSUE 80

300 North Bragaw

Anchorage, Alaska 99504

Dear ISSUE '80 Sponsor:

The deadline for the initiative signature drive has been extended until mid-summer. After governmental delays, some mis-direction, poor communications, and a slow start; our campaign is going well. We already have over 8000 signatures, and over 400 sponsors gathering more signatures.

We expected to have reached our goal of 16 00 signatures by now; but the response to our direct mail appeals was much less than expected. The most successful sponsors carry their signature books with them all the time and solicit signatures from virtually every voter they encounter. They aggressively gather signatures at the gatherings of people in their areas such as PTA, church, Scouts, sales meetings, political meetings, club meetings, and sports events.

If you have friends who would like to be sponsors, or if you need another book (one person is on her fourth) sign the enclosed form and mail it to ISSUE '80. Remember that when you finish a book you must have it notarized.

There are encouraging signs in the courts and in the legislature that the battle against abortion is moving in our favor. NOW is the time to press on to stop the slaughter of the unborn.

Thank you for your efforts.

Most sincerely for life,

Fred Dyson cg

Fred Dyson
Initiative Coordinator

Enclosure

FD:cg

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

IN SESSION:

POUCH V
JUNEAU, ALASKA 99811
TELEPHONE: (907) 465-4948

SUITE 1, 1020 "I" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 277-6219

REP. M. F. "MIKE" BEIRNE
DISTRICT 7, ANCHORAGE

MEMBER OF:
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE
ELEVENTH STATE LEGISLATURE

COMMITTEES:
HEALTH
EDUCATION AND
SOCIAL SERVICES
COMMITTEE FOR REVIEW
OF REGULATIONS

September 2, 1981

PRESS RELEASE

The House Health, Education and Social Services Committee which is chaired by Representative Mike Beirne of Anchorage will be holding a public hearing on House Bills 500 and 550, both relating to abortion.

The hearing is scheduled for September 14th at the Performing Arts Center of the Anchorage Community College at 2533 Providence Drive. The hearing will begin at 10:00 am and run till 5:00 pm with a break for lunch at noon. There is also an evening session scheduled to begin at 7:00 pm. The public is invited to attend and those persons wishing to speak before the committee should contact Representative Beirne's office at 278-4912.

Copies of both bills can be obtained at the Anchorage Legislative Information Office located at 1024 West 6th Avenue.

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

November 6, 1981

Mr. David Buchanan
Issue 80 Executive Committee
300 North Bra[illegible]w
Anchorage, Alaska 99504

Dear Mr. Buchanan:

Thank you for your informative and well thought out letter of September 14, 1981. Your Issue '80 organization sounds like a worthwhile educational group. You might be interested to learn that HB500 and HB550 will probably be taken up early in the upcoming session of the Legislature. The interim hearings on these matters were well attended and many provocative issues were introduced.

I am pleased that you took the time to write me about the work you have done on initiative petition #80-04. I, too, feel that public input to the Legislature regarding abortion issues has been overdue.

Once again, I appreciate your informative letter and hope that I will continue to hear from citizens as concerned about their community as you.

Sincerely,

Mike Beirne
State Representative

MB/bw

TO: Representative Beirne and Members of the Health, Education and Social Services Committee.

FROM: David Buchanan and Issue 80 Executive Committee.

RE: Transcript of testimony from Issue 80 before the HESS Committee Public Hearing on Housebills 500 and 550, (Abortion Funding), September 14, 1981.

Dear Representative Beirne:

I have come to share not only the concerns that are of a personal response but also the response of the Issue 80 Committee.

Issue 80 was formed originally as an educational effort to share the five episode film series Whatever happened to the Human Race which addresses the issues of abortion, infanticide and euthanasia. Those on the Executive Committee are professional people in the Anchorage area, people who are from professions representing business, medical, legal and various members of the clergy. Issue 80 has no organizational tie to any other agency, organization, or political action group. Issue 80 receives no federal or state funds. Every aspect of Issue 80 is truly a broad based grass roots effort.

Due to the response from those who viewed the film series at statewide seminars, Issue 80 was urged from the grass roots level to become more involved than just education. The result was the instigation of initiative petition, Proposition #80-04 which is essentially the same as House Bill #500.

There are presently over 700 petition sponsors statewide, in all election districts, from Barrow to Ketchikan, gathering signatures in support of Proposition #80-04. About 13,000 registered Alaskans have already placed their signatures on the line. We find the number making a committment to the anti-abortion issue is growing every day throughout this state.

While Issue 80 is clearly anti-abortion, we find it unique that a significant number of individuals who themselves are pro-abortion are backing Proposition #80-04 because they hold the conviction that state tax money should not be used for such purposes.

Issue 80 stands against the many myths that plague the abortion issue.

Issue 80 stands against the Economic Myth which says because wealthy people want abortions the minority poor must also want them. We find it appalling that when the poor ask for jobs and bread the state offers them the funds and the solution by eliminating their dearest of possessions, their family.

Issue 80 stands against the Biological Myth which says the developing fetus is merely another part of the woman's body. It is not! It is merely domiciled there. Maybe due to that fact tennant rights are warranted.

Issue 80 stands against the Scientific Myth that says because some do not know precisely when the beginning of life occurs that we cannot know when it is most likely to occur. It is because we may not know with precision, that we be all the more prudent to preserve the entire process.

Issue 80 stands against the Sociological Myth which states that due to instances of child abuse abortion would have been the better occurance. The 1.5 million abortions performed per year has prevented millions of unwanted children from being present on the scene. This should have resulted in the lowering of child abuse rates, but it has not. Child abuse rates continue to rise year after year.

Issue 80 also stands against the Human Rights Myth which communicates that by eliminating the rights of some deemed unwanted, imperfect or un-useful we somehow insure the rights of others.

What then does Issue 80 stand for, you ask?

Issue 80 stands for the belief that there is no such thing as a life unworthy to be lived.

We therefore urge our state legislature to pass Housebill #500 and 550!

Why?

So that Alaska will not become an exclusive reservation where only the planned, the privileged and the perfect have the right to live.

Respectfully submitted,

David R Buchanan

David R. Buchanan
Representing Issue 80 Committee.

P.S. Issue 80 will make available to the HESS Committee any or all of the film series "Whatever Happened to the Human Race?" upon your request to view it.

DB

FAIRBANKS CHAPTER, P.O. BOX 82254, College, ALASKA 99708

To: Represenative Mike Beirne, Chair
House Committee, Health & Social Services

From: Fairbanks Chapter N.O.W.
Bonnie McCorquodale Navin, Correspondent

Re: Testimony for Record - Public Hearing
Anchorage, 9/14/81

The Fairbanks Chapter of the National Organization for Women represents many Alaskans in this community--all of whom are deeply committed to the concept and reality of freedom of choice. We have, on occassion, been mistakenly identified as "pro-abortion." In fact, many N.O.W. members do not believe in abortion, but they do believe in the right of all Americans to make indi. lual choices based on their individual beliefs.

Those who support legislation prohibiting abortion and/or prohibiting the use of any public monies for abortion claim that they are protecting human life. We would suggest that they are, in reality, threatening the right of women--particularly women of child-bearing age--to life, liberty and the pursuit of happiness.

Preganancy and childbirth are life threatening conditions for some women. Will the State of Alaska refuse to pay for an abortion for a women without funds when that abortion is necessary to save her life? If not, who will define "life saving?" The death of a woman's spirit, abilities and hopes for the furture cannot be ignored. The suffering and despair of many of the women seeking abortions or the funds for an abortion is probably beyond the comprehension of many of the people who will be present for this hearing. These women are not limited to, but certainly include: 1/ rape victims, 2/ mothers who know that bearing another child will result in deprivation and harm for those already living, 3/ young, already abused incest victims, 4/ women whose fetuses are hopelessly damaged and many, many more. Refusing to allow women the right to choose for themselves what will or will not happen within their own bodies will, ultimately, cost us far more than we are really willing to pay. We will pay with human lives--the very thing these legislative efforts are pretending to protect.

We do not believe that anyone who testifies at this hearing will be opposed to protecting human life. When abortion is discussed the issue is women's lives and the potential for human life. The potential for life cannot and should not be equated with viable human life. The fertilized egg is not a viable human life. It is, in fact, part of a woman's body. The embryo cannot live outside of the human female

and thus, cannot be said to have a life separate and independent of hers. Until such time as the fetus is viable, it--like the other organs and organisms within the woman--is a part of her own body. Surely the right to control what happens to our own bodies is a fundemental right of all people in this country. Our legal system has acknowledged an individual's right to defend property and life--even in cases where that defense resulted in the death of an already viable human being. The State of Alaska cannot possibly consider limiting the right of it's female residents to defend their lives and liberty by denying them control of their own bodies. Legislation limiting that right, in this state or the nation, would make a mockery of our 200 year history of freedom.

Thank you.

cc: Fairbanks Daily News-Miner
House of Represenatives - Fairbanks delegation
State Senate - Fairbanks Delegation
Senator Ted Stevens
Senator Frank Murkowski
Represenative Don Young

ANCHORAGE ASSOCIATION OF WOMEN LAWYERS
POST OFFICE BOX 3662
ANCHORAGE, ALASKA 99510

TESTIMONY ON HOUSE BILL 500

PUBLIC HEARING

BEFORE HOUSE HESS COMMITTEE

September 14, 1981

Anchorage

Good afternoon. My name is Susan A. Vaillancourt. I will testify today as president of the ANCHORAGE ASSOCIATION OF WOMEN LAWYERS against House Bill 500.

House Bill 500 is entitled " an act limiting the use of state money to pay for abortions." This bill is abhorrent to the constitutional rights of Alaska citizens. It should not be allowed to pass out of this committee.

The right to decide whether to continue or terminate one's pregnancy is founded in the constitutional right to privacy. See, Roe v. Wade, 401 U.S. 113 (1973).

The Alaska Constitution, contrasted to the federal constitution, has an express, rather than implied, right to privacy. Article I, Section 22. Our Supreme Court has consistently maintained that our right of privacy affords greater protection than does the federal constitution. See, e.g., Skagloak v. State, 597 P.2d 142 (AK.1979); State v. Glass, 583 P. 2d 872 (AK.1978); Ravin v. State, 537 P.2d 494 (AK. 1975).

While the language of this bill has the potential of effecting many areas of state funds, let us focus on the state medical assistance program. The effect of this bill to a person receiving medical assistance is that it requires the recipient to waive her constitutional right to privacy in order to receive this state benefit. This is tantamount to a situation which would require a recipient to waive his or her constitutional due process rights to a involuntary commitment hearing in order to receive mental health assistance. Such a result is deplorable.

The legislature cannot make a law to abridge a constitutional right such as the right to privacy. This bill is broadly drafted to prohibit the use of state medical aid funds, welfare funds, any state benefits or dividends or even state salaries for payment of elective or non-elective abortions except in rare cases. This bill makes no exceptions for abortions required for victims of rape or incest. It does not permi woman and her doctor to make a sound medical and personal decision that a pregnancy should be terminated to prevent serious and permanent damage to the health of the mother or of the fetus. Unquestionably, this bill has substantial impact on a woman's right of privacy regardless of whether the fetus has any potential for surviving, healthy or otherwise. If this bill becomes law, it will undoubtedly be struck down under the Alaska Constitution as a measure which unduly restricts a woman's access to abortions and which directly interferes with protected activity.

It should be noted that the Hyde Amendment upheld by the United States Supreme Court in Harris v. McRae, 100 S.Ct. 2671 (1980) under the more narrow federal right to privacy, at least provided for

abortions for victims of rape and incest. The Hyde Amendment addressed in the Harris case limited use of federal medicaid funds for abortions except in a few cases.

It is also evident that this bill would not pass an equal protection challenge under the Alaska Constitution. In Harris v. McRae, supra, the U.S. Supreme Court upheld the Hyde Amendment against equal protection challenge based on the least stringent analysis afforded under the federal constitution. It is recognized, however, that the Alaska Constitution affords a more stringent standard for equal protection. See, Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255 (AK.1980). Under such scrutiny, House Bill 500 would be struck down.

Finally, this bill cannot be logically justified as a measure to prevent government spending or even government spending on abortions. If this bill were to pass, the result would be that state spending would shift from abortion services to abortion-related litigation. We should not allow state government and state programs to advocate a special interest position such as the anti-choice position advanced by this bill. It would be more appropriate to allow those special interest groups to attempt to influence individual choice through their education and service programs rather than restricting a person's decision-making process by state sanctioned economic barriers.

I urge you not to allow this bill to pass out of this committee. Thank you.

TO: House Committee on Health, Education and Social Services

DATE: September 14, 1981

FROM: Teresa Williams, Attorney

RE: Testimony on H.B. 550

I. Introduction

My name is Teresa Williams. I am testifying on my own behalf as an attorney practicing law in the State of Alaska. I will be directing my comments towards House Bill 550. It is my understanding that others will speak on the constitutionality of House Bill 500. For the record let me state that I believe with them that House Bill 500, if enacted, would violate this state's constitutional right to privacy.

II. Typographical Error

At the outset, let me draw your attention to a typographical error that changes the entire intent and meaning of the bill. Under Section 11.41.112, the three clauses labeled (1), (2), and (3) are not separated by an "or" showing that they are in the alternative. This deletion leaves the impression that the sections are cumulative, which would result in a law that was unconstitutional, vague, and overbroad.

If the "or" continues to be left out, the only exception to the general rule that destruction of a fetus is murder would be abortions performed with the consent of the mother in order to save the life of the mother by a licensed physician when the act otherwise accords with AS 18.16.010. On the face of it, this limited exception to the general murder rule violates the right under the United States Constitution that a woman has to

control over the decision to have an abortion. Further, the cumulative nature of the clauses would lead to bizarre results. An abortion performed outside of a hospital or similar facility by a licensed physician to save the life of the mother, for instance under emergency conditions, would be murder under this bill. An abortion by a midwife during labor in a hospital to save the life of the mother would be murder. An abortion in a hospital by a licensed physican to save the life of a minor, without the consent of a parent, would be murder.

It is vital that the omission of the "or" between clauses (1),(2) and (3) be corrected. If this is not done, the only result can be extensive and expensive litigation at the state's expense.

III. Battered Women

I will assume that the typographical error will be corrected and will turn to the general nature of House Bill 550.

The problem attempted to be dealt with in this bill covers the scenario where an abusive husband beats his pregnant wife within an inch of her life, resulting in the destruction of the fetus. Currently, this act is a crime under the criminal code at AS 11.41. 200. This act would be Assault in the First Degree, carrying with it a penalty of up to 20 years incarceration and up to $50,000 fine. The nature of the assault would be taken into consideration in the sentencing.

This bill would escalate the crime and associated penalty to 2nd Degree Murder, carrying with it a possible sentence of 5 to 99 years and up to $75,000 fine.

The obvious question is how to deal with the act discussed in the scenario. My recommendation is to continue with the current status as an assault, which after all covers other heinous crimes such as intentionally blinding or crippling a human being. An alternative would be to create a separate crime called "Aggravated Assault Resulting in the Destruction of a Fetus" or perhaps "Aggravated Assault", the latter which could also cover intentional blinding or crippling as well.

There are several reasons not to add the destruction of a fetus to the homicide statute. The homicide statute is complex enough without adding this new area to it. Additionally, this bill would not require that the accused have intent to cause the destruction of the fetus. As a doctor could better testify, miscarriages happen all the time from much more trivial causes than would cause the death of you or me. Should a person who intentionally assaulted a woman with less force than could cause her death be charged with murder when he did not intend the destruction of the fetus?

Another problem with this bill is that, by making the destruction of a fetus murder, it implies that a fetus is a human being. No one has been able to scientifically ascertain when human life begins. This decision has thus far been left to religious doctrine and individual belief. This bill would allow the government to make that decision for us, which is a form of establishment of religion. This bill equates the killing of an unborn fertilized zygote, which to many persons is not a human being, with the killing of an adult in this room. Should the sanctions be the same for both acts?

As it stands, this bill would be the first step toward giving a fetus the standing of a "person" under state and federal law. This person would, in turn, be entitled to equal protection of the laws under the state and federal constitutions. The estate of a fetus could sue for wrongful death if jarred loose during a car accident or turbulent plane flight. The estate of a fetus or a disabled child could sue the mother for use of coffee or cigarettes during pregnancy. Currently, under inheritance laws, a fetus can only inherit if born alive. If a fetus is defined as a person, then the estate of a fetus would be entitled to a share. Again, granting the status of "person" to a fetus would affect governmental benefit programs that depend on the number of children, such as welfare, unemployment and food stamps. A fetus would be entitled to a permanent fund dividend. There would be a question whether a pregnant woman could be incarcerated for a crime she committed when the fetus would also be incarcerated.

The complications which are caused by including the destruction of a fetus in the homicide statute can be avoided by continuing the present status or else creating a distinct crime which would cover this distinct act.

9/14/81

Testimony by Annely Girard

INTRO

I have worked in the area of counseling and social work for the last 8 years.

1) As legislators for Alaskan citizens of divergent origins, religious and moral beliefs, you have the responsibility to put emotional and religious beliefs aside in your handling of this issue. Consider the economic, social, and psychological aspects of this legislation.

The issue is not whether abortions will be done, but whether they will be done safely.

2) Unwanted pregnancies are a factual problem. Unwanted children abound. Dr. Wilke's statement that there is no such thing as an unwanted or unloved child in this society is NOT factual. There are upward of 30 abuse cases investigated in Anchorage each week, the age range covering from birth thru the teens.

We need a positive approach to providing preventive measures, to provide alternatives: we need quality sex education in the schools, and generous funding for outreach programs in education and counseling.

3) We know that those who can pay the price can obtain abortions, no matter how the law reads. And we know that the irresponsible actions of many men who are fathers of unwanted children are largely condoned by our laws and society.

I challenge you: are these measures not yet another act of discrimination against women, against the poor?

4) HB 540 is sufficiently confusing to warrant a return to the drawing board.

Our society's coming into an age of awareness of responsibility is something to be fostered by means of TEACHING, not prohibition. We know from history that prohibition does not work -- Prohibition fosters lawlessness.

STATEMENT ON HOUSE BILLS 500 and 550

September 14, 1981
By Barbara L. Schuhmann, Chairperson
Alaska Commission on the Status of Women

Mr. Chairman, I regret that I cannot personally be present for your hearings. However, I have an active law practice in Fairbanks and could not come to Anchorage for your hearing. I have asked the Executive Director of the Alaska Commission on the Status of Women to deliver these comments for me.

The Commission first adopted a policy statement on abortion on April 26, 1980. We reconsidered and reaffirmed that statement on December 6, 1980. The Commission's policy is as follows:

> There are few more divisive issues than abortion. The United States Supreme Court, in its landmark decision of Roe v. Wade, 410 U.S. 113 (1973), conceded that fact:
>
> > We forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, even among physicians, and of the deep and seemingly absolute convictions that the subject inspires. One's philosophy, one's experiences, one's exposure to the raw edges of human existence, one's religious training, one's attitudes toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion. In addition, population growth, pollution, poverty, and racial overtones tend to complicate and not to simplify the problem
>
> It is difficult to formulate policy on an issue where there is very little middle ground. To some, every abortion performed is the wrongful taking a human life. To others, every abortion prohibited is uninvited meddling in a difficult and profoundly private decision.
>
> Having been called upon to decide the issue, however, the United States Supreme Court has ruled that, with certain limitations, the decision to bear or not to bear a child lies within the mother's constitutional right of privacy. The Court stated:

> This right of privacy ....is broad enough to encompass a woman's decision whether or not to terminate her pregnancy. The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent. Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved. All these factors the woman and her responsible physician necessarily will consider in consultation.

The United States Supreme Court's position on privacy has a special significance in Alaska. Article I, ¢22 of our Alaska State Consitition provides:

> The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

The United States Supreme Court has interpreted the Constitution to provide that abortion is a matter to be dealt with in privacy between physician and patient. The Alaska Constitution reinforces that interpretation by reflecting Alaska's fundamental dedication to the privacy of its citizens. We, therefore, believe the Legislature should carry out the mandate of the State and Federal Constitutions by protecting this precious right.

We have been attentive to the views of those who oppose abortion. We have heard from Pro-Life representatives on several occasions and have reviewed written materials from the Pro-Life point of view. We are mindful of the particular concern that abortion is in some instances being there is

an answer through better sex education, both in and outside the home, which would lead to a more responsible understanding by men and women of their reproductive nature.

Having considered the matter, we oppose and urge the Legislature to oppose legislation on abortion which would destroy the right to privacy by intruding political judgments in the intimate physician-patient relationship. We further oppose and urge the Legislature to oppose legislation which would bar abortions in hospitals funded by the State. Again this would substitute political judgments for medical ones. We favor and urge the Legislature to favor continuation of current funding patterns with respect to abortions for the poor. The poor are least able to cope with unintended pregnancies and their unwanted children often become society's problem.

Thus, for the reasons just cited, the Commission on the Status of Women opposes House Bill 500 or any bill that does not continue current funding patterns with respect to abortions for the poor. In addition, the Commission opposes adoption of House Bill 550, which would destroy the right to privacy of Alaskan women.

The remainder of my comments are personal, and while I have discussed them with other commissioners, I do not represent them to be those of the Commission on the Status of Women.

The wording of House Bill 550 points out the basic problem in attempting to legislate in this entire area. You must realize that the Bill would be unconstitutional under Roe v. Wade, 410 U.S. 113 (1973). I believe it would also be unconstitutional under Alaska's State Constitution, Article I, §§ 3, 7 and 22.

The Bill, as presently worded, would subject the present Alaska statute outlining murder to constitutional challenge for vagueness. Convictions of persons having committed the crime of murder against "persons" could be overturned because the statute, as the bill proposes to amend it, would be too vague. I would very much hate to see convicted murderers obtaining new trials or going free because the legislature had made the statute defining murder unconstitutionally vague.

I would ask that you consider for a moment the effect that HB 550 will have on the people that you are trying to control: girls and women pregnant or who may become pregnant in the future, and their doctors. Although the exception section of HB 550 is very vague, and probably unconstitutionally so, the intent appears to me to allow abortions if consented to by the mother or if performed by a licensed physician where the mother of the fetus would more likely than not die from childbirth. Think for just a moment what the result of such language would be. In the case of

any termination of pregnancy, there would be an investigation to determine whether murder in the first or second degree had been committed. Instead of the burden of proof beyond a reasonable doubt being upon the state, this bill would seem to place a preponderance of the evidence burden upon the accused. That would be the least burden listed in section 3 of the bill.

Do we as a state really wish to have state troopers and district attorneys reviewing the medical records of every abortion performed? I think not.

I would ask the committee to consider the further effects this bill or any similar bill would have upon women considering having a family. Many of my friends in Fairbanks are attempting to become pregnant. They want to start or continue their families, and they have sought medical advice on any problems they may have in that regard.

Some of my friends have suffered as many as three ectopic pregnancies. This is a pregnancy where a fertilized egg emplants itself within the Fallopian tubes of the mother. There is no chance that a child can be born as a result of such pregnancy, and, without medical assistance, the death of the mother would be substantially certain. Her death would not come from "childbirth", but rather from the pregnancy itself. Other women also face the possibility of death or serious medical complications not only from childbirth, but from the fact of pregnancy itself. The wording of the bill's exception section would leave them with the option of dying themselves or facing a charge of murder.

Others of my friends undergo medical tests to determine why they may be having trouble in becoming or staying pregnant. These tests oftentimes discover the problems which can then be corrected. There is the possibility with some of the tests that they could cause a miscarriage or "abortion" if the patient were pregnant at the time. Are young women, seeking to become pregnant, to be charged with murder for undergoing such tests because they result in miscarriage? Under HB 550 they would. In addition, many women have various medical problems which make it more likely for them to suffer miscarriage before they have a successful pregnancy. If HB 550 were enacted, why should any woman willingly face a pregnancy, knowing of the likelihood of their suffering a miscarriage and thus an investigation or charge of murder?

In every case, the investigators would be faced with the fact of a miscarriage or abortion, and would have to determine the cause. Thus, I feel HB 550 will have the effect of discouraging women from becoming pregnant. It would be far easier to arrange some method of birth control and never be faced with a murder charge than it would be to attempt to become pregnant, suffer a miscarriage, and be faced with an investigation into the causes, and possibly even be faced with a charge of murder.

In summary, the results I see from passage of HB 550 or any bill similar to HB 550, would be: 1) that it would be declared to be unconstitutional, with the possible result of requiring new trials for persons convicted of murdering other "persons"; 2) it will cause the state to invade an area in which the people have a right to privacy: their personal decisions about medical assistance and procedures; and 3) it will greatly discourage women who know about the bill from becoming pregnant.

I would respectfully suggest that instead of this approach to the question, that your committee and the legislature direct your efforts to trying to help prevent the need for abortions. If there is increased information on birth control and family planning, this will help. If we prevent incest and rape, this will help. If we provide as much medical information and assistance as possible to women who are considering becoming pregnant or who are pregnant, this will help. If we provide assistance to families who have children such as child care assistance, and child abuse prevention, this will help.

I am sure that I speak for the Commission in saying that we would be happy to work together with you in trying to prevent the need for abortions. Neither HB 500 nor HB 550 would prevent the need or likelihood for women to seek abortions. And, for all the reasons just stated, the Commission on the Status of Women opposes passage of House Bills 500 and 550.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE

MR. CHAIR, REP. MIKE BEIRNE

I am Ilene Sackett
5943 Glenkerry Drive
Anchorage, Ak. 99504

I am a registered voter.
I vote.

I support the Right to Choose.

I do not want any person telling me what I can or cannot do with my own body. I will decide whether I want a child. If contraception fails me, I have the right to decide whether to continue or terminate my own pregnancy. Until we have safe and fail-proof contraceptives, termination is one choice I have open to me. Every woman should have this option open to her.

I want continued support of state funds for abortion which has been part of our state constitution since 1970. I would rather have a society of wanted children.

I would rather my tax dollars go to state funded abortions than to increase state aid to support unwanted children. Economically it is cheaper and healthier for all concerned.

I also oppose HB 550. It is not a clear legislative bill. If the intent of this bill is to protect the women, than I think a bill can be more clearly written.

Written legislation protecting a woman against battering could be handled through a criminal code. I would not want to see this legislation adopted which I feel is one step away from making abortions illegal. Besides feeling that this bill is bad legislation, I think that making abortions illegal is one of the highest forms of punishment to a woman that I have seen yet in the country. To say to a woman she must carry out her pregnancy is not only punishment to the woman, but creating a society of unwanted children and child abuse.

"No woman can call herself "free" until she can choose whether or not she will be a mother." Margaret Sanger

I feel no woman can remain free unless she has the right to her own choice which is a healthier, independent option for any person under a constitution which allows for many races, religions and opinions to be heard.

Ilene Sackett

Good Afternoon.

My name is Angela Rinaldo and I am the Executive Director of Standing Together Against Rape. I am speaking today on behalf of STAR in opposition to House Bills 500 and 550. Due to the fact that I am not an attorney I will refrain from addressing the constitutionality of the bills. However, I would like to raise issue with House Bill 550 and its vagueness. Considering my limited experience with the legal implications of the bills, I will discuss them from a social and moral perspective.

If my understanding of the bills is accurate I must conclude that the introduction of these bills is an attempt to limit the availability of abortions and a woman's right to choose to abort. In doing so these bills together would make the abortment of a fetus (which is undefined), unless the woman's life is in danger, murder and prohibit the use of state money to pay for it. The social implications of these bills are many. It is our contention that by limiting funds for abortions and reducing an individual's choice about one's body, to murder, will not prevent abortions but merely reduce the availability of safe medical means to having one. Abortion is not a new phenomenon. When I was a little girl I remember hearing horror stories about back-room abortions. If you pass this legislation all you will have accomplished is reducing abortion to a back-room phenomenon once again.

Lastly I would like to address the issue of providing for the children that will emerge from the unaborted fetuses. Nowhere does the legislation address the problems associated with unwanted children, parents who can't support them, and a lack of social services to provide for them. In a time when government is cutting back on child care funds, welfare funds, and social services in general I question who and how will we care for these children and assure that they will have a happy healthy life.

In conclusion, I urge you to consider the implications these bills will have on our freedom of choice and the consequences if you deny that choice by passage of these bills.

TESTIMONY

of

Pastor Paul E. Glover

Harvester Christian Church

Thank you Dr. Beirne for allowing this issue to come to a hearing. When you get it on the floor for a vote, we will be back to congratulate you.

I would also like to thank each of you legislators for taking the time to come and listen to our testimony. It is much appreciated.

This is my 30th year as an ordained minister. My testimony will support the enactment of both bills that are before us today.

Quite frankly, the very question of whether the State should hire the killer of unborn children is, in itself, a disgrace. The judgment of God has always rested upon the slaughter of the innocents, in all ages, and this generation will be no exception.

Noah was barely out of the Ark before God spoke to him these words: "And surely your blood of your lives will I require; at the hand of every beast will I require it, and at the hand of every man; at the hand of every man's brother will I require the life of man. Whoso sheddeth man's blood, by man shall

"his blood be shed: for in the image of God made He man. And you, be ye fruitful, and multiply; bring forth abundantly in the earth, and multiply therein."

The Constitution of the United States addresses a number of things that are pertinent to our lives. The Bill of Rights spells out specific provisions for the preservation of life, liberty, and the pursuit of happiness. If we, as citizens of the United States, are at any point the victims of a lack of direction, it is probably in the area of responsibility.

Substantive testimony has been presented in this forum to establish beyond any reasonable doubt that life begins in the womb at conception, and that single cell being is, in fact, a being from that moment.

One of the questions I have to offer is related as to whom is responsible for that life, and if it is destroyed, whose responsibility is it? Does the prospective mother bear that responsibility alone, or does the abortionist share that responsibility with her? If it is legalized abortion, then would those persons who voted for legalized abortion become abortionists themselves by the way they voted? If the murder takes place with State funding, would the legislators who voted for the funding be added to the list of abortionists. In all fairness to the question, what about the people who willingly paid their tax money. Would their willingness to pay taxes constitute responsibility for the murder of those children?

What about the eternal destiny of a child who dies in infancy? It is generally understood by many biblical scholars that the spiritual state of the parent or parents will determine where that child spends eternity.

If we follow through on that inquiry, then where does the child who is killed by the abortionists spend eternity, and who is responsible? I know you may say that we have enough problems on our hands trying to decide what to do with this issue as far as life here is concerned. On the other hand, to fail to consider the hereafter is to ignore a very real part of this issue.

So, are we to assume that the prospective mother who elects to kill; the doctor who elects to kill; the legislators or justices who elect to legalize killing; the legislators who elect to finance the killing; the taxpayers who elect to pay their taxes knowing; that those taxes may be used for the killing of the innocent are all abortionists through their participating action ?

God spoke to more than one Old Testament prophet and said, "I knew you while you were still in your mothers womb." Life begins there. "It is appointed unto man once to die, and after that the judgment." Where are those unborn babies who die in their mothers wombs going to spend their eternity? and who bears the BLAME OR RESPONSIBILITY?

I AM GEORGE BROWN, HUSBAND, FATHER OF 2 TEENAGERS, ALASKA RESIDENT FOR 16 YEARS, BOARD CERTIFIED PEDIATRICIAN IN PRIVATE, NON-PROFIT PRACTICE, AND A CONCERNED, RESPONSIBLE CITIZEN.

MY TESTIMONY IS AGAINST THE TWO PROPOSED BILLS WHICH WOULD RESTRICT ABORTIONS IN ALASKA.

OUR HUMAN RACE IS IN DANGER FROM A RECENT PUBLIC SENTIMENT OF OVERSIMPLIFICATION. IT IS UNDERSTANDABLE THAT WE ARE TEMPTED TO FIND BLACK & WHITE ANSWERS WITH INCREASING THREATS TO OUR ESTABLISHED SECURITY. INFLATION, INCREASING CRIME, RAPID TECHNOLOGICAL CHANGE, BROKEN HOMES, MASSIVE DRUG INDULGENCE, AND UNWANTED, MISTREATED CHILDREN ABOUND. TO TRY TO APPLY SINGLE, OVERSIMPLIFIED SOLUTIONS TO SUCH COMPLEX ISSUES CAN ONLY MAKE MATTERS WORSE, FOR ALL OF US.

A FRIGHTENLY OVERSIMPLIFIED SOLUTION TO OUR CURRENT MOST CONTROVERSIAL PUBLIC ISSUE, ABORTION, IS BEING PUSHED BY SINCERE FELLOW CITIZENS. THEIR CONSTITUTIONAL RIGHT TO EXPRESS THEIR VIEW AND TO CHANGE OUR LAWS IS GUARANTEED. THIS RIGHT IS CRUCIAL FOR ALL OF US AND IS TRULY REVOLUTIONARY IN HUMAN HISTORY.

TO SAY THAT ALL ABORTIONS ARE MURDER IS TO SAY THAT NATURE IS A MURDERER, FOR THERE HAVE ALWAYS BEEN SPONTANEOUS ABORTIONS. AS THE SCIENCE OF HUMAN REPRODUCTION IS SLOWLY BEING BETTER UNDERSTOOD, WE KNOW THAT NATURE ABORTS HANDICAPPED AND DISEASED UNBORN BABIES. TO MAKE A LAW THAT A PERSON ASSISTING AN ABORTION IS A MURDERER WOULD SUBJECT MANY MEDICAL RESEARCHERS TO IMPRISONMENT, RESEARCHERS WHO HAVE WON THE BATTLE AGAINST MANY OF THE FORMER MASSIVE KILLERS OF HUMANKIND. SMALLPOX IS A GOOD EXAMPLE. OVERSIMPLIFIED, BLACK & WHITE, ALL OR NOTHING SOLUTIONS DO NOT WORK FOR COMPLEX BIOLOGICAL PROBLEMS. SMALLPOX VACCINATION KILLED TENS OF HUNDREDS OF PERSONS, ESPECIALLY WHEN IT WAS UNSCIENTIFICALLY USED, BUT IT SAVED TENS OF MILLIONS AND FINALLY ERADICATED SMALLPOX, WHICH IN HUMAN HISTORY HAS WIPED OUT ARMIES AND RAVAGED NATIONS.

WE WILL CONTINUE TO HAVE ABORTIONS, JUST AS WE WILL CONTINUE TO HAVE STARVATION, WAR, AND DISCRIMINATION. BUT WE CAN DECREASE THE NUMBERS AND THE DAMAGE, BY NOT BEING AFRAID TO BE TOLERANT AND TO TRY TO COOPERATE.

I AM NO MORE IN FAVOR OF ABORTIONS THAN I AM IN FAVOR OF STARVATION, WAR, AND DISCRIMINATION. I WILL CONTINUE TO ACT TO SUPPORT ACTIVITIES THAT HELP FEED STARVING CHILDREN AND ADULTS. I WILL CONTINUE TO SUPPORT PERSONS AND GROUPS THAT AVOID VIOLENCE. I WILL CONTINUE TO SUPPORT LEGISLATION THAT DECREASES DISCRIMINATION. ANY LAW THAT RESTRICTS ACCESS TO A MEDICAL SERVICE IS DISCRIMINATORY. ESPECIALLY WHEN THOSE DISCRIMINATED AGAINST ARE POOR AND POLITICALLY DISPOSSED, SUCH LAWS ARE BASICALLY UNFAIR, UNDEMOCRATIC, AND UNAMERICAN.

THE MOST ENDANGERING DISCRIMINATION, BY SUCH LAWS, IS TO THE INTEGRITY OF INDIVIDUAL CHOICE. THE COMPLEX DECISION ABOUT ANY ABORTION, WHICH IS ALWAYS AN INDIVIDUAL DECISION, CAN BE BEST MADE IN THE PRIVACY OF FAMILY, PROFESSIONAL, PERSONAL SUPPORT. AS ONE PERSON SAID: "IF THE GOVERNMENT CAN TELL A WOMAN TODAY SHE CANNOT HAVE AN ABORTION, THEN TOMORROW IT MAY TELL HER SHE MUST."

George Brown

9-14-81

ISSN 0402-0424

acog newsletter

july, 1981/volume 25, number 7

Abortion favored in most cases

Forty percent of Americans ap[illegible] abortion on request and 24 percent approve of it in most circumstances, according to a Washington Post-ABC News poll.

The poll of 1533 people interviewed by telephone in May throughout the U.S. showed 16 percent disapproved of abortion in most circumstances and the 10 percent remaining disapproved in all circumstances.

[illegible]

[illegible]

decides she wants one no matter what the reason.

Among those surveyed, 88 percent favor legal abortions when the woman's life is endangered, 87 percent in cases of rape or incest, 84 percent when the woman might suffer severe health damage, 70 percent when there is a chance the baby would be born deformed, and 71 percent when a woman's mental health is endangered.

[illegible]

Dr. Ryan presents ACOG abortion position

The ACOG's official position in opposition to the Human Life Bill (S 158/HR 900) was presented within a statement by College President George M. Ryan Jr. M.D. at a May 20, 1981, hearing of the Senate Judiciary Subcommittee on Separation of Powers. Dr. Ryan told Subcommittee members that "my purpose in being here is to provide expert testimony which I, as well as many of my colleagues, feel is absolutely neccessary to assure that Congress has information on the broad health ramifications of this Bill. When Congress equates cellular life to personhood it is taking a substantial leap beyond the current views of the medical and scientific community that will have a major and lasting effect upon the health care of women in this country, the practice of medicine in this country, and the personal health practices of a large portion of our population."

Dr. Ryan testifying before Senate Judiciary Subcommittee on Separation of Powers

Discussing the potential effect and further [illegible] of passage of such legislation, Dr. Ryan noted that "experienced physicians over the past 10 years have come to rely upon the ability to evaluate the intrauterine status of the fetus and perform early delivery of the fetus when indicated. Many of these premature births relate to maternal disease (eg. toxemia). Prevention of the more severe effects of the disease involves early delivery with concomitant risk to the baby. Failure to act in the situation for fear of abridging the rights of the fetus could result in death of the mother and fetus. This bill if enacted could create an impossible dilemma for the practicing physician trying to meet his professional responsibilities to act in the best interest of the pregnant woman. Studies have [illegible] the capability of identifying a number of genetic chromosomal defects in pregnancy and offering a pregnant woman a chance to make the critical decision as to whether or not she will bear a defective child. The proposed legislation would essentially nullify our current efforts in genetic screening programs.

Additionally, for over 10 million women in this country, the exercise of self-determination includes management of their reproductive functions by means of the intrauterine device and the birth control pill. If the legislation as proposed were to pass, any known contraceptive which interferes with the development of the conceptus would be suspect. It is realistic to assume that the IUD and low dose oral contraceptive pills could be considered as abortifacients and therefore could be declared illegal. Dr. Ryan's testimony to the Subcommittee highlighted medical and health concerns while raising questions as to how the medical profession will deal with the relatively frequent incidence of ectopic pregnancy, hydatidiform mole or spontaneous abortion if this legislation were to pass.

The [illegible] of the process of conducting hearings of [illegible] testimony from legal experts, [illegible] and medical experts [illegible] to this [illegible].

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 500

"An Act limiting the use of state money to pay for abortions; and providing for an effective date."

I. BACKGROUND:

Alaska law permits any woman in consultation with her physician, to exercise individual judgment concerning whether to obtain an abortion. This has been the case since July 20, 1970, when AS 11.15.060 became effective through legislative action that overrode a Governor's veto. The provisions of AS 11.15.060 have remained essentially unchanged since its enactment, except that the statute was transferred to AS 18.16.010 effective January 1, 1980.

Payment of these elective abortions in Alaska for indigent women has been available either through Medicaid (AS 47.07.010 - .080) or General Relief Medical (AS 47.25.300 and AS 47.25.130). Funding for elective abortions was covered under the General Relief Medical Program from July 29, 1970 to August 31, 1972, when it was largely absorbed by the Medicaid Program. Because of changing federal policy embodied in the "Hyde Amendment", payment for elective abortions shifted back to General Relief Medical on October 21, 1976, where it has remained to date.

Last year the Attorney General issued an opinion stating that the Department did not have authority to curtail or modify access to abortion payment coverage for low income women merely through a change in State regulations. The Attorney General ruled that, at a minimum, legislative action would be necessary. The Attorney General also cautioned the Department that even legislative action in this direction might violate privacy and equal protection rights afforded all women, poor or otherwise, under the Alaska Constitution. A copy of that opinion, dated January 12, 1981 is attached.

II. EFFECT OF HB-500:

House Bill No. 500 would limit the expenditure of general funds or other funds administered by the State under the Medicaid Program to abortions that are necessary to save the life of the mother as determined by the attending physician.

Section 1 would amend the Medicaid statutes to prohibit the use of state money or money administered by a state agency for the purpose of paying for an abortion; unless there are extenuating circumstances that require such action to save the mother's life. This action to save the mother's life must be consistent with the effort made to save the life of the fetus as certified in writing by the attending physician.

Section 2 would amend the Medicaid statutes to define "abortion" as a medical procedure to terminate the pregnancy of a nonviable fetus. A nonviable fetus is defined in state regulations as a fetus which has not developed beyond 150 days (see 17 AAC 40.140).

POSITION PAPER/Department of Health & Social Services

As presently drafted, HB500 would not curtail payment for elective abortions for low-income women in Alaska, due to the fact that funding is provided under the General Relief Medical Program which is located in a different chapter of the Alaska Statutes, specifically AS 47.25. HB500 would have to be expanded to include GR Medical if the Legislature desires to curtail all state funded abortions which do not endanger the mother's life, which appears to be the intent of HB500.

I I. DEPARTMENTAL POSITION:

The Department recognizes the sensitivity of an issue that involves a public policy which transcends political and philosophical boundaries. It is appropriate that a decision of this magnitude be undertaken by the electorate and the Legislature. Since it is the role of the Department only to administer state programs, the Department takes no position concerning this bill.

Approved By: Helen D. Beirne

Helen D. Beirne
Commissioner

Date: 1/21/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 500
Title An Act limiting use of State money to pay for abortions
Requested by House HESS Date 21 January 1982

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Health; Social and Economic Assistance to General Population
BRU, Program, or Subprogram(s) Affected Medicaid, General Relief Medical; AFDC
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	1715.7	1853.0	2001.2	2161.3	2334.2
TOTAL	0	1715.7	1853.0	2001.2	2161.3	2334.2

FUNDING (Thousands of Dollars)

GENERAL FUND	0	742.4	852.4	920.6	1015.8	1097.1
FEDERAL FUNDS	0	973.3	1000.6	1080.6	1145.5	1237.1
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

All elective abortions are presently funded by the General Relief Medical program. This bill will virtually eliminate elective abortions. Based on the most recently available statistics, the Department provides payment for approximately 300 elective abortions annually at an average cost of $900 per procedure. Since elective abortions would not be covered, the Department will bear the cost of 300 additional births annually and the related cost of providing financial and medical assistance to approximately 150 new AFDC cases each year. The following is a breakdown of the financial impact HB 500 will have on the General Relief Medical, Medicaid, and AFDC programs during FY 83.

IV. DATE 21 January 1982 PREPARED BY David M. Davidson
AGENCY Department of Health & Social Services
PHONE 465-3347

Joanne C. Abel, Dir. of Mgmt. & Budget

Original Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

FISCAL IMPACT OF HB 500
DURING FISCAL YEAR 1983

PROGRAM	TOTAL EXPENDITURE	STATE FUNDS	FEDERAL FUNDS
1. General Relief Medical ($900 x 300 abortions)	$ (270,000)	$ (270,000)	$ 0
2. Medicaid ($2500 x 300 routine deliveries)	750,000	390,000	360,000
3. AFDC payments for one year ($559 x 150 cases of mother and one child)	1,006,200	503,100	503,100
4. Medicaid payments for one year ($850 x 270 people)	229,500	119,340	110,160
TOTAL	$1,715,700	$ 742,440	$ 973,260

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU, ALASKA 99811
465-3600

January 12, 1981

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: General Relief Medical Assistance
Our File: J-66-413-81

Dear Governor Hammond:

You have asked for an outline of possible options with respect to funding elective abortions through General Relief Medical ~~Assistance~~. Theoretically, you have four alternatives: (1) retain the existing coverage of elective abortions; (2) direct that payment be stopped for elective abortions; (3) direct that existing regulations be amended to no longer cover elective abortions; and (4) introduce legislation that would amend the statutes underlying General Relief Medical Assistance.

Our research indicates that only the first option is free from legal difficulties. Of the others, the last is legally the most defensible.

DJ:CBLM

BACKGROUND

The Department of Health and Social Services has informed us that indigent women have been able to obtain abortions through the General Relief Medical Assistance Program since its creation in 1953. Elective abortions have been covered since 1970 when the Alaska Legislature overturned Governor Miller's veto of a bill which removed most criminal sanctions in this area. Chapter 103, SLA 1970. Federal funds became available to some extent in 1972 when the State of Alaska enrolled in the Medicaid Program. See AS 47.07.010-080. General Relief Medical Assistance has remained available to indigent women who, for one reason or another, have not been eligible for Medicaid.

The so-called Hyde Amendment, which in various forms has sought to eliminate Medicaid coverage for elective abortions, was initially adopted by Congress in 1976. After a checkered career in federal court, the Hyde Amendment was approved by a 5-4 decision of the United States Supreme Court in Harris v. McRae, _____ U.S. _____, _____ S.Ct. _____, 65 L.Ed.2d 784 (1980). This decision, as we indicated orally to the Department of Health and Social Services soon after it was rendered, has no direct impact on General Relief Medical Assistance since that program uses no federal funds.

OPTION ONE

The present policy of making elective abortions available to indigent women presents no legal difficulties. General Relief Medical Assistance derives from AS 47.25.120 which authorizes financial assistance to be provided needy persons "so far as practicable under the conditions in this state." The nature and the amount of assistance are addressed in AS 47.25.300(1) and AS 47.25.130:

> AS 47.25.300. DEFINITIONS. In §§ 120-300 of this chapter. . . (1) "assistance" means financial assistance to or on behalf of a needy person, including subsistence (food, shelter, fuel, clothing, and utilities) and transportation, medical needs (including but not limited to, hospitalization, nursing, and convalescent care), burial, and other determined needs;

> Sec. 47.25.130. AMOUNT OF ASSISTANCE. The amount of assistance for a needy person shall be determined by the department with regard to the resources and needs of the person and the conditions existing in each case. Where possible, assistance shall be sufficient to provide the applicant with reasonable subsistence according to standards of assistance established by the department. However, the amount of assistance for subsistence needs may not exceed $80 a person a calendar month.

While financial assistance for abortions is not specifically addressed by statute, existing regulations of the Department of Health and Social Services specifically provide that payment will be made for family planning services, including abortions, that are not available under Medicaid. See 7 AAC

43.005(c), 7 AAC 43.140(b), 7 AAC 43.835, 7 AAC 47.170. Coverage, of course, implies a prior finding of need by that agency.

OPTION TWO

The second option, that of simply stopping payment, is not legally sustainable. Authority clearly exists for payments to be made under the program to address needs which, in the language of the statute, have been "determined" by the Department of Health and Social Services through the adoption of administrative regulations. Any changes would similarly have to be pursued by regulation in accordance with the procedures set forth in the Administrative Procedure Act. United States v. Nixon, 418 U.S. 683, 694-696, 94 S.Ct. 190, 41 L.Ed.2d 1039 (1974). This option, additionally, is subject to attack on impoundment and constitutional grounds. The constitutional problems, articulated by the dissenting justices in Harris, derive from the Alaska Constitution and are briefly discussed below.

OPTION THREE

The third option is that of amending the regulations to delete elective abortions. While this course of action would not raise the problem mentioned above, it too would be vulnerable to legal challenge.

AS 47.25 gives the agency broad discretion to determine whether there is a need for specific types of medical treatment. Further, the agency has discretion to determine whether a particular applicant actually requires financial assistance. While the latter decision is obviously made on a case-by-case basis, the former is not.

By adopting regulations providing for the coverage of abortion expenses, the agency implicitly made a finding that there is a general need for that type of medical treatment, i.e., that abortions are "medical needs" under the terms of the statute. It could be argued that before the regulations could be amended to exclude elective abortions, there would have to be a finding that conditions within Alaska had changed to such an extent that there is no longer a need for that type of medical treatment. Without such a finding, the change might be considered an arbitrary agency action. It should also be noted that the legislature has not taken action to change the original agency determination.

Such a finding would be most difficult to make in this case. Neither the Hyde Amendment nor the United States Supreme Court decision in Harris alter "medical needs." Nor has any other event occurred in the state which suggests a change in medical needs. Absent changed circumstances, we believe a court might not permit the deletion of elective

abortions from the list of medical needs covered by the General Relief Medical Assistance program.

Conversely, a strong argument can be made that the Department of Health and Social Services has absolute discretion to change its definition of "medical needs" even if there are not changed circumstances in the real world.

OPTION FOUR

The fourth option, if pursued by the legislature, would eliminate all statutory obstacles and would necessarily elicit the views of that body on this issue. As the United States Supreme Court observed in Harris, "when an issue involves policy choices as sensitive as those implemented [here]. . ., the appropriate forum for their resolution in a democracy is the legislature." 65 L.Ed.2d at 811.

A legislative solution would not, however, eliminate the constitutional problems that this option shares with the preceding two. While the majority in Harris rejected challenges to the Hyde Amendment based on federal rights to privacy and equal protection, it did not address the Alaska Constitution. The Alaska Supreme Court has made it clear that our constitution provides broader protections than its federal counterpart. See Shagloak v. State 597 P.2d 142 (Alaska 1979).

The Alaska Constitution contains an explicit guarantee of the right to privacy which has no parallel in the federal constitution. Ak. Const., Art. I, § 22. See State v. Glass, 583 P.2d 872 (Alaska 1978). It also imposes a more flexible, and likewise more stringent, standard for equal protection. See Commercial Fisheries Entry Comm'n v. Apokedak, 606 P.2d 1155 (Alaska 1980); State v. Erickson, 574 P.2d 1 (Alaska 1978); Williams v. Zobel, ____ P.2d ____, Op. No. 2170 (Alaska Sept. 9, 1980). In light of these factors, it is possible, if not likely, that the minority position in Harris would be adopted by the Alaska Supreme Court. The minority in Harris would have struck down the Hyde Amendment on the grounds that it effectively deprives poor women of the choice of whether to have an abortion and thereby constitutes an infringement of their right to privacy and a denial of equal protection.

Should you decide to seek elimination of state aid for elective abortions, legislative action would probably be the best means of doing so. It should be recognized, however, that even this approach raises constitutional issues that would likely be litigated.

Sincerely,

Wilson L. Condon
Attorney General

WLC/jal

FISCAL IMPACT OF HB 500
DURING FISCAL YEAR 1983

	PROGRAM	TOTAL EXPENDITURE	STATE FUNDS	FEDERAL FUNDS
1.	General Relief Medical ($900 x 300 abortions)	$ (270,000)	$ (270,000)	$ 0
2.	Medicaid ($2500 x 300 routine deliveries)	750,000	390,000	360,000
3.	AFDC payments for one year ($559 x 150 cases of mother and one child)	1,006,200	503,100	503,100
4.	Medicaid payments for one year ($850 x 270 people)	229,500	119,340	110,160
	TOTAL	$1,715,700	$ 742,440	$ 973,260

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute House Bill No. 500

Title An Act limiting use of State money to pay for abortions

Requested by House HESS Date 21 January 1982

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Health; Social and Economic Assistance to General Population

BRU, Program, or Subprogram(s) Affected Medicaid, General Relief Medical; AFDC

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY82	FY 83	FY 84	FY 85	FY 86	FY87
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.	0	1715.7	1853.0	2001.2	2161.3	2334.2
	TOTAL	0	1715.7	1853.0	2001.2	2161.3	2334.2

FUNDING (Thousands of Dollars)

GENERAL FUND	0	742.4	852.4	960.6	1015.8	1097.1
FEDERAL FUNDS	0	973.3	1000.6	1040.6	1145.5	1237.1
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

All elective abortions are presently funded by the General Relief Medical program. This bill will virtually eliminate elective abortions. Based on the most recently available statistics, the Department provides payment for approximately 300 elective abortions annually at an average cost of $900 per procedure. Since elective abortions would not be covered, the Department will bear the cost of 300 additional births annually and the related cost of providing financial and medical assistance to approximately 150 new AFDC cases each year. The following is a breakdown of the financial impact HB 500 will have on the General Relief Medical, Medicaid, and AFDC programs during FY 83.

IV. DATE February 10, 1982 PREPARED BY David M. Davidson

AGENCY Department of Health & Social Services

PHONE 465-3347

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

James C. Clark, Dir. of Mgmt. & Budget

33-001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Sponsor Substitute House Bill No. 500
Title An Act limiting use of State money to pay for abortions
Requested by House HESS Date 21 January 1982

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Health; Social and Economic Assistance to General Population
BRU, Program, or Subprogram(s) Affected Medicaid, General Relief Medical; AFDC
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	1715.7	1853.0	2001.2	2161.3	2334.2
TOTAL	0	1715.7	1853.0	2001.2	2161.3	2334.2

FUNDING (Thousands of Dollars)

GENERAL FUND	0	742.4	852.4	920.6	1015.8	1097.1
FEDERAL FUNDS	0	973.3	1000.6	1080.6	1145.5	1237.1
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

All elective abortions are presently funded by the General Relief Medical program. This bill will virtually eliminate elective abortions. Based on the most recently available statistics, the Department provides payment for approximately 300 elective abortions annually at an average cost of $900 per procedure. Since elective abortions would not be covered, the Department will bear the cost of 300 additional births annually and the related cost of providing financial and medical assistance to approximately 150 new AFDC cases each year. The following is a breakdown of the financial impact HB 500 will have on the General Relief Medical, Medicaid, and AFDC programs during FY 83.

IV. DATE February 16, 1982 PREPARED BY David M. Davidson
AGENCY Department of Health & Social Services
PHONE 465-3347

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Jeanne C. Clark, Dir. of Mgmt. & Budget

33-001 (Rev. 12/80)

FISCAL IMPACT OF HB 500
DURING FISCAL YEAR 1983

PROGRAM	TOTAL EXPENDITURE	STATE FUNDS	FEDERAL FUNDS
1. General Relief Medical ($900 x 300 abortions)	$ (270,000)	$ (270,000)	$ 0
2. Medicaid ($2500 x 300 routine deliveries)	750,000	390,000	360,000
3. AFDC payments for one year ($559 x 150 cases of mother and one child)	1,006,200	503,100	503,100
4. Medicaid payments for one year ($850 x 270 people)	229,500	119,340	110,160
TOTAL	$1,715,700	$ 742,440	$ 973,260

Court Strikes Down Illinois Program Funding Pregnancy Assistance

Federal District Court Judge Prentice Marshall on November 23 struck down an Illinois statute providing state funds to agencies that offer counseling and assistance to pregnant women but not referral or counseling for abortion. The ruling drew immediate criticism from Americans United for Life Legal Defense Fund, which represents a pregnancy counseling group whose funding is cut off by invalidation of the statute.

The case, titled *Planned Parenthood v. Kempiners*, had been brought by Planned Parenthood Association—Chicago Area after its application for funds for a program including abortion counseling was denied by the Illinois Department of Public Health.

Judge Marshall said the statute is unconstitutional because by means of it, "the state ensures that a woman will not be told of the complete range of options and relevant considerations to her decision." He said the law violates the constitutional right of privacy and the First Amendment by "permitting grantees to provide information about childbirth but not abortion."

Patrick Trueman, General Counsel to Americans United for Life Legal Defense Fund, charged that, "This ruling flies directly in the face of several U.S. Supreme Court decisions which have held that the government can encourage childbirth over abortion in its funding programs."

A public interest law firm AUL represents the Care Center of Springfield, an agency funded under the Act which intervened in the lawsuit.

"There is a basic difference between saying the state cannot interfere with abortion and saying that taxpayers' money must be spent to support it. The decision strikes a drastic blow at the ability of the state to help pregnant women cope with difficult pregnancies," Trueman said. "Everyone is talking about teenage pregnancy and about the need to provide alternatives to abortion, but this court is saying that we can't help with that unless we promote abortion at the same time.

"It is ironic that the prolife movement is frequently criticized for caring only about children and not about their mothers, but when programs are set up to help problem pregnancies, the same critics go into court to strike them down," Trueman said.

Trueman described the law as a model one. "Congress and the states are likely in the future to pass laws similar to it in order to keep tax money from funding abortion promoters," he predicted. "Therefore this is a vitally important case, not only for Illinois but also in the precedent it sets for the nation; it must be appealed—if necessary, all the way to the Supreme Court."

Americans United for Life Legal Defense Fund is the legal arm of the prolife movement. Since its founding five years ago it has participated in dozens of court cases and won some of the prolife movement's most significant legal victories, including the 1980 Supreme Court rulings upholding the Hyde Amendment and the right of states not to fund abortions.

AUL's Pat Trueman

Nebraska Stops Public Abortion ~~Insurance~~ 5/5/81

The Nebraska legislature has prohibited the use of public funds for insurance policies that include coverage for abortion.

The bill was voted on three separate times, in accordance with normal procedures in Nebraska's unicameral (single-body) legislature. It passed the first time 33-9, the second time 33-7, and the third time 34 to 11. It now awaits the expected signature of Governor Charles Thone.

The bill received only one vote more than necessary to take effect as soon as the governor signs it. Had it received only 32 votes at the third reading, it would not have taken effect for two years, when the current insurance bill was to have expired.

A number of amendments were offered for the bill, but the only one that passed was one allowing insurance policies to cover treatment for a woman injured while attempting to abort herself. The bill also covers complications arising from physician-induced abortion.

Debate over the bill was muddied by anti-Catholic remarks from two pro-abortion legislators. Sen. Shirley Marsh said, "Perhaps in fact this proposal is one more way for the (Catholic) Church to try to control its people . . . Why should one religious group who has their choice try to force only that choice on the rest of us?" Senator Ernie Chambers staged a theatrical diatribe mocking the Catholic religion. He predicted the Catholic Church would change its teachings on sexuality just as the Church once changed its rule on eating meat on Fridays.

Summaries

(from p. 6)

Beal v Doe June 20, 1977

The court upheld a Pennsylvania law limiting Medicaid assistance to those abortions that are certified by physicians as medically necessary. The court held that "Pennsylvania's refusal to extend medicaid coverage to nontherapeutic abortions is not inconsistent with Title XIX" (Medicaid).

The "State has a valid and important interest in encouraging childbirth," the court stated and further noted that "when Congress passed Title XIX in 1965, nontherapeutic abortions were unlawful in most States," to support its ruling that states are not required to fund nontherapeutic abortions.

Six to three decision. Powell, Burger, Stewart, White, Rehnquist, and Stevens for the majority. Brennan, Marshall, and Blackmun dissenting.

Maher v. Roe June 20, 1977

In upholding a Connecticut statute, the court ruled that, in light of its decision in *Beal*, the Constitution does not require a state to pay for nontherapeutic abortions even though it pays for childbirth.

"An indigent woman who desires an abortion suffers no disadvantage as a result of Connecticut's decision to fund childbirth; she continues as before to be dependent on private source for the services she desires. . . . There is a basic difference between direct state interference with a protected activity," the court continued, "and state encouragement of an alternative activity consonant with legislative policy."

The court emphasized again that the "State unquestionably has a 'strong and legitimate interest in encouraging normal childbirth,' an interest honored over the centuries . . . . The subsidizing of costs incident to childbirth is a rational means of encouraging childbirth."

The court concluded that the question of whether the government should fund nontherapeutic abortions should be left to the legislative bodies. "We should not forget," the court said "that 'legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.' "

Six to three decision. Powell, Burger, Stewart, White, Rehnquist, and Stevens for the majority. Brennan, Marshall, Blackmun dissenting.

Harris v. McRae June 30, 1980

The court ruled that congressional passage of the Hyde Amendment was constitutional. The Hyde Amendment limits the use of federal Medicaid funds to pay for abortions. "It simply does not follow," the court stated, "that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself to the full range of protected choices." To hold otherwise, the court said, "would mark a drastic change in our understanding of the Constitution."

Five to four decision. Stewart, Burger, Powell, Rehnquist, and White for the majority. Brennan, Marshall, Blackmun, and Stevens dissenting.

Williams v. Zbaraz June 30, 1980

In light of its ruling in *Harris v. McRae* the court upheld an Illinois statute that limits state medical assistance payments to only abortions "necessary for the preservation of the life of the woman seeking such treatment."

Five to four decision. Stewart, Burger, Powell, Rehnquist, and White for the majority. Brennan, Marshall, Blackmun, and Stevens dissenting.

H. L. V. Matheson March 23, 1981

The court upheld a Utah statute requiring a physician to "notify, if possible" the parents or guardian of a minor before an abortion is performed. The ruling was limited and applies only to dependent, unemancipated minors making no claims to maturity.

Recognizing that the "custody, care, and nurture of the child reside first in the parents," the court said that the statute serves a significant state interest by providing parents the opportunity to supply essential medical and other information. "The medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature," the court said.

The abortion procedure is different from other medical procedures. The court continued, "If the pregnant girl elects to carry her child to term, the medical decisions to be made entail few—perhaps none—of the potentially grave emotional and psychological consequences of the decision to abort."

The court concluded that the "Constitution does not compel a State to fine-tune its statutes so as to encourage or facilitate abortions. To the contrary, state action 'encouraging childbirth except in the most urgent circumstances' is 'rationally related to the legitimate governmental objectives of protecting potential life.' "

Six to three decision. Burger, Stewart, White, Powell, Rehnquist, and Stevens for the majority. Marshall, Brennan, and Blackmun dissenting.

Gary-Northwest Indiana Women Services, Inc v. Orr April 27, 1981

In this decision the court affirmed a lower court ruling upholding an Indiana law stating that second-trimester abortions must be done in hospitals.

Six to three decision. Burger, Stewart, Powell, Rehnquist, White, and Stevens for the majority. Marshall, Brennan, and Blackmun dissenting.

teenagers questioned in a recent Memphis, Tennessee study stated they had possessed functional contraceptive knowledge before becoming pregnant. 53 percent reported having made a conscious decision to become pregnant, and the same percentage expressed strong opposition to the practice. G.M. Ryan, Jr. and P. J. Sweeney of the University of Tennessee College of Medicine. The respondents were 87 randomly selected pregnant teenagers living in the inner city of Memphis. All except one were "non-white," less than half were on welfare, 86 percent were single, and 23 percent had been preg-

Most significantly, 76 percent of them said that their parents were either "happy" or "accepting" about their pregnancies, and less than one-fourth reported any problems whatever connected with the pregnancy — these problems, the doctors noted, were primarily related to school.

Ironically, two weeks after Modern

protecting the unborn to varying

(See COURT)

California Legislature Defies Court, Stops Abortion Funding

The California state legislature has passed a budget providing no funds for elective abortions, directly challenging a California Supreme Court decision declaring that the state must pay for welfare abortions.

The court had ruled to mandate abortion funding by a 4-2 margin. The legislature, however, not only refused to appropriate money for abortion, but also specifically forbade the court to force appropriations not made by law.

Last year, California paid over $65 million to abortionists.

June 29, 1981

1/12/81

Medicine published its report on the Tennessee study, outgoing head of the federal Health and Human Services Department Patricia Harris told a New York Times reporter that she favored abortions for precisely those reasons which the study so clearly refuted. Harris described to the reporter a visit she made to a community health center where she observed a 16-year-old mother with her 4-year-old daughter. Also present at the clinic, Harris said, was an 18-year-old mother of four.

"A 14-year-old cannot make a rational decision to bear a child," said Harris. "It so circumscribes the life of the mother and the life of the child that it should not be permitted to happen."

Harris' remarks raise some interesting questions. The majority of the youthful mothers in the Tennessee project made a "decision to bear a child," one which Harris insists must "not be permitted." Harris, however, does not specify what preventive measures might be taken to insure that such decisions can be neither made nor carried through. I, for one, rather wish that she had [illegible]

The Times article goes on to note, without supplying a direct quote from the HHS Secretary, that, "more than half of all black children born today are born out of wedlock, as against less than 10 percent of all children" and that "children born to unmarried women are six times more likely than other children to be brought up in poverty."

There are other important reasons why a black child is six times more likely to be poor than a white child. Racism, for example. Harris's comments make this problem seem irrelevant, even nonexistent. Her thesis is not [illegible] in fact, that it would [illegible] virtually impossible to find a legislator who wouldn't fully agree.

Moreover, Harris exhibits an incredible lack of understanding for the social values that prevail among economically-disadvantaged groups. Because poverty tends to isolate its subjects from the mainstream of American society — both physically and culturally — low-income people have not been assimilated into a culture which condemns teenage motherhood, so-called "illegitimate births," or large, woman-headed households. Among the poor, there is no sense of humiliation associated with pregnancy, and no sense of urgency to abort. The negative attitude toward abortion expressed by the Memphis teenagers should have been entirely predictable.

Within the same interview, Harris did express that her pro-abortion opinion has become politically unpopular [illegible] the Catholic [illegible]

Planned Parenthood
Federation of America, Inc.
Planned Parenthood-World Population
New York, New York 10019
(212) 541-7800

Fund raising letter
Jan. 1981

REP. TERRY MARTIN
STATE CAPITOL
POUCH V
JUNEAU, AK 99811

Dear Friend,

I wish this letter didn't have to be written.

I am enclosing the draft of a budget which we've drawn up to meet this crisis posed by the extreme Right Wing. Our lobbyists, legislative advisors, media specialists and accountants estimate that it will cost at least an extra $592,000 over and above our regular budget for the next six months to mount an effective, winning campaign against the extreme right.

This new effort is called the Public Impact Program and we need your help now to make sure it succeeds. Your contribution of $20, $25, $50, $100, $200 -- whatever you can afford -- is so important to us now if we are to have the funds on hand to implement the plans we are making to counter the imminent threat to freedom.

I hope you will let me know your decision as soon as possible because we must get our plans and campaign underway.

When you think of your commitment, think of the future. Think of the consequences of not standing up to this Right Wing attack. Think of the consequences should abortions no longer be legal and should the most widely practiced forms of birth control be outlawed.

The Human Life Amendment is certain to be introduced in the early days of the new Congress. We must be ready to move.

Your help is vital.

Your investment in the Public Impact Program is more than a contribution to Planned Parenthood. It's your way of participating in the battle against repression. Your way of saying, "I care." Your way of helping us mobilize the majority of Americans who don't believe for a minute that the 1980 elections represent a mandate for forces whose only political weapon is fear and ignorance.

Sincerely,

Faye Wattleton

Faye Wattleton

P.S. Please don't put this emergency appeal aside. If you could see some of the reports I'm getting from the field and from Capitol Hill, you'd understand why we must begin to marshall money and strengthen our network without one minute's delay.

The Baby-Go-Round: Want-Ad Adoptions

By Grace Lichtenstein

"...Put off by official red tape, couples are increasingly taking adoption into their own hands and advertising to find a child..."

AT FIRST GLANCE, HEATHER Smith's baby book looks as if it could belong to any one-year-old—pink satin cover, snapshots, a lock of hair. But on a page entitled "First Phase," there is a classified advertisement clipped from *Newsday*. "PREGNANT? Young college grad couple wants to adopt newborn Caucasian baby. Will pay expenses. Call Collect."

Four months before Heather was born, her natural mother, a frightened college student from Queens, saw that ad and hesitantly dialed the New Jersey phone number that Roberta and Arthur Smith had included in it. Later, outside a hospital maternity ward, the student handed her newborn white infant girl to the beaming Smiths. The next week, the couple mailed an exultant announcement to their friends, proclaiming, "A baby was born for us . . . Heather Ann . . . June 14, 1980."

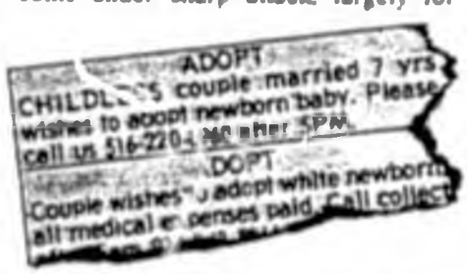
The ad represents a new, apparently legal, and highly successful twist in the practice of private adoption. It was suggested to the Smiths by Stanley B. Michelman, New York's best-known, most controversial adoption lawyer.

To his clients, Michelman is "Mr. Stork," a caring man who has helped hundreds of childless couples find white babies. To his critics, he is a baby broker who operates in a gray market for big bucks.

The names of all natural and adoptive parents and children and many details in their stories have been changed to protect their privacy.

In most states, it's illegal for a lawyer or anyone but an adoption agency to act as the agent in placing a child for adoption, just as it's illegal for a mother to sell her baby outright. There's nothing illegal, however, about a parent's giving a child to another couple for adoption or about a lawyer's getting paid to handle the transaction. This is private adoption, and today it's flourishing.

As traditional adoption agencies have come under sharp attack, largely for



their long delays in matching babies with new parents, an increasing number of couples are turning to lawyers.

Michelman produces. In 1980, he was involved in over 100 adoptions, he says. By contrast, Spence-Chapin, a leading nonsectarian agency, placed only 37 Caucasian children; Louise Wise, a leading Jewish agency, only 18.

But Michelman and his methods also have their critics. Some adoption workers claim that prospective parents aren't adequately investigated under the private system, and that bad placements can occur. Because private adoptions are handled quickly, the natural mother sometimes demands her child back.

Most serious of all, adoption lawyers and natural mothers have been accused of accepting large, under-the-table bundles of cash from grateful adoptive families. The shorthand term for the accusation is "baby selling." Two years ago, a Manhattan jury acquitted Michelman of baby-selling charges.

Everyone interviewed for this article denied making or receiving illegal payoffs. Still, the suspicion persists that, whatever the advantages of private adoption, it can in some cases lead to profiteering.

ARTHUR AND ROBERTA

THE BIRTHDAY BRUNCH IN Heather's honor was not to be held until Sunday, but the oak dining-room table was already set with crystal and linen napkins when I arrived Saturday morning at the Smith's Pompton Lakes condominium. Roberta, a 34-year-old full-time homemaker, chain-smoked Newports as she told her family's story.

"I went through so much with fertility experts that this was easy street," she said of the adoption process. She and Arthur, vice-president for sales at a major industrial firm, had been married for six years. Like many couples who want to adopt, they had asked about agencies first, only to be warned that they might wait years for a newborn white baby. Finally, Arthur suggested they see Stanley Michelman, whose reputation they knew well.

Michelman made no direct promises,

"...The Smiths said they paid $2,000 in lawyers' fees to adopt their daughter—a far cry from the $50,000 rumored on the grapevine..."

but he advised them to place a classified advertisement in *Newsday* or another paper on his list of those that accept adoption requests. Many of his clients, he told the Smiths, had gotten a child within six months of the appearance of their first ad.

Unlike a number of other Michelman clients, the Smiths didn't bother to install a special unlisted telephone; they put their regular number in their ad. Seven women responded within a week. As expected, a few calls were outrageous. One woman was putting her baby up for the best price, according to Arthur. Another said she didn't want to turn hers over to Jews. Roberta wound up interviewing three of the "applicants" face to face in Michelman's midtown-Manhattan office. The Queens student stood out.

"I instantly fell in love with her," said Roberta. "She felt the same about me. I just *knew* she was carrying our baby." The student told Roberta that she'd initially planned to get an abortion but had procrastinated until it was too late. "I'm personally against abortion now," Roberta said. "After all, my daughter could have been an abortion."

With Michelman as consultant, a New Jersey lawyer put the agreement in writing. The Smiths would pay the eighteen-year-old woman's medical and hospital costs. Once the baby was born, the woman would formally surrender her rights to the child. A physician would check the newborn to make sure it was healthy. The adoption by the Smiths wouldn't be ruled final by New Jersey courts until a year after the birth.

Once the details were worked out, the wait began. "As the days numbered down, the real worry for me was 'What if she changes her mind and wants the baby?,'" Arthur recalled. Roberta phoned the pregnant woman in Queens every two weeks. If they hadn't met through the *Newsday* ad, Roberta thought, they might have been real-life friends. The contact between them even made Roberta feel "a little bit pregnant." Finally, the call came from the student's aunt. "You have a beautiful baby girl," she said. Michelman uncorked a bottle of champagne with the Smiths to celebrate.

The Smiths said their total bill for New York and New Jersey lawyers' fees was $2,000—a far cry from the rumored $50,000 that New York couples hear on the adoption grapevine. The arrangement didn't amount to baby selling, Arthur insisted, because the natural mother didn't get a penny more than reasonable expenses.

As we spoke, Heather, the kind of adorable blond baby you see in baby-shampoo commercials, sat on the carpet sucking a cracker. "If we had to pay a hundred thousand to get another child from this mother, I'd do it. Money can't buy this," Roberta said, scooping Heather up in her arms.

The natural mother had told them Heather's father was a fellow student. Two months before the baby's first birthday, Roberta could no longer contain her curiosity. She had a friend telephone the man, pretending to be a secret admirer. Could they get together on a blind date? The man agreed to meet her in a Queens bar, near the college.

On the appointed evening, Arthur, Roberta, and the friend trooped into the bar. Without introducing themselves, they surveyed Heather's father from across the room. He was sort of cute, Roberta decided. They did not bother to tell him his "date" was a ruse.

Roberta has not spoken to the natural mother either since she and Arthur received Heather at the hospital. But in

Heather's baby book, Roberta has already prepared for the day her daughter will learn about her real mother. "She was pretty, sweet and just a lovely, lovely person," Roberta has written. "Because she was in college, she knew this was not the right time.... But she wanted to give you life, and a good one at that...."

HAL AND MIRIAM

THE SMITHS APPEARED TO BE thrilled with Heather and with the relative simplicity of the private-adoption process. Assuming that her natural parents don't regret their decision to allow her adoption, Heather illustrates how fair and painless the process can be. Not everyone, however, finds the path to instant parenthood as smooth as the Smiths did.

Hal and Miriam Cohen seem to have all the ingredients of a "model" couple. Both in their mid-thirties, they are attractive, educated, affluent, sensitive. Their Scarsdale home is immaculate. Married twelve years ago, they still hold hands as they talk, sitting side by side on a couch in their den. Through Michelman, Hal and Miriam adopted three children. But they have been permitted to keep only two, and nearly had to give back one of those.

Six years ago, as it became clear they could not conceive children on their own, the Cohens signed with a well-known adoption agency. They had to wait two years just to reach the "prime" waiting list.

Miriam, in particular, found the agency demeaning. She said she felt "enough like a freak being unable to get pregnant." Yet the agency social worker who interviewed her showed little sympathy. "She was so cold! You're treated like you're just not quite as good as other women," said Miriam.

The Cohens turned to Michelman. He was not yet recommending advertising. He merely told the couple to call him every two weeks; perhaps he would hear soon about a pregnant woman who was right for them.

Hal and Miriam tried other attorneys whose names had been mentioned to them, with bizarre results. One lawyer wanted a $1,000 "deposit." Others promised ways of getting South American and Communist-bloc babies by smuggling them out of their countries. (At one time, Michelman was part of a network that brought pregnant German women to the United States to deliver their babies for adoption.)

Finally, Michelman told the Cohens he knew of a Bronx girl, a minor, who was about to deliver. He prepared all the legal documents for a $2,000 fee. Shortly thereafter, the girl gave birth to a baby boy, whom the Cohens picked up at a local hospital. Announcements went out to friends and relatives. The infant had a *bris*, the Jewish circumcision ritual. The family was ecstatic.

Fifteen days after the birth, the natural mother demanded her child back.

New York State law says that no matter what rights she waives beforehand, a mother can revoke her consent to the adoption within 30 days of giving it. There was little the Cohens could do. They returned their little baby boy.

"It was like having a child die," said Miriam.

Nonetheless, Michelman quickly managed to find another pregnant woman through connections in Tampa, according to Hal. Would the Cohens gamble again? "We were devastated the first time," Hal acknowledged, "but if we hadn't gone through it again, we would never have had *her*." Five-year-old Barbara, who sat on his lap, giggled as Hal nuzzled her neck.

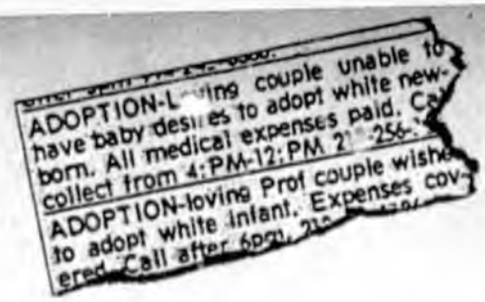
BEFORE BARBARA WAS BORN, Hal and Miriam questioned the natural mother at length to make sure she had no desire to keep her child. "Please, you must be positive!" Miriam begged her. Convinced she was certain, they paid her way to New York, with Michelman again handling the legal end. Barbara left the hospital with the Cohens when she was three days old.

The required 30 days passed, and the Cohens began to relax. On the thirty-fifth day, an anguished Stanley Michelman called Hal. "You're not going to believe the call I just got from Florida," Michelman said. A lawyer for the natural mother was demanding that Barbara be returned, on the ground that the mother had been coerced into giving her up for adoption.

This time, the Cohens fought back. They hired a famous custody lawyer. A private detective investigated the natural mother, reporting that she was a user of the drug angel dust. The Cohens planned last-ditch "escapes," complete with a forged Mexican passport for Barbara and residence in Europe.

After months of turmoil and a painful court appearance at which the natural mother was grilled about her personal life, the Cohens "won." The custody suit was dropped. Barbara became the Cohens' legally adopted daughter before her first birthday. Three years later, they adopted their second daughter, Geraldine, with no complications.

Hal stroked his elder daughter's hair. "When you get something like this," he said, "it's all worth it. Now we have two terrific kids." As if on cue, Barbara stood up on his lap, stretched out her arms, and took a bow.



AUDREY AND SUSAN

NEW YORK CITY RECORDS INdicate that it's rare for adoptions to be contested by the natural parents. Michelman insists that if he senses a pregnant woman doesn't truly want to surrender her child, he won't let his clients continue dealing with her.

But how can anyone be certain? Two women, introduced to me by Michelman, declared they had no regrets about turning a child over for private adoption.

Audrey, a poised seventeen-year-old with a passing resemblance to Meryl Streep, gave up her baby last year. She was quite serene as she spoke of her disastrous marriage. She had been sixteen at the time, her husband twenty. They met while he was stationed at an army base near her home, in Arkansas. Soon after they wed, they moved to New York, his hometown, to live with his parents. Audrey's mother-in-law hated her. Audrey's husband, discharged from the army and unemployed, began to slap her around. By the time she discovered she was pregnant, Audrey was convinced that her marriage was a mistake.

Her husband ordered her to get an abortion. Audrey refused. She was a Roman Catholic and considered abortion immoral. Without telling her husband, she visited adoption agencies.

"They were very uncaring," she said with a soft southern accent. "Their attitude was 'All we want is the child. We're not going to tell you anything.' It was like they were saying, 'Go to hell,' if you'll pardon the expression."

One day, searching the *Newsday* classifieds for apartment rentals, she came across the adoption ads. She telephoned one number and found that the family was represented by Michelman. They wanted her unborn child. Relieved, she met with Michelman, who arranged for Audrey and her husband to move into a Park Avenue South apartment until she gave birth. She never met the adoptive parents, although they frequently talked to her by phone. "We got to be very close," Audrey said of the woman who is now mother to her child. "She was there when I needed her. She's a happy lady, and I'm tickled to death. My son has everything he's ever going to want or need. He has the best set of loving parents anyone could ask for."

Audrey said that her husband battered her so badly he induced early labor. He never got to see his son. The adoptive parents collected the child from the hospital while Audrey deliberately delayed telling her husband she had delivered. Afterward, Audrey

Getting a Baby: Agencies vs. Lawyers

DESPITE THE BUREAUCRATIC MAZE, HUNDREDS OF CHILdren are adopted here each year. Figures provided by Joseph B. Williams, the deputy administrative judge for New York City Family Court, show that a total of 591 adoptions were granted in that court in 1980. Of those, agencies handled 357. Lawyers handled 234, many of which involved one spouse's formally adopting the other's children from a previous marriage.

The most obvious difference between agency and private adoptions is speed. An agency, contending it is safeguarding the child, conducts a rigorous and time-consuming investigation of each potential adoptive family before placing a child. Thus, newborns in agency care almost always stay in foster homes for some time. In private adoption, on the other hand, a couple often receives a baby within a few days of its birth, even though the infant cannot be certified as legally adopted for six months.

This is the agency procedure as outlined by Spence-Chapin: An inquiry secretary gathers basic information from a prospective couple. The couple then attends group meetings to discuss various aspects of adoption. (Prospective parents seeking a non-handicapped, Caucasian child are told they may have to wait at least a year. For couples willing to accept a "hard to place" child, the wait is considerably shorter.) Next comes a more thorough "intake" interview, sometimes three to six months after the couple has first visited the agency. A Spence-Chapin committee reviews the application. If the family is approved, another three to six months—called "the home-study period"—goes by while agency social workers observe the prospective parents and visit their home. Meantime, in most cases, the agency has obtained from the natural parents a "voluntary surrender" of rights to the child, or a court has terminated those rights (because of abandonment, for example). Finally, the agency delivers the child to its new parents, and the family undergoes six months of supervision by agency social workers before the adoption is completed.

Private adoptions generally proceed this way: Often before the child's birth, a lawyer handles preliminary arrangements for the natural parents to turn over a child to an adoptive family. Once the family gets the baby, it petitions the court for adoption, and the natural parents sign court documents consenting to the adoption. Natural parents then have 30 days to retract this consent, unless they have appeared in court and confirmed it. In the next six months, a representative of the court's probation division investigates the adoptive home. (In practice, that can amount to a single visit.) The adoptive parents must wait six months after filing the petition to obtain the formal court order granting the adoption.

—G.L.

"...'I wanted my son to have a good home,' said one mother who answered an ad. 'I just gave birth to him; I'm not his parent'..."

moved back to Arkansas, got a divorce, and is now finishing high school. The only money she received, she said, was $85 a week during her pregnancy for food and household expenses.

Does she have any second thoughts? "None," she said firmly. "I wanted my son to have a good home. I just gave birth to him; I'm not his parent. I was blessed with finding that ad."

SUSAN, A 24-YEAR-OLD FACTORY worker eight months pregnant, was openly emotional. But she seemed determined to give her baby away. She already has a daughter by her former husband. As tears ran down her cheeks, she explained that her unborn child was conceived when a boyfriend, whom she had kicked out, stormed back into her house, beat her, and raped her.

Susan had irregular menstrual periods, so she didn't know she was pregnant, she said, until her fifth month. By then, she could feel the baby move. That ruled out abortion "because it would have been murder."

Like Audrey, she found an adoption ad by accident. Until then, she had been inclined to keep the child. "My best friend and I talked about it for days," she said. "If I kept the baby, the father would have an excuse to see me, and I didn't want my daughter to see him beat up on me again."

The ad in an upstate newspaper had been placed by another Michelman couple. They paid for plane tickets to New York for Susan, her daughter, and her best friend. The adoptive mother, Susan recalled, "seemed real excited. The baby's gonna have a good home. That's something I couldn't give it. I'd always be afraid."

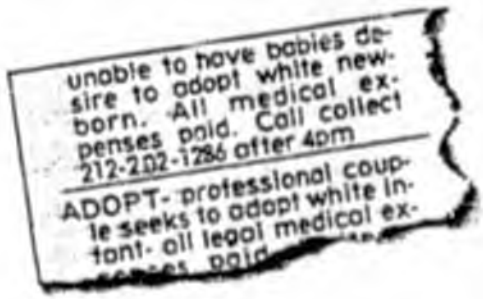
Susan was living in a Manhattan studio apartment paid for by the prospective parents. She insisted that she will consent to the adoption once she delivers. The adoptive couple, she observed, "seem like nice people, homey people. I'm not the kind to make other people unhappy."

THE SMITHS AND THE COHENS certainly seemed to be fine parents. Audrey and Susan seemed confident in their decisions. Why, then, does Morton Rogers, director of the Louise Wise agency, call private adoption through lawyers "ugly"?

"There is never enough information known about the family [in a private case], except that the parents have enough money to pay the costs," said Rogers. He said he was concerned that children adopted privately through attorneys "are being abandoned and are now coming back into the system."

Jane Edwards, executive director of Spence-Chapin, contended that a privately adopted child "can often be placed in a dangerous situation," with a family unable to cope with illness or other problems.

A recent report by City Council President Carol Bellamy, on the other hand, labels the agency system a failure. The report says children in the agency system—most of whom are black or Hispanic—spend an average of seven years bouncing from one foster home to another before being adopted. Horror stories abound, such as the case of Michael Walden, the eight-year-old who was taken from a foster home, returned by Connecticut authorities to his real mother, and then, in July, beaten to death.



Most of the clients who turn to specialists like Michelman demand a Caucasian child. Even if they would accept a minority-group baby, however, obtaining a newborn from an agency is almost impossible, according to Penny Ferrer, a court-appointed advocate who monitors adoptions. The red tape that's supposed to protect the child slows the process to a painful crawl.

Private adoptions are quicker, but many court and public officials look upon them with misgivings. One family-court lawyer said he worries that the system has become a profitable business for an "extensive international network of pregnant-women finders."

A recent book by Lynne McTaggart, *The Baby Broker*, contends that Michelman, before his indictment and acquittal, handed babies over in parking lots to adoptive parents, took cash payments from the new parents, and claimed to have paid finder's fees to intermediaries who located pregnant women. McTaggart, who worked in Michelman's office for a close-up view of his procedures, told me she doesn't know whether the lawyer still uses those methods.

Michelman said he doesn't. He said that, though pregnant women occasionally come to him on their own, his principal method these days is to suggest the classifieds. Advertising, he noted, has the advantage of letting clients make the first connections on their own.

Even the ad system is controversial, however. Some major newspapers have enough doubts about adoption ads to bar them from their columns. Len Harris, director of corporate relations for the New York Times Company, said the paper refuses them. "We could be inadvertently aiding and abetting the black market of baby selling," he said. The *Times* does accept ads from adoption agencies.

Jack Squire, promotion director for *Newsday*, noted that "there is nothing illegal or improper" about private-adoption ads.

The Adoptive Parents Committee of New York, which provides help to couples who want to learn about private adoption, doesn't take a position on ads. But Joseph Rosielio, a vice-president, said he favors using them, though "you *do* have to be a little careful in screening, and you're subjecting yourself to possibly weird phone calls."

How much should an adoption cost? The Adoptive Parents Committee says any legal fee above $1,500 is excessive. Michelman said his legal fees are in the $1,500-to-$3,500 range. Spence-Chapin charges up to $3,000, depending on the adoptive parents' income.

CLEARLY, PRIVATE ADOPTIONS fulfill a need. I visited a handful of happy homes and met a handful of grateful natural mothers. These people had only nice things to say about Stanley Michelman. Still, the system raises questions that are yet to be answered. Can untrained lawyers or prospective parents be objective when they discuss adoption with a scared, pregnant high-school girl? In private adoptions, who really has the interests of the natural parents and the child at heart? How far should a lawyer—a professional paid to find a baby—go in facilitating an adoption? Would some of these girls be better advised to have a legal abortion? The prospective parents in private adoptions may seem affluent and kind, but who makes a thorough check of *their* backgrounds? What about a child's natural father, who sometimes doesn't have the chance to claim his baby when the mother chooses to give it up?

In either private or agency adoptions, the most important person—the baby—becomes ensnared in a web of courtroom proceedings and bureaucratic wrangling. It seems tragically inexplicable that a more humane, nonprofit system can't be found.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Sponsor Substitute House Bill No. 500
Title An Act limiting use of State money to pay for abortions
Requested by House HESS Date 21 January 1982

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Health; Social and Economic Assistance to General Population
BRU, Program, or Subprogram(s) Affected Medicaid, General Relief Medical; AFDC
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY82	FY 83	FY 84	FY 85	FY 86	FY87
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC	0	1715.7	1853.0	2001.2	2161.3	2334.2
	TOTAL	0	1715.7	1853.0	2001.2	2161.3	2334.2

FUNDING (Thousands of Dollars)

GENERAL FUND	0	742.4	852.4	920.6	1015.8	1097.1
FEDERAL FUNDS	0	973.3	1000.6	1080.6	1145.5	1237.1
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

All elective abortions are presently funded by the General Relief Medical program. This bill will virtually eliminate elective abortions. Based on the most recently available statistics, the Department provides payment for approximately 300 elective abortions annually at an average cost of $900 per procedure. Since elective abortions would not be covered, the Department will bear the cost of 300 additional births annually and the related cost of providing financial and medical assistance to approximately 150 new AFDC cases each year. The following is a breakdown of the financial impact HB 500 will have on the General Relief Medical, Medicaid, and AFDC programs during FY 83.

IV. DATE February 16, 1982 PREPARED BY David M. Davidson
AGENCY Department of Health & Social Services
PHONE: 465-3347

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Director, Div. of Mgmt. & Budget

33-001 (Rev. 12/80)

FISCAL IMPACT OF HB 500
DURING FISCAL YEAR 1983

PROGRAM	TOTAL EXPENDITURE	STATE FUNDS	FEDERAL FUNDS
1. General Relief Medical ($900 x 300 abortions)	$ (270,000)	$ (270,000)	$ 0
2. Medicaid ($2500 x 300 routine deliveries)	750,000	390,000	360,000
3. AFDC payments for one year ($559 x 150 cases of mother and one child)	1,006,200	503,100	503,100
4. Medicaid payments for one year ($850 x 270 people)	229,500	119,340	110,160
TOTAL	$1,715,700	$ 742,440	$ 973,260

ALASKA
STATE LEGISLATURE

MEMORANDUM

Please Reply to:
921 W. Sixth Avenue, Suite 2
Anchorage, AK 99501
(907) 272-3471

TO: HOUSE MAJORITY COALITION

FROM: HOUSE MAJORITY COALITION OFFICE
ANCHORAGE

DATE: SEPTEMBER 9, 1981

SUBJECT: INFORMATIONAL CALENDAR

Enclosed is a copy of an informational calendar for September and October of this year.

If you have changes, additions, corrections and/or information for this calendar, please contact Janet Seitz at the House Majority Office in Anchorage.

Thank you for your cooperation.

NOTE: Please check with the respective committee staff for further information on meetings and hearings.

HOUSE MAJORITY COALITION INFORMATIONAL CALENDAR

NOTE: Unless otherwise noted, times are expressed in time at hearing site.

SEPTEMBER 1981

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
	1	2	3	4	5	6
7 LABOR DAY STATE HOLIDAY	8	9	10	11	12 10am-5pm, Joint Senate/House HESS Committees, Health Care Delivery System In Alaska, Fairbanks Borough Assembly Chambers	13
14 10am-Noon; 1:30-5p.m.; 7pm - House HESS Committee; HB 500 & 550, Performing Arts Center, Anchorage Community College	15 COMMITTEE REPORTS DUE	16	17	18	19	20
21 9am-4pm - House Labor & Commerce, Workers' Compensation, 1024 W. 6th, 2d floor, Anchorage.	22 House Labor & Commerce: 9am-Noon, Auto Liability Ins.; 1:30-4:30pm-Job Service, Federal Cuts; 6:30-9pm-HB 600 & 612. 1024 W. 6th, 2d floor, Anchorage.	23 House Labor & Commerce 9am-Noon; 1:30-4:30pm Statewide Telecommunications 1024 W. 6th, 2d floor, Anchorage	24 House Labor & Commerce: 9am-Noon, Workers' Comp.; 1:30-4:30pm, Telecommunications; 6:30-9pm, Workers' Comp. 1024 W. 6th, 2d Floor, Anchorage	25 House Labor & Commerce 9am-Noon; 1:30-4:30pm, Government Permits. 1024 W. 6th, 2d floor, Anchorage. (Joint with Administrative Regulation Review Committee)	26 10am-5pm, Joint Senate/House HESS Committees, Health Care Delivery System in Alaska, Kenai Borough Assembly Chambers Administrative Regulation Review, 9am-Noon, Games of Skill & Chance, 1:30-3:30pm - Land Use & Disposal; 3:30pm Open Discussion, 1024 W. 6th, Anchorage	27
28	29	30 7:30-9:30 p.m., House Judiciary, HB 473, 180, 572, 573, 575-578, Kotzebue Council Chambers, Kotzebue				

HOUSE MAJORITY COALITION INFORMATION SHEET

October 1981

NOTE: Unless otherwise noted, times are expressed in time at hearing site.

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
			1 1-4pm, House Judiciary, HB 473, 180, 572, 573, 575-578 Kotzebue Council Chambers, Kotzebue	2 7:30-9pm, House Judiciary hearings, Nome Council Chambers, Nome	3 1-4pm, House Judiciary hearings, Nome Council chambers, Nome	4
5 7:30 pm, House Judiciary hearings, Fairbanks Chamber of Commerce, Fairbanks	6 9am, House Judiciary hearings, Fairbanks Chamber of Commerce, Fairbanks	7 Majority Coalition Caucus, 921 W. 6th, 250, Anchorage	8	9	10	11
12 COLUMBUS DAY FEDERAL HOLIDAY	13	14	15 9am, Admin. Reg. Rev. Committee, Permits, SB 84, Legislative Information Office, 315 Barnette, Fairbanks	16 Admin. Reg. Rev. 9-Noon, Games of Skill & Chance; 1:30-3:30pm, Land Use Disposal; 3:30 open. 315 Barnette, Fairbanks	17	18
19 ALASKA DAY STATE HOLIDAY	20	21	22 4-5pm, Admin. Reg. Rev. Committee, joint meeting with Natural Resources during Miners Convention, permits, Capt. Cook, Anchorage	23	24	25
2610:30 am-House Judiciary hearings, Assembly Bdlg, Anchorage.	275pm House Judiciary, Mat-Sue Borough Assembly Rm, Palmer	2810:30 am, House Judiciary, 1024 W. 6th, Anchorage	29 7:30 pm, House Judiciary, Centennial Building, Sitka	30 1pm, House Judiciary Leg. Info. Office, Sitka.	31	
9am-4pm, House Labor & Commerce, Worker's Comp, 315 Barnette Fairbanks	9am-4pm, House Labor & Commerce, Auto Ins. Job Service, 315 Barnette, Fairbanks	9am-4pm, 6:30-9pm, House Labor & Commerce Telecommunications 315 Barnette, Fairbanks	9-Noon, House Labor & Commerce, Permits 315 Barnette Fairbanks			

September 14, 1981- House Bills 500 and 550 relating to abortion

Health, Education and Social Services Committee Hearing Schedule

Master List

10:15 am	Dr. Jack C. Wilke RTL ✓
10:30 am	Rev. Bob Gay PC ✓
10:45 am	Jean Temple PC ✓
10:50 am	Dr. Dietrich RTL ✓
10:55 am	Mary Wheelock PC ✓
11:00 am	Joyce Rivers PC ✓
11:05 am	Dave Buchannan ? ✓
11:10 am	Dr. Grande RTL ✓
11:15 am	Kathy Johnston PC ✓
11:20 am	Tim Ewell RTL - No show
11:25 am	Lynn Carney PC ✓ [illegible]
11:30 am	Susan Winston PC ✓ Terry Hamilton
11:35 am	Robert Flint RTL ✓
11:40 am	Cole Mitchell RTL ✓
11:45 am	Pudge Kleinkauf PC ✓
11:50 am	Russel Jackson RTL - Send to Kathy Miller - No show
11:55 am	~~Mattie Carter PC~~ ~~Laurie Flint~~ Susan Winslow. ✓
12:00 Noon	LUNCH
1:30 pm	~~Kit Edens~~ PC Karla Huntington ✓
1:35 pm	Shawn Humbold RTL ✓
1:40 pm	Dorothy Patterson PC ✓
1:45 pm	Carolyn Kannava RTL no show
1:50 pm	~~Holli Hoog~~ PC Susan Valencourt ✓
1:55 pm	Paul Fischer RTL No show
2:00 pm	Madeline Holdorf PC ✓
2:05 pm	Tom Harvey RTL NO show
2:10 pm	Kaleen Saxton PC ✓
2:15 pm	Pastor Richard Benjamin RTL ✓
2:20 pm	~~Susan Vatten Court~~ PC Terry Gallen ✓
2:25 pm	~~Bill Moffit RTL~~ Christ Fordyce ✓
2:30 pm	Teresa Williams PC ✓
2:35 pm	Grant Walther RTL Send to Kathy Miller ✓

2:40 pm Ilene Self PC ✓

2:45 pm Mike Haight ? RTL ✓

2:50 pm Cole Forsythe PC ✓

2:55 pm Sherralee Howe RTL ✓

3:00 pm ~~Karla Huntington PC~~ Kit Evans ✓

3:05 pm Joseph Grove RTL ✓

3:10 pm Annalee Girard PC ✓

3:15 pm ~~Christine Fahrig RTL~~ ✓ Lynne Jenkins ✓

3:20 pm Katie Hurley PC → ~~May not testify~~ Doug Lewis ✓

3:25 pm ~~Green Heather RTL~~ Dedicated - Carol Hutton

3:30 pm BREAK

3:15 pm Leslie Goss Eileen Sackett ✓

3:50 pm Fred Dyson ? think RTL ✓

3:50 pm Jane Dyson ? " RTL ✓

3:55 pm Eileen Sackett PC ✓

4:00 pm ~~Richard Wirtz RTL~~ Paul Glover ✓ Replaced

4:05 pm Charles Franson RTL ✓

4:10 pm Rosemarie Spencer 333-4520 ✓

4:15 pm Bert Carney - RTL 344-0528 ✓

4:20 pm Leslie Goss 916 W 32nd Ave P.O. Box 3964 ECB ~ 279-2511 ECB 99801-3964 278-2630

4:25 pm Carolyn Glover RTL 344-0528 ✓

4:30 pm Linda Kissmuneer 1418 Medria Pa chance 99501 278-9250 ✓

4:35 pm Rev. Richard Madden 333-8375 ✓

4:40 pm Angie Renaldo - 111 13th Ave 99501 276-7219 ✓

4:45 pm Gary Overstad 279-8700

4:50 pm ~~Dorothy Jones Comm of Hosp of Comm~~ Susan Georgette ✓

4:55 pm George Brown 745-3133 - 376-3333 ✓

5:00 pm DINNER BREAK

6:00 pm Mike Siegfried RTL - sick

7:05 pm Pam Siegfried RTL - ✓

7:10 pm Emily MacAllister PC ✓

7:15 pm Dorothy Bassett RTL ✓

7:20 pm Bonnie Docketer PC ✓

7:25 pm Christal Acker RTL ✓

7:30 pm Robin Crittenton PC ✓

7:35 pm	Leslie Ruskowski ? ✓
7:40 pm	Eileen Smith Levinson PC ✓
7:45 pm	Kathy Miller = RTL ✓ ~~Someone might read for her if she is gone.~~
7:50 pm	Jennifer Motley PC ✓
7:55 pm	Darlene Olson PC ✓
8:00 pm	James Bendell RTL ✓
8:05 pm	~~Irene Ramirez~~ PC Sylvia Shat PC ✓
8:10 pm	~~Richard Garnett~~ RTL —
8:15 pm	Cindy Pentony PC ✓
8:20 pm	Marie Dickey ✓
8:25 pm	Robin Broomfield PC ✓
8:30 pm	Marthi Johnson 333-3243 5023 Sillary circle 99504 ✓
8:35 pm	Laura Noland PC ? Pro choice ✓
8:40 pm	Jeannine DeFeo 8300 Nerdale 99502 243-2553 ✓
8:45 pm	Joe O'Connell ? ✓
8:50 pm	Jim Curran ? ✓
8:55 pm	George Mason & Sally Slaughter (PC) Husband & Wife ✓
9:00 pm	BREAK XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
9:10 pm	Laura ~~[illegible]~~ Easley 278-9615 RPC (~~274-6634~~) 274-6000 no show
9:15 pm	Margie Ennis 276-7279 no show
9:20 pm	Elizabeth Sprague 264-6571 wk 333-7764 hm ✓
9:25 pm	~~Nancy Gordon~~ ACLU Jim CRANE ✓
9:30 pm	Suzette Wulling 345-1679 ✓
9:35 pm	~~John McKay~~ ACLU Jane Browning ~~no show~~ ✓
9:40 pm	Doctor Pettijohn (reserved by Chris Farley) no show
9:45 pm	Leslie Kleinfeld 263-5478 276-6425
9:50 pm	Rick Kaminskis wk 264-4343 278-3966 Hm
9:55 pm	Ruthey ~~P~~ Coney
10:00 pm	END OF HEARING XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

learned a great deal today
will be very helpful in dealing with this subject

9-11-81

Waiting list :

Elizabeth Sprague — between 7th + 9:30p.
Susan Georgetta — 274-3621 wk, 276-7986 hm — Any day

Laurie Terrell — 344-6110(H) 344-3435(W)
Virginia L

James N. Shives, Jr.
1407 Nunaka Dr.
Anchorage, AK 99504

September 11, 1981

House Committee on Health, Education, & Social Services
Alaska State Legislature
P.O. Box 4-1439
Anchorage, Alasak 99509

Dear Committee Members:

I wish to make public comment on House Bill 500 and House Bill 550. I strongly oppose both of these bills and would urge the committee to defer action on these bills.

I feel that HB 500 would force poor women to bear children which they do not want Think of yourself being raised in an environment where you are not wanted and where the only income is welfare. HB 500 would also be a financial burden on the state since there would be many more people on the welfare rolls. I feel that when children are not wanted it is better for all concerned that those children are not born. Wouldn't it be a better idea to fund projects to educate poor people in better birth control practices instead of taking away one of their options for preventing an untimely family?

House bill 550 is an obvious attempt by so called "Right to Life" supporters to eliminate abortions altogether by trying to have a fetus declared an individual. I believe that this bill is unconstitutional, and I strongly oppose it.

Thank you for your consideration.

James N. Shives Jr.

Rt. 1, Box 1282
Kenai, Ak 99611
September 3, 1981

Mike Beirne
P.O. Box 4-1539
Anchorage, AK 99509

Mr. Beirne:

I strongly oppose both HB 500 and HB 550. I feel it is unfair to impose on poor women no choice because they lack the funds to get a safe abortion if that is their choice. I also feel that saying a fetus is a human life to have grounds to press charges for murder when the fetus is miscarried through a violent act done to the pregnant woman is abhorable and totally unreasonable and throughly inflaming. I know there are other ways to protect the like of a fetus and the life of the mother from acts of violent crimes. I urge you to spend more time passing laws that protect women from violent acts and then there will be no need for laws like HB550.

Sincerely,

Ruth Johnson

Ruth Johnson

P.S. In hopes that science soon will make it possible for all men to carry and bear children through whatever means so I don't have to listen to this.

9/13/81

Mary Killorin
SRA Box 474 V
Anchorage Ak 99507

Dear Committee Members,

I am unable to testify at the public hearing on HB 500 and HB 550 being held on Sept 14, 1981, in Anchorage and therefore would like to offer the written testimony to the committee.

I have been an Alaska resident for four years and am a member of the Alaska Bar Association. I have one child who was born in Anchorage. I feel fortunate to have my child but also feel fortunate that I live in a State that allows all women the choice to be parents or not. For the reason I strongly oppose both HB 500 and HB 550.

I came to Alaska because I believed it to be a state which respected the freedom of individual choice. I think it would be a tragedy if the religious beliefs of a minority of Alaskans were forced upon the rest of us by statute.

Thank you for your consideration

Mary Killorin

Lynne M. K. Minton
P.O.Box 8-9131
Anchorage, AK. 99508

September 11,1981

House Committee on Health , Education, and Social Services

Re: Hearing on HB 500 and HB 550

Dear Committee Members:

I am writing to express my opposition to house bills 500 and 550.

HB 500 proposes to end state funding for elective abortions. This would make it virtually impossible for poor women in this state to have a choice over their bodily function in the case of an unwanted pregnancy. These women, being unable to fund a private abortion, would seek out the obvious alternatives, back alley abortions, endangering their own lives as well as the fetus. Should these women "choose" to carry the fetus to term, the quality of that chi d's life would be in question for it would probably be raised on social welfare. This would place the burden upon society as well as the family of the child. Under such circumstances the result is often unloved, troubled or even battered children.

HB 550 is ambiguous in its wording but, it implies that women who "solicit, aid or abett" in the act that results in abortion are in fact committing murder. The question of where life begins or ends is a moral and philosophical issue which should not be legislated by the government. As a teacher and health educator who works whith children and adults, I am very concerned with the quality of individual life. Bills such as HB 550 reflect a deep fearfulness which can only harm the quality of life. Children need not be brought into this world through threats, fear and intimidation, but on y through love, caring and sharing. Free will is a God given attribute of human life and parents must maintain the right to choose if and when a child is to become a part of their lives; for their own well-being and especially for that of the child.

I feel that these bills would box in the freedoms of thought and religion which are cornerstones of our society and detract from our ability to find the true value of life which comes from love, not fear. Please table HB 500 and HB 550.

Sincerely,

Lynne M. K. Minton

September 12,1981

House Committee on Health, Education and Social Servies
State of Alaska/State Legislature
PO Box 4-1539
Anchorage, Alaska

I will be out of town and unable to attend the public hearings I just found out the committee is holding next week. I also just found out that the Right to Life group is holding its statewide convention on the same day. I would like to believe this is just a coincidence, but am inclined to think it is not.

I would like to go on record as being opposed to both HB 500 and HB 550. I feel both bills attempt to legislate a set of beliefs as to when life begins and to legislate morality as to abortion. The decision whether or not to be a parent is a highly personal one;each individual must make this decision according to his or her personal convictions. I do not believe the government should enter into this area of decision-making. I urge the committee to table both of these measures.

Respectfully,

George G Scott

George G. Scott
Box 281
Girdwood, Alaska
99587

SEPT. 10, 1981
1612 W. 14th AVE
ANCHORAGE, ALASKA

HOUSE COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES
STATE OF ALASKA LEGISLATURE
PO BOX 4-1539
ANCHORAGE, ALASKA 99509

DEAR COMMITTEE MEMBERS:

I WILL BE OUT OF TOWN AND UNABLE TO TESTIFY AT THE PUBLIC HEARINGS YOU ARE HOLDING ON HB 500 AND 550. PLEASE ACCEPT THIS WRITTEN STATEMENT AS MY TESTIMONY ON THIS PROPOSED LEGISLATION. I MOST STRONGLY OBJECT TO THESE BILLS ON BOTH MORAL AND LEGAL GROUNDS AND URGE COMMITTEE MEMBERS TO <u>REJECT</u> <u>BOTH</u> <u>HB 500</u> <u>AND 550</u>.

BOTH BILLS ARE ATTEMPTS TO LEGISLATE IN AN AREA THAT PROPERLY SHOULD REST WITH THE INDIVIDUAL, NOT THE STATE. THE QUESTION OF WHEN LIFE BEGINS CANNOT BE ANSWERED BY THE STATE; EACH INDIVIDUAL MUST ANSWER THIS QUESTION ACCORDING TO THEIR OWN PERSONAL AND RELIGIOUS/PHILOSOPHICAL/MORAL CONVICTIONS. MY OWN RELIGIOUS BELIEFS <u>DO NOT</u> INCLUDE THE NOTION THAT A "SOUL" OR A "PERSON" EXISTS AT THE MOMENT OF CONCEPTION. I DEEPLY RESENT ANY LEGISLATIVE ATTEMPT TO IMPOSE <u>THAT</u> <u>PARTICULAR</u> <u>NOTION</u>, BASICALLY RELIGIOUS IN NATURE, ON ME OR ANY SEGMENT OF THE POPULATION. HB 500 OBVIOUSLY SEEKS TO REMOVE EFFECTIVE CHOICE OF WHETHER TO BEAR A CHILD A NOT FROM POOR WOMEN WHO ARE PREGNANT. HB 550 IS ALSO AN OBVIOUS ATTEMPT TO LEGISLATE ON WHEN LIFE BEGINS.

HB 550 PURPORTS TO ADDRESS THE ISSUE OF CRIMINAL ASSAULT ON PREGNAINT WOMEN. I BELIEVE THE ISSUE CAN MORE EFFECTIVELY BE ADDRESSED, WITHOUT COMPROMISING THE INDIVIDUAL'S PERSONAL CONVICTIONS, THROUGH A COMPREHENSIVE LEGISLATIVE APPROACH TO DOMESTIC VIOLENCE. MOREOVER,

IF THE CONCERN IS OVER DETERRENCE TO ACTS OF VIOLENCE AGAINST PREGNANT WOMEN, MY UNDERSTANDING IS THAT WE DO HAVE LAWS THAT PROVIDE FOR SEVERE SENTENCES FOR THOSE CONVICTED OF ASSAULT UNDER CLASS "A" FELONY. IF PROSECUTORS ARE UNABLE TO PROSECUTE AND JUDGES UNABLE TO SENTENCE, IT IS NOT BECAUSE THE TOUGH SENTENCING LAWS DO NOT EXIST.

AGAIN, I URGE THE COMMITTEE TO TABLE THESE TWO DANGEROUS PIECES OF LEGISLATION.

SINCERELY,

Katherine Taft.

Sept 10, 1981
1624 W. 14th
Anchorage, AK

House Committee on Health, Education and Social Services
State of Alaska Legislature
PO Box 4-1539
Anchorage, AK 99509

Dear Committee Members Smith, Beirne, Cato, Malone and Martin:

I wish to make public comment on HB 500 and HB 550 which are the subject of hearings to be held in Anchorage Sept. 14, 1981. I strongly oppose both these proposed measures and would urge the committee to kill these bills or recommend a "no" vote to the full legislature.

As a counselor and as a teacher I have encountered many women (young and old) who have had to struggle to make a decision about an unplanned or unwanted pregnancy. Anyone who has worked with prospective parents in this area can tell you the agonizing difficulty for many in deciding whether to keep a child in the face of financial, emotional or familial problems, to give up a child after birth or to terminate the pregnancy. This is a deeply personal decision based on an individual's personal religious and moral convictions. I personally would have great difficulty opting for an abortion, were I to become pregnant at this time. However, I would never wish to have my views or any one else's imposed on us all, or on a particular segment of the population.

Both HB 500 and 550 represent dangerous attempts on the part of government to intrude into the private lives of its citizens. I thought our state constitution's "right to privacy" protected us against this kind of intrusion.

From my personal knowledge of other women seeking abortion in this state, I know that the process of obtaining a legal abortion (setting aside the emotional turmoil the process often engenders) is already a stressful and difficult process just in terms of finding a doctor who will perform the abortion and, for poor women, finding a doctor who will accept medical assistance payment. Almost all doctors require cash up front for an abortion - several hundred dollars. Women on medical assistance have had to put themselves on a doctor's "waiting list" and endure agonizing extra days, and even weeks before obtaining the abortion.

If HB 500 were enacted, it would be virtually impossible for many poor women to obtain an abortion. And this would mean the state would be putting itself in the position of <u>mandating motherhood</u> (and parenthood for fathers) for a particular portion of the citizenry. Moreover, not only would the poor be virtually forced to bear children, they would also then be forced to face the decision of raising a child which cannot be properly nourished, supported or possibly even loved <u>or</u>

of bearing the child only to give it away. Alternatively, a poor women might try to seek a cut-rate unsafe, or illegal abortion. I know this is the state of affairs in the lower 48 in many places. Is this the way it has to be in Alaska?

HB 550 may be touted as legislation to protect pregnant women from criminal assault endangering the unborn child. I doubt that HB550 really effectively affords such protection. Much of this kind of violence against women occurs in the home. If we are truly concerned about domestic violence, let's address the issue in a comprehensive fashion. If we're concerned about deterring violence against women, let's work towards more enforcement, prosecution and sentencing under laws which we already have against criminal assault. The law, as it exists, is clearly not the issue in terms of deterring acts of violence. Therefore, I do not see HB 550 as truly addressing any of these issues. Rather, the statute's language introduces the notion that a "fetus" (presumably at all stages of development, since "fetus" is not defined) is at all times the equivalent of a "person." To me, this language is clearly an attempt to create a legislative building block towards a later erosion of people's abortion rights.

Moreover, the language used in the exemption section is highly inappropriate since "aided

and abetted" (in connection with the mother) is associated with a criminal act.

In closing, I would like to question the motivation behind holding hearings on these particular bills at this particular time. It is my understanding that HB 550 is still being considered by the Judiciary Committee -- is it normal procedure to hold hearing such as these when a bill has not been fully considered by the committee it is in? Also, it is my understanding that the hearings coincide with a state Right to Life Convention. I would be most upset with and disappointed in my elected officials on th committee if they have allowed themselves to be influenced by a special interest group in holding these hearings on this place at this time. I would question committee members' commitment to an open, democratic process, if they were, indeed, so influenced.

respectfully submitted,

Deborah Feldman

Deborah Feldman

Memorandum to Bernard Berelson (President, Population Council) found in "Activities Relevant to the Study of Population Policy for the U.S." 3/11/69 by Frederick S. Jaffe (Vice-president of Planned Parenthood - World Population).

TABLE 1. Examples of Proposed Measures to Reduce U.S. Fertility, by Universality or Selectivity of Impact

Universal Impact	Selective Impact Depending on Socio-Economic Status		Measures Predicated on Existing Motivation to Prevent Unwanted Pregnancies
Social Constraints	**Economic Deterrents/Incentives**	**Social Controls**	
Restructure family: a) Postpone or avoid marriage b) Alter image of ideal family size	Modify tax policies: a) Substantial marriage tax b) Child Tax c) Tax married more than single d) Remove parents tax exemption d) Additional taxes on parents with more than 1 or 2 children in school	Compulsory abortion of out-of-wedlock pregnancies	Payments to encourage sterilization
Compulsory education of children		Compulsory sterilization of all who have two children except for a few who would be allowed three	Payments to encourage contraception
Encourage increased homosexuality			Payments to encourage abortion
Educate for family limitation	Reduce/eliminate paid maternity leave or benefits		Abortion and sterilization on demand
Fertility control agents in water supply		Confine childbearing to only a limited number of adults	
Encourage women to work	Reduce/eliminate children's or family allowances		Allow certain contraceptives to be distributed non-medically
	Bonuses for delayed marriage and greater child-spacing	Stock certificate type permits for children	
	Pensions for women of 45 with less than N children	Housing Policies: a) Discouragement of private home ownership b) Stop awarding public housing based on family size	Improve contraceptive technology
	Eliminate Welfare payemnts after first 2 children		Make contraception truly available and accessible to all
	Chronic Depression		
	Require women to work and provide few child care facilities		Improve maternal health care, with family planning a core element
	Limit/eliminate public-financed medical care, scholarships, housing, loans and subsidies to families with more than N children.		

As it appears in Planned Parenthood's journal "Family Planing Persepectives" #

Conn., a vice president of the Chase Manhattan Bank and member of the Council on Foreign Relations, to Morocco; Thomas Aranda Jr. of Phoenix, a lawyer and former Air Force officer who worked in the Ford Administration, to Uruguay; and, Faith Ryan Whittlesley of Haverford, Pa., an attorney and former state legislator, to Switzerland.

Opposition to Judge O'Connor

■ *Washington, September 1* — Judge Sandra Day O'Connor shares a net worth in excess of $1 million with her husband, according to a financial statement submitted to the Senate

Mrs. O'Connor says she is against judicial activism.

Judiciary Committee, which opens hearings on her nomination to the Supreme Court September 9th. Included in Mrs. O'Connor's assets are her home in Paradise Valley, Ariz., valued at $100,000; a joint interest in her husband's Phoenix law firm, valued at $342,860; and, shares in her family's cattle ranch, worth an estimated $211,421. In a statement to the committee, Mrs. O'Connor says that she supports a limited role for the Federal courts and is "keenly aware of the problems associated with judicial activism. The separation of powers principle also requires judges to avoid substituting their own views of what is desirable in a particular case for those of the legislature." She says the "fact that Federal judges are restricted to deciding only the particular case before them and are not given a broad license to reform society does not mean that general wrongs go unrighted."

■ *Dallas, September 3* — Thousands of pro-lifers rally here today in opposition to the nomination of Sandra O'Connor to the Supreme Court because of her pro-abortion record in the Arizona legislature in the early seventies. Those speaking out against Judge O'Connor during the day-long "Rally for Life" included Edward McAteer of the Religious Roundtable, ERA foe Phyllis Schlafly, Howard Phillips of the Conservative Caucus, and Peter Gemma of the National Pro-Life Political Action Committee. Two speakers — the Reverend Jerry Falwell of the Moral Majority and the Reverend James Robison — expressed concern about Mrs. O'Connor's record but said they were withholding final judgment until after her confirmation hearings are completed.

The Number of Medicaid Abortions

■ *Chicago, September 3* — Dr. Willard Cates Jr. of the Center for Disease Control in Atlanta reports that the Hyde Amendment's virtual prohibition on Federal Medicaid funding of abortion has had little effect on the number of abortions obtained by poor women. Of the nearly 300,000 women estimated to have wanted an abortion in the year after the Hyde Amendment took effect in 1977, about 94 percent obtained one, according to an analysis published by Cates in the *Journal of the American Medical Association*. He says that 65 percent of the women had abortions paid for by state Medicaid funds and 29 percent used other financial sources. "The data don't support the fears of the 'pro-choice' groups that large numbers of low-income women would be forced to resort to illegal or self-induced abortions, or the hopes of the 'pro-life' groups that restricting funds would lead to more pregnancies being continued to term," says Cates. Not surprised by the report is Dr. John C. Willke, president of the National Right to Life Committee, who says that "the prime purpose of the Hyde Amendment was to take the Government out of the business of paying for the killing of unborn babies. Government funding legitimizes this killing in the minds of many people. We realized that many women would find other means of financing abortions."

The Retirement of David Brinkley

■ *New York, September 4* — David Brinkley has announced his retirement from NBC News after 38 years with the network. "I had hoped that David would stay with us for many more years," says NBC News President William J. Small. "It is like losing the home-run king. His departure from NBC News leaves a very big gap." The 61-year-old Brinkley, who gave no reason for his surprise retirement, first came to national attention when he covered the 1956 political conventions with Chet Huntley. He co-anchored the nightly "Huntley-Brinkley Report" for the next 14 years, became a commentator on the nightly news in 1970, co-anchored the newscast with John Chancellor from 1976 to 1979, and took over the Friday night "NBC Magazine" last year.

Crackdown on Food Stamp Fraud

■ *Washington, September 3* — Attorney General William French Smith announces the creation of a special unit to crack down on the "staggering" amount of fraud and waste in the

Smith says fraud and waste are staggering.

Government's $12-billion-a-year food stamp program. "One of the critical elements of the President's economic recovery program is the curtailment of fraud, waste, and abuse in Federal programs," says Smith. "The amount of fraud and waste in the food stamp program, in New York City and elsewhere, is staggering. The situation demands immediate and thorough investigation by the Department of Justice and other affected Federal agencies." He says that "anyone stealing food stamps or sitting idly by while such thefts go on is committing a serious criminal act. Such people

If he is not alive,
why is he growing?

If he is not a human being,
what kind of being is he?

If he is not a child
why is he sucking his thumb?

If he is a living, human child,
why is it legal to kill him?

QUESTIONS & ANSWERS

1. **Since the heart beat is generally used to determine life, when does the unborn baby's heart begin to beat?**

The heartbeat begins between the eighteenth to twenty-fifth day.

2. **When does the brain begin functioning?**

Electrical brain waves have been recorded as early as forty days.

3. **How early can a baby survive outside the mother?**

Currently, twenty weeks is considered the accepted minimum. However, as medical technology continues to improve this time will be reduced.

4. **How about cases of rape and incest?**

Pregnancy from rape is extremely rare. A study of one thousand rape victims who were treated right after the rape reported no pregnancies. Concerning incest, there are no known studies. Medically we know pregnancy in these cases would be rare, if not impossible. I personally believe rape and incest as reasons for legalizing abortion are nothing more than emotional screens behind which those profiting from abortion choose to hide.

5. **But what of the child with disease, who will die a slow death or live his life a burden to his family?**

Do you believe the new "ethic" should be that we kill the suffering or burdensome? Some of these cases are tragic, some are also inspirational. We cannot assume the responsibility for killing the unborn child, simply because he has not been seen in public. His place of residence does not change what we are doing — killing.

6. **What of the population boom? We can hardly feed the people of the world now.**

True, the population of the world is growing, but population is not a problem in the United States. The U.S. death rate is now 9 per 1,000 people per year. As our population grows older, the death rate will climb to approximately 16 per 1,000.

Population growth or decline compares replacement of the current number of reproductive age individuals with the number of babies being born. By this measure, the United States is now in a sharp population decline.

One recent projection of the population has predicted the year 2000 will begin with half the population over 30 and a third over 65. The impact upon our society will be tremendous.

7. **How can a girl give up her own baby for adoption and go through life never knowing what is happening to the child?**

Which is better, to remember, "I gave my baby life, then because I loved him, gave him into the arms of a loving couple" - or to remember, "I selfishly ended my baby's life"?

Jane Dyson
S.R. Box 241
Eagle River 99504
694-3744

I'm Jane Dyson and have been an Alaskan resident for 15 years. I am a homemaker, part-time teacher with the Anchorage School District and am raising three daughters aged 11, 12 and 14. (By the way 2 of these children were unplanned pregnancies but wanted babies.)

In regard to bill 500, using our money for the killing of babies is something I can not support. I realize, as so many of our pro-abortion friends have purported, that we taxpayers may pay more, later on, to raise a possible unwanted child than we would have had to pay for an abortion. We are willing to do this - pay many times over - if needed - if this will save babies.

We are attempting to raise our daughters to have compassion for the poor, the handicapped and the unfortunate. To do this they help support, out of their allowances, some orphan girls in India and have periodically helped those less fortunate children and women in this city. We also read stories and discuss how we can help.

"What is legal is right" has become a part of our children's value system

other people and try to develop an empathy and concern for others. Then we seek out opportunities to put our ideas to practice. "What is legal is right" has been put forth today. The position the state is taking has the possibility of undermining what we are trying to teach our daughters - not only to be compassionate but also to be responsible for their actions. (Doesn't keep those ~~wanting~~ wanting to have.

In regards to H.B. 550, I am in favor of this bill. I can still remember almost exactly 15 years ago being told by one of our own local doctors that I was pregnant. My doctor gave me the little booklet that described and pictured the baby growing inside me. I would have wanted that ~~baby~~ yet to be born baby protected by law.

It won't be long before my three daughters will be wanting to start their families. I'd like to be assured that our laws are sufficient to protect their unborn babies as well as themselves.

September 30 1981

Crystal W Baker
Star Route Box 785
Chugiak, Alaska 99567

I am Crystal Baker from Chugiak and I am in favor of both bills. I will speak on abortion from a philosophical view.

Love and pity are two expressions of how we feel about our fellow man. Pity sees man in his desolation, broken and weak Through pity man shares in the suffering wounded conditionof his neighbor. Love is greater than pity, love sees not only the pitiable state, but the worth of the sufferer. Love contains pity, but pity can exist without love. Pity without love can renounce and destroy love, it can also sink to the level of contempt for the sufferer. There are those who profess brotherly love, who in fact possess nothing higher than contemptuus pity.

There is no question that many pro-abortionists have pity on those they designate as unwanted,or handicapped. They have spread their doctrine so well as to appear humane.The one who pities yet will kill babies has stopped short of love. They would see no in the Helen Kellers and O.J. Simpsons. They are not found serving next to the Anne Sullivans, Mother Theresas and Dr. Schweitzers. The one who pities is overwhelmed and paralyzed by human suffering. They are deluded, thinking they can free the world from suffering and create a utopia by killing babies.

This country once symbolyzed hope to the whole world,"Give me your tired, your poor your huddled masses yearning to be free.

Now our affluent society no longer darns socks, sends their shoes to the cobbler, huge graveyards for our abused cars abound. We throw out the worn while the poor prolongs its life through care and repair. FASTIDIOUSNESS IS IN AND LOVE IS OUT. We have created the Playboy and his mechanical bride. Our brave new world is becoming a wasteland with people tripped out on drugs, T.V. and easy chairs,there is no need for love.

Those willing to kill babies don't recognize the human wasteland they are creating, as they have never found a love stronger than pain. The concern is to make life comfortable and in pursuing that aim they succeed in desensitizing a feel for life.

Our Alaskan Native people are facing many problems. For many years their sense of family was an every year uphill struggle as we ripped their children from them and sent them off to school for nine months of the year.

Our Spanish and Black communities are growing, coming to this state with renewed hope, striving for a better future. Rather thanhelping hands, giving hope, the pro-abortionist's alternative to remove suffering is todestroy the sufferer, the epitome of contemptuous pity.

Often pro-life people point to the disadvantaged people who have overcome. making the point that we would have lost great musicians, athletes and artists as these people would have been killed under the criteria "Planned Parenthood" has for "every child a wanted child" ,but I quote Stanley,Haurwas "There can be no love without respect and respect must be built on a perception of the other's right of existence as he is, not as he has worth for me.

In 1857 the U.S. Supreme Court declared Black people non-persons. A war was fought,men died to right that wrong. Again the U.S. Supreme Court has declared a group of American citizens non-persons, and open season has been declared on the most helpless to defend themselves --the pre-born baby.

I quote Abraham Lincoln "Fellow citizens- we cannot escape history - We of this congress and this administration will be remembered in spite of ourselves. No personal signicance or insignicance can spare one or another of us. The fiery trial through which we pass will light us down -in honor or dishonor to the latest generation. We even here hold the power and bear the responsibility."

Gentlemen we must protect out posterity from this holocaust and stop killing our babies. Thankyou.

This is a copy of my testimony given before the committee at Anchorage on September 14.1981.

Sept. 11, 1991

Gail Stolz
2331 E. 20th
Anchorage, Ak 99504

House Committee on Health, Education and Social Services
Alaska State Legislature
P.O. Box 4-1539
Anchorage, Ak 99509

Dear Committee Members,

I, as a Resident of Alaska, wish to publicly comment on HBSDO and HBSSD. I question these bills which apply only to women and their freedom of choice.

HBSDO would prohibit the use of state funds for abortions. Granted, the state presently has a large income - but will these funds last as long as an unwanted child will live? It is well known that the cost of maintaining an unwanted child are significantly greater than the cost of an abortion. This bill discriminates against women, and their ability to make a choice; on the basis of income, can be said to be without prejudice?

HBSSD would change abortion under the murder statutes. With it becomes harder to receive abortions, thereby increasing the number of unwanted children. For instance, those who are denied abortions or improved foster care would be subjected to poverty, unemployment, and the use of drugs and alcohol. Is the use of these drugs on the decline? No, they will increase.

I urge you to resist the urge to legislate morality. I encourage you to table these bills.

Sincerely,

Gail Stolz

Patricia M. Long
716 "O" Street
Apt. 6
Anchorage,
Alaska 99501

House Committee on Health, Education and Social Services
Alaska State Legislature
P.O. Box 4-1539
September 13, 1981

Dear Committee Members:

I wish to make a comment on HB500 and HB 550. I oppose both proposed measures and would urge the committee to weigh heavily the implications of passage of the proposed bills.

Having been an Alaskan resident since 1977, I share the concerns of the committee members for the health and welfare of the people of Alaska.

I object to HB500 because this bill would cause discrimination on the basis of economic status. HB550 sets the precedent of putting the fetus on the same legal status as one who works and owns property in the state. Another law in HB550 is that exemptions concerning second degree murder are added to the end of the bill rather than being written into the text. This would allow for the easy removal of the exemptions from the bill which would jeopardize the rights of women and doctors.

I strongly urge the House Committee members

to review the implications of HB500 and HB550.

Respectfully submitted,

Patricia M. Long

9/11/81

JoAnne Dunec
1507 Atkinson
Anchorage, AK 99504

House Committee on Health, Education + Social Services, Alaska State Legislature
P.O. Box 4-1539
Anchorage, AK 99509

Dear Committee members:

I am opposed to both House Bill No. 500 and 550. The first, House Bill No. 500 is illogical; it costs taxpayers far more to raise unwanted children of poor people (who are directly effected by the bill) than to have state funded abortions. It makes more sense to tackle the problem in a different way such as funding organizations such as Family Planning and Planned Parenthood or funding a positive campaign about birth control measures. House Bill No. 500 simply compounds an already existing problem rather than makes an attempt at solving it.

I also question the logic behind House Bill No. 550. Surely our present murder statutes are adequate as they are now. There are also other laws in Alaska concerning violent crime which currently adequately in effect.

The fact that House Bill No. 550 has been introduced at the same time as House Bill No. 500 leads one to the obvious conclusion that H.B. No. 550 is

designed to pave the way to make abortions not only illegal, but to add abortion to the murder statutes! This opens a myriads of questions - is a fetus a person subject to all the laws of a person? Can you try a fetus in court? Can a fetus commit crimes? When does a fetus become a being which can support itself without the help of the mother's body? Until that time a fetus is not much different than any other organ, such as a kidney, lung, or heart - save that it has potential to become self-supporting. Is a doctor performing murder when he or she removes something which cannot sustain itself? I certainly do not think so.

Also, what rights do we have to our bodies and what rights do other people have to our bodies? Do others have the right to say we cannot have a part of our bodies removed, ? defective or not; and to say that such removal is an act of murder? By the same token do others have rights to take parts of one's body so that others might live? Is that murder as well? To whom?

House Bill No. 550 is too vague on some critical issues which will have far-reaching effects into the lives of many who are innocent of criminal acts; the bill should be dropped.

Sincerely

William Hamilton Hays
716 O Street Apt. 6
Anchorage, Alaska

To: The House Committee on Health, Education and Social Services
Alaska State Legislature
P.O. Box 4-1539

Dear Committee Members,

I would like to make known my objections to HB 550 and HB 500. I strongly urge all members of the committee to vote against these proposed measures.

I have resided in Alaska since 1978 and consider Anchorage my home. I have worked with several private companies since my arrival and have extensive contact with private citizens. At the present time I am self employed as an artist showing my works in three galleries in Anchorage. I do not have any children at this time but feel that this legislation is directly related to my freedom of choice in the matter.

HB 500 is necessarily a discriminatory bill in that those who have the funds will continue to obtain abortions. Those who are not as fortunate will be forced to have unwanted children in a situation that will cost all of us more in the end. This is especially true considering that federal funds are not available to the poor at this time, for abortions. These state funds are the only alternative available to the poor should they decide an abortion is necessary. Please don't take that option away!

I feel that HB 550 establishes the dangerous precedent of putting the fetus on the same legal status as one who works and owns property in the state. The committee might do well to remember that each person has a god-given right to decide when a being has a soul and/or is a responsible human being. This bill would take away that right by establishing legal precedent that the fetus (or zygote) is the same as a mature woman or man.

Another major flaw in HB 550 is the fact that the exemptions concerning 2nd degree murder are tacked onto the end of the bill rather than being written into the text of the bill. This allows for the easy removal of exemptions from the bill that would be dangerous to women and doctors.

It is my wish that the committe members recall that our constitution gives each person the <u>freedom to choose</u> in matters that are personal in nature. Don't take away my <u>freedom to choose</u>

Sincerly,

Melissa M. Hyer

9/13/91

Mary Ellen Ashton
610 N Street
Anchorage Ak 99501

Dear Committee Members:

I am unable to testify at the public hearings on HB 500 and HB 550 being held on Sept 14, 1991 in Anchorage and therefore would like to offer this written testimony to the committee.

I have been an Alaska resident for five years and am a member of the Alaska Bar Association. I have one child, a daughter. I feel fortunate to have had my child, but also feel fortunate that I live in a state that allows all women the personal choice to be parents or not, to bear children or not.

I strongly oppose both HB 500 and HB 550! HB 500 is an appalling attempt to deny poor women the right to choose abortion. I hope that when my daughter reaches maturity, her freedom of choice will be intact, and not denied by the actions of a religious minority.

Mary Ellen Ashton

Re HB 500, HB 550

Alex Swiderski
1124 H St
Anchorage, Ak 99501

To Members of the Health and Social Services Committee

I am a resident of Alaska and have been since 1977. I am also an attorney practicing here. I offer this letter as testimony in opposition to HB 500 and HB 550 and I urge the committee to reject the bills.

It is apparent that ~~fact~~ 15 preventing poor women from obtaining abortions will mean greater social costs to the public in supporting unwanted children in terms of hospitalization and birthing costs as well as well welfare support costs.

The purported purpose of HB 550 is to protect pregnant women from assault that result into death to the fetus subject to prosecution under the ~~prosecution~~ murder statute. The danger is that the language will misinterpreted to reflect legislative intent that a fetus is to be considered the same as a person. The real purpose of the bill to protect pregnant women but can be as well accomplished by direct legislation providing for whatever

sanctions the legislature deems appropriate. As one who practices criminal law I find that the statutes which are ambiguous or have secondary goals or effects are most subject to attack and present the greatest problems in prosecution.

In addition I suspect that HB 300 has serious constitutional problems.

Thank you for your consideration

Max Gruber

Janice J. Peterson
1262 Annapolis Dr.
Anchorage, AK 99504

9/11/81

Re: HB 500 + H.B 550

To: Members of the House Health + Social Services Committee:

I am a resident of Alaska and wish to submit testimony opposing both HB 500 and HB550. I believe that a woman has the right to terminate an unwanted pregnancy and that the state has no standing to deny her that right.

I personally feel that it would be an unreasonable and unacceptable burden to force a woman who does not want a child to carry a pregnancy to term only because she is poor or because she is threatened with accusation of murder if she seeks an abortion. Neither bill addresses the question of emotional hardship on the woman and/or the father in dealing with an unwanted pregnancy. Having happily carried a pregnancy to term myself, I know that it can be both physically and emotionally exhausting, uncomfortable and painful. My discomfort was eased by the fact that I really wanted that child, no matter what;

of a woman who does not wish to be pregnant but who is being forced by the state to carry her pregnancy to term! What about the long-term effects of such resentment ~~x~~ and rage on such a woman and/or the father? Why should the rights of a fetus supercede the needs and rights of the parents?

HB 500, which would deny medical assistance for abortion, ~~is~~ constitutes blatant discrimination against the poor. This is so obvious that it seems ridiculous to even have to point it out.

It seems to me also that we already have enough unwanted, neglected and/or abused children. Certainly ~~some~~ a certain percentage of women forced into bringing an unwanted pregnancy to term will feel compelled to keep ~~the~~ the child; I feel such a child is a probable target for abuse.

It is obvious that the decision to have a child or terminate a pregnancy is a difficult one; I find it hard to believe that any woman would or could ~~easily~~ take such a decision lightly. However, I believe that the woman herself is the only one capable of making that decision; the state has no right to make it for her.

Janice J. Peterson

9/13/81

Linda Cerro
478 Aurora
Anchorage Ak 99503

Dear Committee Member:

I am unable to testify on 9/14/81 regarding HB 500 and SSB, but I would like to offer this written testimony.

I am an Alaska resident and have been for four years. I am also a member of the Alaska Bar Association and a practicing attorney.

I came to Alaska because I believed it to be a state which respected the freedom of individual choice. I think it would be a tragedy if the religious beliefs of a minority of Alaskans were forced upon the rest of us by statute.

Thank you for your consideration,

Linda M. Cerro

Cindi Zupa
1142 F St.
Anchorage, Ak
99501

Re: HB 500
and HB 550

September 11, 1981

To Members of the House
Health & Social Services Committee:

I am a resident of this state, an attorney practicing here since 1975. I wish to submit testimony opposing both HB 500 and HB 550, and I urge this committee to vote against these proposals.

Although my own Catholic upbringing and current ethical beliefs would dictate against abortion for myself in most, if not all possible circumstances, I believe our state government should maintain the right of women and men to choose abortion when their own consciences and the advice of their physician so recommend.

HB 550 uses objectionable language that purports to put a fetus in the same category as other, born living human beings, and talks about the activities of medical personnel as "aiding & abetting." Also, the exceptions for consent of the mother are too easily eliminated later in the legislative process.

HB 500 contains dangerous ambiguities about requiring all "reasonable methods for saving the life of the fetus. Could this be interpreted to require a pregnant woman to wait until 6 months to have the abortion, even though that delay would be dangerous to her health but not ~~dangerous~~ fatal to her life?

These bills should be tabled. They contain many problems, including the probable unconstitutionality of HB 500.

Thank you for your consideration.

Connie J. Sipe

September 12,1981

House Committee on Health,Education, Social Services
Alaska state Legislature
PO Box 4-1539
Anchorage,Ak 99509

Dear Committee Members:

My wife, Myrna Roque has written a more lengthy statement to you concerning HB 500 and SB50. We are both strongly opposed to these bills and wish to see these bills tabled by the committee.

I wish to go on record as being totally in agreement with all the comments my wife has made in opposition to these bills.

Respectfully yours,

Ernest Roque

Ernest Roque
Anchorage resident

Sept. 12, 1981

House Committee Health, Education and Social Services
Alaska State Legislature
PO Box 4-1539
Anchorage, Alaska 99509

Dear Committee Members,

Since I work and have a family, I will be unable to testify in person at the hearings you are holding next week on HB 500 and 550. Therefore, please consider my written objections to these two bills.

I am 51 years old, have lived in Alaska over 22 years where I have raised my family. I have a daughter who is 27 years old.

I feel fortunate that I have lived in a State that offers so much personal opportunity and personal freedom. I am especially glad that I live in a state that guarantees a specific right to privacy and allows all women (and their husbands) the personal choice to be parents or not, to bear children or not. For this reason I must strongly oppose both HB 500 and 550.

HB 500 is an obvious attempt to deny poor women the right to choose an abortion. If we are going to guarantee medical assistance to all Alaskans, it is inherently unfair to cut out this assistance to poor women in this one area. If HB 500 were ever enacted, we would virtually be forcing all poor women who became pregnant to bear the child to full term and then face

con't
letter to House Committee (HESS)

the agonizing decision of either raising an unwanted child or child that cannot be financially supported or giving the child away. Just because many states are now subjecting parents to such inhumane treatment does not mean Alaska should follow suit.

I am also opposed to HB 550 because it attempts to legislate an answer to the question "When does life begin" by making a "fetus" equivalent to a "person". I have my own beliefs concerning the sacredness of a new life, but I certainly do not expect ~~expect~~ everyone else to share my religious convictions in this area, and I cannot believe that the state would attempt to impose a certain set of convictions on any citizen.

Please table these abominable bills for good.

a long-time Alaskan
Myrna Rogue

Anchorage, Alaska

Health, Education and Social Services Committee
State of Alaska Legislature
Box 1539
Anchorage, Ak. 99509

Dear Committee Members:

As an attorney here in Alaska and also as a citizen I wish to express my strong opposition to House Bills 500 and 550. The United States Supreme Court in Roe v. Wade has already stated unambiguously that the right to an abortion is protected under the federal constitution. While the court in that decision made a great deal out of the mother's privacy rights it is noteworthy that there is no express right to privacy contained in the United States Constitution. It is surprising that these bills are being proposed in a state that has extended such privacy rights farther than any other state. (See State v. Ravin) Not only do we have an express right to privacy in Alaska but the courts here have shown no reluctacne to strike down legislation of the type that is being proposed. In addition to the privacy aspect, the equal protection implications of denying abortions to those women who can't afford private abortions are as distu-bing as they are obvious.

One has also to wonder about the purpose behind HB 550. While its purported intention is to extend the protection of the criminal code to the fetus, there are statutes already on the books that serve that purpose. If, for example, someone slugged a woman and a fetus was aborted as a result, the serious bodily harm would bring this act within the felony assault statutes. So if we already have an arsenal for prosecuting people who "kill" a fetus in this fashion, why is it necessary to specifically proscribe such conduct? The answer, I think, lies in the interest of the proponents of this bill to establish a philosophical/religious precedent, rather than a legal one. Once it is statutorily recognized that a fetus has a status separate from that of its mother, the next step is to outlaw abortion entirely. The exceptions contained in Sec 3 of the bill are of little comfort, for that part can easily be eliminated later on. In other words, any discerning reader of HB 550 will recognize it for what it is: an obvious attempt (despite the disingenuousness of Sec. 3) to lay the groundwork for the ultimate prohibition of abortion.

The views of those opposed to abortion are not shared by the vast majority of women in this country, the ones affected by this attempt to foist religious preferences on the body politic. Please show your commit-

ment to the separation of church and state by rejecting these bills.

Very truly yours,

Bruce Heller

Bruce Heller
1624 W. 14th Ave.
Anchorage 99501

Kirk McGee
Box 851
Anchorage AK.
99510

House Com. on Health, Education + Social Services
AK. St. Legislature.
Box 4-1539
Anch. AK. 99509

Dear Committee Members.

I understand you are considering HB 550 & HB 500. I am opposed to both bills.

As a 30 year resident, I was glad when the legislature overturned Millers veto of the legalized abortion (remember that) and I feel that this type of legislation is going back in time.

I feel very strongly about the general thrust of the "right-to-life" "moral majority" types who are pushing this and will actively ~~to~~ seek to convince others not to vote for candidates who support such garbage.

Thanks to hoping you throw this archaic legislation where it belongs.

Sincerely. Kirk McGee

1622 W. 14th Ave.
Anchorage, Ak. 99501
September 8, 1981

Dear Representatives Beirne, Cato, Malone, Martin and Smith:

I am writing to express my strong opposition to House Bill No. 500, " an act limiting the use of state money to pay for abortions".

It is my opinion that reproductive control over her own body is every woman's right. To force a woman to bear children because she has not the economic means available to terminate her pregnancy is unthinkable in a free society.

From 1977 through 1979, I served as manager of Alaska Feminist Federal Credit Union. Working in a setting that was geared to serve the special economic needs of women, I encountered many women seeking funding for abortions. During that period, many Anchorage doctors would not accept Medicaid patients for abortions, because the state was not paying doctors' billings in a timely manner. Consequently, many women who were eligible for Medicaid were unable to obtain abortions because of the reluctance of doctors to provide services for which there would be a delay in payment. These women had no other source of income with which to pay for an abortion, and their desperation was obvious.

The State of Alaska failed to meet the needs of those women because of the slowness of the bureaucracy. That was sad enough. Let's not make that failure a matter of policy.

Very truly yours,

Nora Elliott

Nora M. Elliott

September 11-1981.

LILIANE DAMMOND
PO Box 642
Girdwood AK-99587

House Committee on Health, Education + Social Services
Alaska State Legislature
PO Box 4-1539
Anchorage AK 99509

Dear Committee Members:

I wish to make public comment on HB550 and HB500. I strongly oppose both these proposed measures and would urge the committee to vote against them.

HB500 is an appalling attempt to effectively deny poor women the right to choose an abortion. By preventing them from obtaining an abortion there will be greater social costs to the public in supporting an unwanted child.

As for HB550 there are already tough laws in AK concerning violent crime. Perhaps a more comprehensive legislative approach to Domestic Violence should be considered.

Sincerely
L Dammond

September 10, 1981

Catherine D. Evans
2544 Forest Park Drive
Anchorage, Alaska 99503

House Committee on H.E.S.S.
Alaska State Legislature
P.O. Box 4-1539
Anchorage, Alaska 99509

I would like to present the following testimony regarding House Bills 550 and 500.

House Bill 550

This bill is totally unnecessary. There are existing laws to prosecute aggravated assault, mayhem etc., which carry severe penalties. Any assault on a pregnant woman which results in the destruction of the fetus can be prosecuted under these laws.

The bill is written in a careless and ambiguous manner. Passing it in this, or any, form will only further infringe on our personal freedoms without comparable benefits to society.

For example; If a woman trips down the stairs resulting in the death of the fetus, is she guilty of "aiding and abetting" the crime of murder? It is ludicrous! Yet under this law she could be prosecuted. This situation would result in a reign of terror for all pregnant women.

This law serves no positive purpose. Please act responsibly. Do not let this bill past your committee.

House Bill 500

Please consider the following:

1. By legislating morality in this manner we would only be forcing those women who could not afford the $500 for an abortion to be burdened with raising yet another child.

2. The answer to the poverty, crime vicious circle cannot be found by buying more prisons and social workers but through ensuring that each child born will be loved and wanted.

3. Passing this bill would encourage a horrible black market circle of "abortioneers" feeding on the fear and ignorance of the poor and disadvantaged. Those with money would be able to afford the luxury of safe, sterile clinics - in Alaska or elsewhere.

I urge you not to let this bill past your committee. It causes discrimination against the poor in the cruelest way.

Thank-you for your time and consideration.

Sincerely,

Catherine D. Evans

Catherine D. Evans

Joan Diamond
6611 E. 12th St.
Anchorage Ak. 99504

Sept. 11, 1981

House Committee on H.E.S.S.
Ak. State legislature
P.O. Box 4-1539
Anchorage Ak. 99509

Dear Committee members,

I am opposed to HB 550 & HB 500
As a health care provider for Anchorage, I am in favor of state funded abortions with a stipulation that every woman be committed to a effective form of birth control following the abortion. Women like men, deserve freedom of choice and responsibility for their action.

I am offended that HB 550 makes the exception to murder apply to a person who chooses an abortion by a medical officer as the end to HB 550. It is not related to the former Sec. 18.2.

11 September 1981

Sally Knueland
309 W. Manor
Anchorage, Ak. 99501

House Committee on Health,
Education & Social Services
Alaska State Legislature
P.O. Box 4-1539
Anchorage, Ak. 99509

Dear Committee Members:

I want to publicly express my opposition to HB 500 and HB 550. I urge the committee to table both measures.

As a professional social worker, I am acutely aware of many problems associated with poverty. I believe that HB 500 would unfairly limit the options for poor women faced with unwanted pregnancies. Although abortion would still be legal, the prohibitive cost effectively denies it as an option for poor women, unless state assistance is available.

The language in HB 550 seems to define a fetus as a living human being. A fetus is not a viable human being able to sustain life outside the womb, and to define it as such could possibly be used as a basis for later limitation of abortion rights.

I hope you will take no action on either of these bills.

Sincerely,

Sally J. Knueland, MSW

September 11, 1981

House Committee on HESS
Alaska State Legislature
p.o. B ox 4-1539
Anchorage, AK 99509

Dear Committee:

I will be working and unable to attend the public hearing on Monday, September 14, regarding HB 500 and HB 550. Let this letter be my testimony on the subject bills.

I am against both HB 500 and HB 550. A medical abortion is the right of every woman. It should be available to any woman who has determined it necessary, whether she is rich or poor. If a woman is eligible for State assistance, an abortion should be paid for by the state, just as any other medical procedure is. Period.

HB 550 gives a fetus the same status as a person, a serious constitutional question, which cannot be resolved with the mere addition of three words, "or a fetus."

This bill is supposed to protect pregnant women--or at least provide for penalties upon an aggressor--if a fetus is killed as the result of an assault on her person. Commendable. But imperfect reasoning would have us believe that passage of this bill would provide both deterrant and punishment. Look closer. More often than not, this is a domestic crime. If we are concerned with domestic violence, then address the issue with a comprehensive approach, in a very different type of bill.

Let it be known that I am personally affronted with the wording in Sec. 3(a)(2) and (3)...solicited, aided, abetted...as if the mother participated in a criminal act! And I heartily disagree that the only "acceptable" justification for an abortion would be the doctor's determination that the mother would certainly die of childbirth. A woman will decide for herself. Legislation should not interfere with her right to choose.

Sincerely,

Cheryl M. Rhoads

Cheryl M. Rhoads, mother of three children.
3RA Box 2040-C
Anchorage, AK 99507

P.O. Box 1093
Anchorage, AK 99510
September 11,1981

House Committee on HEALTH, EDUC ATION,
AND SOCIAL SERVICES

Re: Hearing on HB 500 and HB 550

I am unable to attend the Committee's hearings on these bills and would like to submit these comments as written testimony.

These bills present two issues. For HB 550,"is abortion murder?" For HB 500,"should the state fund "elective" abortions?"

To address the question "is abortion murder," it is necessary to distinguish "life" from "human life." Every sex cell is"life" just as every zygote is"life." The issue is when "human life" begins. Fertilized eggs per se are not "human life" since fertilized eggs may not produce human life due to genetic defects which cause miscarriage or stillbirth or tubal pregnancies. The issue is exactly where in pregnancy human life begins.

It is obviously an extremely controversial question. People's beliefs here do not follow any lines of gender, class, status, religion, or political affiliation. A moral consensus on the issue is lacking.

When a moral consensus is lacking, political regulation is extremely unwise, as our experience with Prohibition shows. Political regulation is then an offensive invasion of the privacy of individuals, both in terms of the attack on personal beliefs, and the attempt to regulate a person's physiological functions.

The attempt to prohibit state funding for "elective" abortions is simply an attempt by st ident ideologues of a particular persuasion to punish the vulnerable. By manipulating the dependence of the poor on the good graces of public funds, these ideologues ensure that the poor abide by their controversial value system. Again there is an invasion of privacy, this time the privacy of a special class of people, poor women seeking medical treatment. This too is both unwise and unfair state policy.

I strongly oppose both HB 500 and HB 550. I urge the committee to table them both, if in fact they are even properly before the committee.

Sincerely yours,

Matthew Zencey

Matthew Zencey

Patricia A. Baird
1720 East 27th
Anchorage, AK 99504

House Committee on H.E.S.S.
Alaskan State Legislature
P.O. Box 4-1539
Anchorage, Ak 99509

Dear Committee Members: 11 September 1981

I wish to offer written comment on HB 500 and HB 550. I am strongly opposed to both these bills. HB 500 is clearly discriminatory against poor women. Studies have shown that if legal abortion sources are not available, a majority of women who would have had abortions legally will still have abortions but these will be illegal. Many illegal abortions as we all know are often performed in septic conditions by unskilled people, and are probably life-threatening to the woman. Rich women will always find legal abortion services, even if they must leave the country to do so. By denying state funds to poor women, you are discriminating on the basis of wealth and you will be personally responsible for any deaths or permanent damage to women who seek illegal abortions.

HB 550 is an unnecessary bill. There already exist strong laws in Alaska concerning violent crime and we do not have to list separately every type of victim of violence. This bill also sounds like a not-too-subtle way to make a fetus equivalent to a person with rights. This would raise serious legal questions that could go so far as to make IUD's illegal. The wording "or a fetus" must be eliminated from this bill. Likewise, the exemptions that are listed at the end of the bill could easily be moved. I urge you to reject both HB 500 and HB 550.

Sincerely,

Patricia A. Baird

Patricia A. Baird, Ph.D.
Biologist.

September 13, 1981

Subject of Letter: HB 500 & HB 550

Respectfully submitted to the members of the House committee on health, education and social services.

Committee Members:

As indicated by your presence on this committee and the influence it brings, your commitment to the health and well being of the citizens of this state is evident. It is also evident in this time of financial dilema that certain compromises will be made in the health and welfare of the Alaskan people.

However, I would urge that you weigh carefully and dutifully the effect of the legislation you have before you.

As I am sure you will agree, freedom of choice is a cornerstone of our political philosophy. I am further positive that you do not purposefully intend to limit this basic privilege only to those capable of purchasing it. The financial needs presented House Bill 500 are recognized. It is also, however, hoped that you will examine all alternatives that will not relieve this basic American freedom to a purchasable commodity.

I further urge you to weigh heavily the implications to the Alaskan families, the children of your children, and finally as

that would result by further restricting this freedom of choice by House Bill 550. It is recognized that a compromise must be reached between the rights of two life forms, the mother and the child. Because of this lack of compromise, I am opposed to House Bill 550 in its current form. I share your concern in this matter and would request that a transcript of the committee hearings be mailed to the address below.

I have been a resident of the State of Alaska since August 1976 and am currently studying chemistry at the University of Alaska, Fairbanks Campus.

Along with many other residents of this state, I urge the consideration of alternatives to House Bill 550 and 551.

Respectfully,

Mark Walter

Mark Walter
SR 10817
Fairbanks, Alaska 99701

JOHN RANDALL
817 N. FLOWER
ANCHORAGE, ALASKA
99504

9-12-81

HOUSE COMMITTEE ON HEALTH, EDUCATION & SOCIAL SERVICES
ALASKA STATE LEGISLATURE
P.O. BOX 4-1539
ANCHORAGE, ALASKA
99509

DEAR COMMITTEE MEMBERS:

I WISH TO MAKE PUBLIC COMMENT ON HB 500 & HB 550. I STRONGLY DISAGREE WITH BOTH THE CONTENT & THE WORDING OF THESE PROPOSED BILLS & URGE YOU TO EITHER TABLE THEM INDEFINETLY OR GIVE THEM 'NO' VOTES.

I AM A LAND & CONSTRUCTION SURVEYOR BY TRADE & MAKE MY INCOME BY WORK & BY ADMINISTERING THE RENTAL UNITS I'VE BOUGHT WITH THE MONEY I HAVE EARNED WORKING. I AM 34, HAVE LIVED HERE 8 YEARS & FEEL MODERATLY SUCESSFUL.

WE ALL KNOW THAT ASIDE FROM ABSTINANCE OR STERILISATION THERE IS NO METHOD OF BIRTH CONTROL THAT WORKS 100% OF THE TIME. TEN YEARS AGO I WAS JUST OUT OF SCHOOL & PRETTY BROKE. MY LOVER & I WERE CONCIENTIOUS & YET SHE BECAME PREGNANT BY ME. WE HAD BEEN TOGETHER FOR 2 YEARS, CAME FROM CLOSE FAMILIES & HAD CAREERS TO LOOK FORWARD TO. AS LOVING AS WE WERE, HAVING A CHILD THEN DID NOT FIT OUR PLANS, AND AFTER MUCH SOUL SEARCHING SHE ELECTED TO HAVE AN ABORTION. WE WERE LOCKY SHE HAD MEDICAL COVERAGE THAT, TOGETHER WITH ALL OF THE MONEY WE HAD, ALLOWED HER TO GET A SAFE ABORTION IN A GOOD HOSPITOL. WE HAVE NEVER REGRETTED OUR DECISION.

OF COURSE TIMES HAVE CHANGED. THE COST OF MEDICAL INSURANCE HAS INCREASED & THE NEED FOR AN ABORTION IS SELDOM ADDRESSED. NOW, A COUPLE IN THE CIRCUMSTANCES I'VE JUST DESCRIBED WOULD NEED FINANCIAL ASSISTANCE. HB 500 WOULD DENY THIS AID. IN MY OPINION THIS IS IMPOSING A BIASED MORALITY OF THE STATE GOVERNMENT ON ITS CITIZENS. ESPECIALLY THE POOR, AS THESE ARE THE ONES WHO HAVE THE MOST DIFFICULTY GETTING LOANS. FROM A FINANCIAL POINT OF VIEW HB 500 PROVIDES A FALSE ECONOMY SINCE A CHILD BORN INTO A POOR FAMILY USUALLY COSTS GOVERNMENT A GOOD DEAL OF MONEY OVER A PERIOD OF ABOUT 18 YEARS.

HB 550 SEEMS TO ME HASTILY & POORLY PUT TOGETHER. EVEN SUPERFLUOUS SINCE THERE ARE PLENTY OF LAWS ADDRESSING THE CRIMES OF ASSAULT & MURDER. WHAT WORRIES ME IS THIS BILL IMPLIES A FETUS, HOWEVER DEVELOPED, IS THE SAME AS A HUMAN BEING. AND EVEN THOUGH THERE ARE THE EXCEPTIONS OF SECTION 3 TACKED ON THE END OF THE BILL, HB 550 INSINUATES A WOMAN WHO CHOOSES TO HAVE AN ABORTION, FOR WHATEVER REASONS, IS INVOLVED IN A CRIMINAL ACT. AGAIN, THIS IS AN IMPOSITION OF A MORALITY BY THE STATE. IT'S OUT OF PLACE.

THANK YOU FOR YOUR PATIENCE.

SINCERELY,

John H. Randall