ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1380 HHESS HB 500 (#1,#2)

1380

MSG 82-00009698 PRTY 1 02/23/82 12:21:27 ORIG. L:00 IN= 0003 OUT= 0055
FROM: MAXINE/FBX TO: JUNO INFO
TARGET: LJH2 SUBJ: POM PAGE 0008

TO: REP. MARTIN, REP. BEIRNE, REP. CATO, REP. SMITH, REP. MALONE
REP. BROWN, REP. FANNING, REP. ROGERS, REP. RANDOLPH

FR: PATRICK W WATSON, 307-A WEDGEWOOD, APT 2, FBX 99701 PH. 456-5276

RE: HB 185, HB 247, HB 500

MSG: I AM IN SUPPORT OF THESE BILLS AND WOULD LIKE TO SEE THEM MOVE OUT OF THEIR CMTES AND ON THE FLOOR. THEY HAVE BEEN TIED UP SINCE EARLY LAST YEAR. CAN YOU GET THESE BILLS MOVING AGAIN? LET US HEAR FROM YOU AND YOUR OPINIONS ON THESE BILLS.

----------EOM

TO: ALL LEGISLATORS

FROM: GWEN MCCORMICK
BOX 1384
JUNEAU, AK 99802
586-1653

I DO NOT WANT STATE TAXES TO PAY FOR ABORTIONS.

MSG P2-00002428 PRTY 1 01/20/82 15:38:29 ORIG: LA00 IN= 0019 OUT= 0111
FROM: CINDY, ANCH TO: JNU INSO
TARGET: LJH2 SUBJ: P O M PAGE 0001

TO: ALL SENATORS
ALL REPRESENTATIVES

FROM: OTTO AND ELIZABETH SCHNEIDER, P. O. BOX 4-2104, ANCH. 99509 (278-1408)
STANLEY R. HART, 2506 W. 30TH, ANCH. 99503 (248-3717)
CHARLES SCHNEIDER, 809 W. 57TH, ANCH. 99502 (279-3853)

WE ARE FOR THROUGH ROADS AND HIGHWAYS. IT WOULD BE NICE TO DRIVE TO NOME, KOTZEBUE, POINT BARROW, ETC. THIS SHOULD INCLUDE PARKING AREAS WHERE YOU COULD GET OFF THE ROAD PERHAPS AT SECTION OR TOWNSHIP LINES.

TO: ALL REPRESENTATIVES

FROM: ANNELY GIRARD
3903 SEAFORTH
ANCHORAGE 99504 (H) 278-3966

STATE FUNDING OF ABORTIONS AND CONTRACEPTIVE PROGRAMS FOR THE POOR IS A MUST. HOW CAN WE SPEND MILLIONS ON A BIRTHDAY PART PLANNING PROCESS AND IGNORE THE PLIGHT OF POOR WOMEN. I URGE YOU TO DO YOU BEST TO WORK AGAINST THE PASSAGE OF HB 550. THIS IS A GROSSLY DISCRIMINATORY MEASURE AND NOT WORTHY OF SERIOUS CONSIDERATION.

SIGNED: A CONCERNED ALASKAN.

MSG 82-00010830 PRTY 1 03/01/82 11:10:55 ORIG: L000 IN= 0005 OUT= 0(
FROM: KODIAK TO: JUNEAU
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE PAGE 0(

TO: BEIRNE, MARTIN, CATO, SMITH, MALONE

FROM: ANN MARSHALL
P.O. BOX 571
KODIAK, ALASKA 99615 PHONE 486-6181, 486-5725

RE: SB 817

UNDER SEC 47.07.030, MEDICAL SERVICES TO BE PROVIDED, THIS BILL FAILS TO LI
ABORTION AND FAMILY PLANNING SERVICES. THIS "MEDICAL NEED" STILL EXISTS I
THE STATE BY VIRTUE OF THE FACT THAT 300 ABORTIONS WERE PAID FOR UNDER
GENERAL RIGHT ASSISTANCE LAST YEAR. IT IS BECAUSE OF THIS EXCLUSION THAT I
WOULD NOT SUPPORT SB 817.

MSG 82-00010563 PRTY 1 02/26/82 11:29:46 ORIG: LK00 IN= 0004 OUT= 0045
FROM: BONNIE/KETCHIKAN TO: AU INFORMATION
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REPS. BEIRNE, MARTIN, CATO, MALONE AND SMITH
FROM: CHARLOTTE YOAKUM
BOX 8093
KETCHIKAN, ALASKA
225-4904

RE: SSHB 500

PLEASEDO NOT SUPPORT SSHB 500. LET IT DIE A NATURAL DEATH. THANK YOU.
EOM/BCP

MSG 82-00010616 PRTY 1 02/26/82 13:23:00 ORIG: LK00 IN= 0008 OUT= 0072
FROM: BONNIE/KETCHIKAN TO: JUNEAU INFORMATION
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REPS. BEIRNE, MARTIN, CATO, MALONE, SMITH
FROM: LOREEN SMITH
RT. 1 BOX 956
KETCHIKAN, ALASKA
247-8618

RE: SSHB 500

I AM OPPOSED TO LEGISLATION BANING STATED FUNDED ABORTIONS FOR PREGNANT
POOR WOMAN. THE ADDITIONAL BURDEN OF AN UNWANTED CHILD ASSURES HER CONTINUED
DEPENDANCE ON SOCIAL ASSISTANCE AND CREATES ADDITIONAL COSTS TO DEAL WITH
THE MEDICAL, SOCIAL AND EMOTIONAL EFFECTS. PLEASE OPPOSE PASSAGE OF SSHB 500.
THANK YOU. EOM/BCP

MSG 82-00002419 PRTY 1 01/20/82 15:21:41 ORIG: LA00 IN= 0018 OUT= 0105
FROM: CINDY, ANCH TO: JNU INFO
TARGET: LJH2 SUBJ: P O M PAGE 0002

TO: REPRESENTATIVES BEIRNE, CATO, MALONE, MARTIN AND SMITH

FROM: PAT GLENHAM, 833 W 23RD #2, ANCH. 99503 (272-6091)

I AM STRONGLY OPPOSED TO WITHDRAWING STATE AID FOR ABORTIONS.
HB 500

MSG 82-00012669 PRTY 1 03/09/82 15 20 05 ORIG LR00 IN= 0008 OUT= 0081
FROM FLORENCE IN BARROW TO JUNEAU INFORMATION
TARGET: LJH2 SUBJ: P.O.M. PAGE 0001

TO: REPRESENTATIVES ADAMS, MARTIN, METCALFE, BEIRNE, RANDOLPH, CATO, MALONE, SMITH

SENATOR FERGUSON

FROM: MARY BENMELS
BOX 781
BARROW, ALASKA 99723
(H) 852 - 564[illegible] (W) 852 - 5[illegible] EST 210

AN UNWANTED BABY AND A MOTHER TOO POOR TO CARE FOR IT ARE A COMBINATION YOU CAN HELP PREVENT. BY VOTING TO CONTINUE UNLIMITED STATE FUNDED ABORTIONS, YOU CAN ALSO REDUCE LIFETIME WELFARE PAYMENTS. MOST IMPORTANTLY FOR LEGISLATORS TO REMEMBER THE POOR WOMEN OF ALASKA HAVE THEIR RIGHTS, TOO.

MSG 82-00012588 PRTY 1 03/09/82 12:05 05 ORIG: LM00 IN= 0008 OUT= 0049
FROM: DIANE MATSU TO: JUNEAU INFO
TARGET: LJH2 SUBJ: P.O.M.'S PAGE 0005

TO: REPRESENTATIVES BEIRNE, MARTIN, SMITH, CATO, AND MALONE.

FROM: PATTY HAUGOM
BOX 314
PALMER, 99645
PH: 745-4166

RE: HB500

I AM AGAINST FUNDING ABORTIONS. I FAVOR PASSAGE OF THIS BILL.

MSG 82-00002664 PRTY 1 01/21/82 13:01:25 ORIG: LA03 IN= 0005 OUT= 0071
FROM: EF TO: JNU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0002

TO: REPS. BEIRNE, MARTIN, CATO, SMITH, MALONE

FR: ELAINE LOOMIS, BOX 690, KODIAK, 99615 486-5725

RE: HB 500. THIS BILL WILL NOT STOP ABORTION NOR LOWER TAXES. MANY PEOPLE IN PRISONS WERE UNWANTED PREGNANCIES. HOW MUCH DO WE PAY A DAY FOR EACH PRISONER FROM OUR TAXES. I WOULD RATHER HAVE MY TAXES SUPPORT PREVENTION THAN EFFECT. I URGE YOU TO VOTE THIS BILL DOWN.

MSG 82-00002664 PRTY 1 01/21/82 13:01:25 ORIG: LA03 IN= 0005 OUT= 0071
FROM: EF TO: JNU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0003

TO: REPS. BIERNE, MARTIN, CATO, SMITH, MALONE

FR: MARK ROUTZAHN
248 E. 45TH #3
ANCHORAGE 99503 276-2121

I URGE THAT THIS BILL NOT BE PASSED AT THIS DATE. WE HAVE TOO MANY PEOPLE LOOKING FOR HOMES IN ADOPTION AGENCIES AND CHILD ABUSE AND NEGLECT IS A CONSTANT SOCIAL INDICATOR OF ECONOMIC STRESS AND IMPACT ON THE FAMILY ITSELF. I BELIEVE THAT THE ISSUE OF ABORTION IS A PRIVATE AND PERSONAL DECISION THAT THE MOTHER AND HOPEFULLY FATHER CAN COME TO A DECISION ON.

MSG 82-00002290 PRTY 1 01/20/82 11:30:46 ORIG: LOOO IN= 0003 OUT= 0045
FROM: KODIAK TO: JUNEAU
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE PAGE 0001

TO: REPRESENTATIVES MIKE BEIRNE, TERRY MARTIN, BETTE CATO, SALLY SMITH AND HUGH MALONE

FROM: LINDA FREED
P.O. BOX 950
KODIAK, AK. 99615
HM:486-5314, WK:486-5736

I WANT TO VOICE MY OBJECTION TO HOUSE BILL NO. 500. I FEEL THE BILL DISCRIMINATES AGAINST POOR WOMEN IN THIS STATE. THE CHOICE OF ABORTION SHOULD BE AN INDIVIDUAL DECISION MADE SERIOUSLY BY THE PEOPLE INVOLVED, NOT BY DISTANT POLITICIANS. THIS BILL IS AN INFRINGEMENT ON THE PERSONAL CHOICE OF WOMEN BASED ON THEIR FINANCIAL STATUS. I URGE YOUR REJECTION OF THIS BILL IN COMMITTEE.

THANK YOU FOR YOUR CONSIDERATION.

MSG 82-00002559 PRTY 1 01/21/82 10:32:25 ORIG: LS00 IN= 0007 OUT= 0027
FROM: ELAINE TO: JUNEAU
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REPRESENTATIVES BEIRNE, MARTIN, CATO, SMITH, MALONE

FROM: JANE DONNELLY., BOX 1644, SITKA, AK. 99835

MESSAGE: WOMEN MUST HAVE LEGAL CONTROL OVER THEIR BODIES. LIMITING STATE FUNDS FOR ABORTION DEPRIVES SOME WOMEN (THOSE WITHOUT MONEY) OF THIS CONTROL.

MY FRIENDS AND I FEEL THAT LIMITING STATE ABORTION FUNDS DISCRIMINATES AGAINST WOMEN WITH NO MONEY.

ABORT HB 500! IT DISCRIMINATES AGAINST POOR FEMALES.

HB 500 IS DISCRIMINATORY BECAUSE IT DOESN'T ALLOW LOW INCOME WOMEN TO CHOOSE ABORTION. IF ALL LEGISLATORS WERE FEMALE, I'LL BET HB 500 WOULDN'T EVEN BE CONSIDERED. I URGE YOU TO LET THE BILL DIE; IT IS DISCRIMINATORY - AGAINST WOMEN WITHOUT MONEY.

MSG 82-00002681 PRTY 1 01/21/82 13:10:34 ORIG: LA03 IN= 0007 OUT= 0079
FROM: EF TO: JNU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0001

TO: REPS. MARTIN, BEIRNE, CATO, SMITH, MALONE

FR: GREGORY A. PIERSON
GENERAL DELIVERY, KODIAK, AK 486-5954

THE MONEY - PUBLIC MONIES - ARE WELL SPENT IN THE AID OF LOWER INCOME WOMEN OR FAMILIES TO OBTAIN ABORTIONS -- ABORTION IF NOTHING ELSE. THE GOVERNMENT HAS THE RESPONSIBILITY TO PROTECT ITS CITIZENS AND PROTECTION FROM SOCIETAL DISASTER THROUGH OVER POPULATION IS NO EXCEPTION.

MSG 82-00002555 PRTY 1 01/21/82 10:28:16 ORIG: LS00 IN= 0005 OUT= 002
FROM: ELAINE TO: JUNEAU
TARGET: LJH2 SUBJ: POM PAGE 000

TO: REPRESENTATIVES BEIRNE, MARTIN, CATO, SMITH, MALONE, GRUSSENDORF AND SENATOR ELIASON.

FROM: MARLE BRANDT, GENERAL DELIVERY, SITKA AK. 99835.

MESSAGE:

MSG 82-00002168 PRTY 1 01/19/82 17:43:52 ORIG: L000 IN= 0005 OUT= 0157
FROM: KODIAK TO: JUNEAU
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE PAGE 0001

TO: REPRESENTATIVES MIKE BEIRNE, TERRY MARTIN, BETTE CATO, SALLY SMITH, HUGH MALONE

FROM: JANET WENTE
P.O. BOX 2791
KODIAK, AK. 99615, 486-5725

HB 500 IS A BIG STEP IN THE WRONG DIRECTION. I AM OPPOSED TO IT AND FEEL TH LEGISLATION LIMITS WOMEN'S REPRODUCTIVE RIGHTS. WOMEN MUST HAVE SAFE, LEGAL AND, IF NECESSARY, STATE SUBSIDIZED ABORTIONS AVAILABLE TO THEM.

MSG 82-00002168 PRTY 1 01/19/82 17:43:52 ORIG: L000 IN= 0005 OUT= 0157
FROM: KODIAK TO: JUNEAU
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE PAGE 0003

TO: REPRESENTATIVES MIKE BEIRNE, TERRY MARTIN, BETTE CATO, SALLY SMITH AND HUGH MALONE

FROM: ANN MARSHALL
P.O. BOX 571
KODIAK, AK. 99615, 486-5725

I AM OPPOSED TO THE PASSAGE OF HB 500. I FEEL THAT THIS LEGISLATION IS ONE WHICH WOULD LIMIT WOMEN'S [illegible]JCTIVE RIGHTS. IT IS MY CONVICTION THAT ALL WOMEN ARE ENTITLED TO SAFE, LEGAL AND SUBSIDIZED ABORTIONS.

MSG 82-00002536 PRTY 1 01/21/82 09:34:03 ORIG: LJ08 IN= 0004 OUT= 0013
FROM: JOYCE TO: JUNEAU
TARGET: LJH2 SUBJ: P O M PAGE 0001

TO: ALL REPRESENTATIVES

FROM: BEVERLY METZGAR
P. O. BOX 546
JUNEAU, AK 99802
789-0196

I WOULD LIKE YOU TO VOTE FOR HB. 500.

SG 82-00002360 PRTY 1. 01/20/82 13:32:15 ORIG: LA00 IN= 0012 OUT= 0080
ROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
ARGET: LJH2 SUBJ: P O M PAGE 0011

TO: REPRESENTATIVE MIKE BEIRNE

FROM: SUSAN CUNNINGHAM, 4011 MERRILL DRIVE, ANC 99503 (248-0272)

I AM OPPOSED TO MAKING ABORTIONS ILLEGAL.

MSG 82-00002179 PRTY 1 01/19/82 18:41:22 ORIG: LA00 IN= 0030 OUT= 0161
FROM: CINDY, ANCH TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REPRESENTATIVES BEIRNE, CATO, MALONE, MARTIN, SMITH

FROM: PATRICIA ERETZIAN, 2520 NORTHRUP PL. 99504 (279-9396)

I STRONGLY OPPOSE HB 500 AND URGE YOU TO VOTE AGAINST IT. IT IS VERY DISCRIMINATORY AGAINST THE UNDERPRIVILEGE .

MSG 82-00002470 PRTY 1 01/20/82 17:00:43 ORIG: LA00 IN= 0023 OUT= 0133
FROM: LANA IN ANC TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 0003

TO: REPRESENTATIVES MARTIN, BEIRNE, MALONE, SMITH, CATO

FROM: JOYCE RIVERS
STATE COORD., NATIONAL ORGANIZATION FOR WOMEN
2741 W 42ND PLACE
ANC 99503 (H) 248-2909

URGE YOU TO NOT ENDORSE HB 500. THIS BILL WOULD PREVENT PEOPLE WHO ALREADY SUFFER ECONOMIC HARDSHIPS FROM HAVING ANY CHOICE ABOUT AN ABORTION, WHILE PEOPLE WITH MONEY HAVE THE RIGHT TO EITHER CHOOSE OR NOT CHOOSE THIS LEGAL MEDICAL PROCEDURE. HB 500 SHOULD NOT BE PASSED.

500

TELEGRAM

#

02651 NL IDA NORTHPOLE AK 50 01-12 1008P AST

PMS REP MIKE BEIRNE

1198

JUN

WE THE UNDERSIGNED STRONGLY OBJECT TO HB500. THE RIGHT TO ABORTION CANNOT BE TAKEN FROM ANY WOMAN.

TRUDIE DARNELL, VICKI SHOFFSTALL, ANDI ABBOTT, ROGER SHOFFSTALL, TOM DARNELL, BOB MIERS, SHERRY MEYER, TRACY THOMAS, MARVA LARSON, SALLY THOMAS, PENNY DAVIES, PAUL LARSON

MSG 82-00002380 PRTY 1 01/20/82 14:03:29 ORIG: LJ08 IN= 0014 OUT= 0081
FROM: JOYCE TO: JUNEAU
TARGET: LJH2 SUBJ: P O M PAGE 0001

TO ALL REPRESENTATIVES

FROM BONNIE ZEMAN
BOX 47
DOUGLAS 99824
364-3491

I AM IN FAVOR OF HB 500. THANK YOU.

MSG 82-00001801 PRTY 1 01/18/82 16:45:26 ORIG: LF01 IN= 0008 OUT= 0119
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, AND SMITH
SENS. BENNETT, FAHRENKAMP, AND PARR
REPS. BEIRNE, MARTIN, CATO, AND MALONE

FROM: THERESA HOBBY, S.R.BOX 90341, FBKS. 99701 488-3070

RE: HB500

I AM OPPOSED TO HB500 BECAUSE I THINK IT DISCRIMINATES AGAINST THE POOR WOMEN OF ALASKA.

13 SEP 81 8:54

ALASCOM

Telegram

02014 NL SITKA AK 50 09-13 2915 ADT

PMS MIKE BEIRNE 277-6219

BOX 4-1539 02841

ANCHORAGE AK 99509

I URGE YOU TO WITHDRAW YOUR ANTI-ABORTION BILL. IT DETRACTS FROM THE RIGHTS OF WOMEN, FORCES WOMEN INTO THE BLACK MARKET FOR ABORTION AND CREATES SUFFERING AND HARDSHIP FOR WOMEN AND UNWANTED CHILDREN. YOUR BILL REPRESENTS A SMALL MINORITY OF PEOPLE WITH TUNNEL VISION.

CANDY RUTLEDGE

MSG 82-00010687 PRTY 1 02/26/82 15:17:53 ORIG: LA00 IN= 0017 OUT= 0109
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM

PAGE 0005

TO: REPRESENTATIVES BEIRNE AND MARTIN

FROM: ANNELY GIRARD
3703 SEAFORTH
ANCHORAGE 99504 (H) 278-3966

YOUR STAND AGAINST STATE FUNDING AGAINST ABORTIONS AND CONTRACEPTION PROGRAMS FOR THE POOR IS IRRATIONAL. IT SEEMS THAT COST EFFECTIVENESS AND PUBLIC SUPPORT FOR THESE SERVICES ARE IGNORED AND THAT YOUR PERSONAL BIAS PREDOMINATES. YOU WERE ELECTED TO REPRESENT THE PEOPLE, NOT YOURSELVES. FOR SHAME!

SIGNED: A DISGUSTED ALASKAN

MSG 82-00002395 PRTY 1 01/20/82 14:24:55 ORIG: LJ06 IN= 0015 OUT= 0093
FROM: JOYCE TO: JUNEAU
TARGET: LJH2 SUBJ: P O M

PAGE 0001

TO: ALL REPRESENTATIVES

FROM: DOROTHY WILSON
P. O. BOX 629
JUNEAU, AK 99802
586-6358

SUPPORT HB 500 AND MORE

13 SEP 81 8:54

Telegram

02018 NL SITKA AK 50 09-13 2915 ADT

PMS MIKE BEIRNE 277-6219

BOX 4-1539 02845

ANCHORAGE AK 99509

I URGE YOU TO WITHDRAW YOUR ANTI-ABORTION BILL. IT DETRACTS FROM THE RIGHTS OF WOMEN, FORCES WOMEN INTO THE BLACK MARKET FOR ABORTION AND CREATES SUFFERING AND HARDSHIP FOR WOMEN AND UNWANTED CHILDREN. YOUR BILL REPRESENTS A SMALL MINORITY OF PEOPLE WITH TUNNEL VISION.

ROSI GROSS, PUBLIC HEALTH EDUCATOR

13 SEP 81 8:54

Telegram

02016 NL SITKA AK 50 09-13 2915 ADT

PMS MIKE BEIRNE 277-6219

BOX 4-1539 02843

ANCHORAGE AK 99509

I URGE YOU TO WITHDRAW YOUR ANTI-ABORTION BILL. IT DETRACTS FROM THE RIGHTS OF WOMEN, FORCES WOMEN INTO THE BLACK MARKET FOR ABORTION AND CREATES SUFFERING AND HARDSHIP FOR WOMEN AND UNWANTED CHILDREN. YOUR BILL REPRESENTS A SMALL MINORITY OF PEOPLE WITH TUNNEL VISION.

MICHAEL SMITH, PUBLIC HEALTH EDUCATOR

TO: ALL LEGISLATORS

FROM: MARY WILLOCK
322 S. FLOWER ST, APT 6
ANCHORAGE 99504 (H) 333-2436

AS A NURSE, I AM APPALLED BY THE FORMAT OF SS HB 500 THAT WOULD DENY POOR ALASKANS FROM RECEIVING FAMILY PLANNING SERVICES. PLEASE DO NOT LET IT PASS. VOTE NO.

14 SEP 81 7:50

ALASCOM

Telegram

02003 TDA SITKA ALASKA 101 09-14 0735A ADT

PMS HOUSE H.E.S.S. COMM

700 H ST SUITE 8 02859

ANCHORAGE AK

I BELIEVE THAT GOVERNMENT SHOULD DO ALL IT CAN TO ASSIST WOMEN IN OBTAINING SAFE AND AFFORDABLE ABORTIONS. OUR COUNTRY IS BASED ON THE PREMISE OF FREEDOM: ALL PEOPLE NEED THE RIGHT TO CHOOSE WHAT IS BEST FOR THEMSELVES. WE WOMEN WHO DO NOT WANT TO UNDERGO ABORTIONS SHOULD NOT HAVE TO AND THOSE OF US WHO WISH TO END UNWANTED PREGNANCY THROUGH ABORTION HAVE AN ABSOLUTE RIGHT TO DO SO. PLEASE DO NOT SET INTO MOTION LEGISLATION WHICH TAKES AWAY THE RIGHTS OF THE INDIVIDUAL WOMAN TO CHOOSE THE APPROPRIATE COURSE FOR HERSELF.

MARIKA PARTRIDGE

BOX 936 SITKA ALASKA 99835

Telegram

02007 TDA SITKA ALASKA 52 09-14 0840A ADT

PMS THE HOUSE HESS COMMITTEE

700 H ST SUITE 8 02866

ANCHORAGE AK 99501

STRONGLY URGE REJECTION OF HB500 AND 550. THE RIGHT TO CHOOSE THE COURSE OF ONES LIFE AND THE MOST FAVORABLE CIRCUMSTANCES IN WHICH TO BEAR AND RAISE A CHILD IS CENTRAL TO THE FREEDOM THAT IS PRESENTLY ENJOYED AND CHERISHED BY AMERICAN WOMEN. THESE BILLS REFLECT AN ALARMING EROSION OF HUMAN RIGHTS.

WILLA RABINOVITCH

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

[illegible] – Do pass [illegible]

[illegible]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[illegible] – do not pass

[illegible] – Do Not Pass

[illegible] – Do Not Pass

[illegible]

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.

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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.

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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).

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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]

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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

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 951, 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, as 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 950, 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 635.

[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 ... 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 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 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.

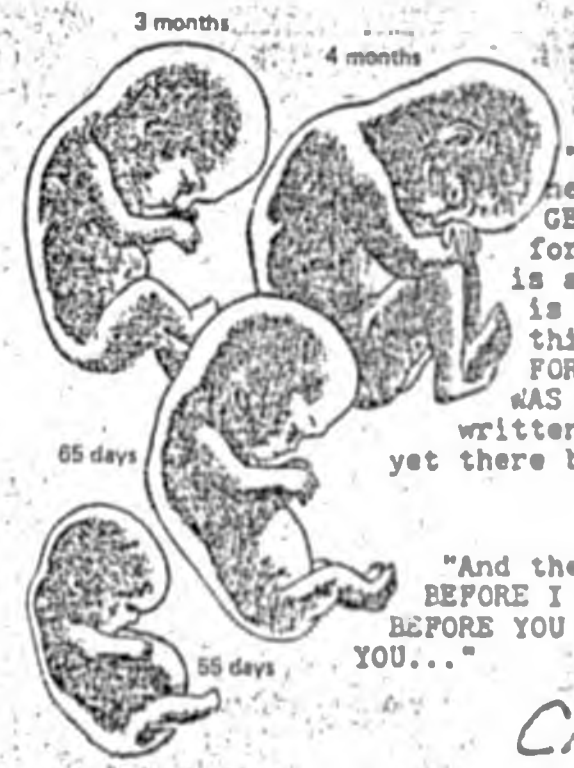
Sincerely,

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

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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.

ST. NICHOLAS R. O. CHURCH
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The Orthodox Church

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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 at 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."

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 Berzonsky and Albert Foundas as vice chairmen.

As a first token of the new program, Council member Paul Cullen 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 Churches.

The Orthodox group said in a written statement that the president and executive minister 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 two-page advertisement."

"In this instance, those 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. William Zeigler, the council president.

In its statement, the Orthodox Council noted that "it has been the position of the 300 million [worldwide] member Orthodox Church over the centuries that the aborting of unborn life is morally wrong. To do so, reasons the Orthodox Church, would be transgressing 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 1966.

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

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

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

Ms. Calin, 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, filial" 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 rather emphasized their differences from men, differences that in no way [illegible] or demeaned them," she added.

She described as "folly" the argument that the customs of the times kept Christ from choosing women Apostles, claiming that Jesus "did a lot of things that were contrary to the culture and custom of the times, like fraternizing with sinners and plucking grain on the Sabbath."

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

She went on to point out that neither Mary nor Martha, the sisters of Lazarus who appear in St. John's Gospel "whom He dearly loved," were invited to join the Apostles, "to become fishers of men, to go out and teach all 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 customs is a denial of His divinity, as if He didn't know what would happen in 1978," she added.

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—concerns [illegible] of a passageway that leads an Ethiopian monastery on the roof of the Chapel 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 Beasts.

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

No fewer than six Christian sects lay claim to parts of the church: Greek Orthodox, Roman Catholics, Franciscan Fathers, Armenians, Syrians, as well as Ethiopians and Copts.

In the course of history, every stone and altar has been battled over, apportioned, 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 have 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 expression 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, initiated 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 commission, 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 interfered 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 community 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 protest against these measures."

Antiochian Church Forbids Bingo

ENGLEWOOD, N.J. (RNS)—The head of the Antiochian Orthodox Christian Archdiocese of North America has issued an "archpastoral 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 30th general assembly in Montreal in 1974.

"Although we were hopeful 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 spirit 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 110 North American parishes.

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

The Orthodox Church

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'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 makes some religious resolution. 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 imprinted 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.

Lubyanka Hausmann

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 American.

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 communities will join 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 Nimcher
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 right 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 president 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 5th 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

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.

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)

*[illegible] as a deacon at the Cathedral of Moscow in the Vladimir diocese. For his preaching activity and for his support of a revival movement of the Orthodox youth, he was dismissed from his parish in November 1973. Victor Kapitanchuk, born in a Communist family, converted to Christianity in 1965. Since then he [illegible] in the life of the Orthodox Church.

[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."

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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

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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.

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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

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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

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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 MB

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	Jean 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 Ewell
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	~~[illegible]~~ Susan Winslow Laurie Ferrell (Carroll)
12:00 Noon-1:30 pm	BREAK FOR LUNCH XXXXXXXXXXXXXXXXXXXXXXXXXX

Marchine Reuler & Katie 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.