DATE: _____

TO: Sherrie Cooksey

Per your request of last week, I am enclosing a couple of sheets covering the set of charges being raised against Sandra O'Connor.

FROM: Edward Lynch
Office of Correspondence
Room 94
Extension 7610

FAC-SHEET

#23. WOMEN AND CIVIL AUTHORITY

BACKGROUND BRIEFING

ART III, Sec 1, of US Constitution establishes Judicial branch of federal govt. and creates US Supreme Court. ART II, Sec 2(2) gives President power to appoint Justices with advice and consent of US Senate. Since 1787, 101 Justices have been appointed to that highest court; all men. On July 7, 1981, President Ronald Reagan nominated Arizona Judge Sandra Day O'Connor to be 102nd Justice. Judge O'Connor, 51, served in Arizona State Senate (1969-74), was elected to State Superior Court in 1975, and appointed to State Court of Appeals in 1979.

Judge O'Connor is described as a political and judicial "moderate," "meticulous," "conscientious," devoted to the law, inclined to favor state's rights vs federal interposition, and pro law & order. US Atty. Gen. William French Smith stated she shares Mr. Reagan's philosophy of "judicial restraint" and deference to the legislative in the making of law.

President's action in nominating Judge O'Connor received mixed reviews. Media hailed it as "a superb piece of politics," "a deft political manuever." National Organization of Women (NOW) termed it a "victory for women's rights." Militant feminist, Gloria Steinhem, said it was "a clear tribute to the growing strength of women."

Most vociferous objection to nomination came from pro-life, pro-family, and anti-ERA forces. They assert a review of her record as State Senator indicates she is pro-abortion and pro-ERA. Mrs. Connie Marshner, editor of the Family Protection Report, cited the 1980 GOP platform that pledged the Republican party to work for judges who "respect family traditional values and the sanctity of human life." Said Mrs. Marshner: "We do not feel that Sandra O'Connor fulfills these qualifications." Also, opponents point out that in essence, GOP platform opposed federal ERA.

Judge O'Connor declined to discuss her record or her stand on those crucial issues, saying they would no doubt be examined in full during confirmation hearings before the Senate Judiciary Committee (probably in September).

Here is capsule review of Judge O'Connor's record on those issues when in the Arizona State Senate (Plymouth Rock is indebted to Bill Billings of National Christian Action Coalition for these records. Billings spent 5 days in Phoenix researching State Senate Journals, etc.)

ABORTION: 4/29/70 (HB 20) - a bill to remove all legal sanctions against abortions performed by licensed physicians. Senator O'Connor voted "Aye." 2/8/73 (SB 1190) - Senator O'Connor introduced Family Planning Act to provide any person in State, including minors without consent of parents, "all medically acceptable family planning methods" and authorized State to receive and disperse funds for such purposes. Bill was generally considered pro-abortion, and one that would "remove from parents the control of their children." 4/23/74 (HCM 2002) - right-to-life "memorial" urging US Congress to extend constitutional protections to unborn babies by prohibiting abortions except in cases of rape, incest, or other criminal actions. Senator O'Connor voted "Nay." 5/74 - appropriations bill for Univ. of Arizona hospital that contained anti-abortion rider except where needed to save life of the woman. Senator O'Connor voted "Nay" on the rider.

EQUAL RIGHTS AMENDMENT (ERA): Senator O'Connor led early fight to have Arizona ratify ERA. Said "amendment (was) in tradition of other great amendments," "an historic step in traditions of women's liberation." 4/1/74 (SJR 1001) Senator O'Connor pressed for ratification of ERA; urged Senate Judiciary to report measure to Senate with "Do Pass" recommendation. 1970 (SB 201) - Senator O'Connor sponsored bill to lift 8-hour day for working women. Opponents tagged bill as being anti-family.

PORNOGRAPHY: 4/21 7 4/28/71 - Senator O'Connor introduced amendments that colleagues said would weaken legislation designed to strengthen Arizona's anti-pornography laws.

"NO FAULT" DIVORCE: 1973 (HB 1007) - Senator O'Connor sponsored bill to repeal then existent grounds for divorce, substituting as only requirement "the marriage is irretrievably broken." Sen Scott Alexander (O'Connor's brother-in-law) termed it "a 'very humanistic' attempt to hold families together and reduce bitterness."

GENERAL: Senator O'Connor opposed gun control; supported voluntary prayer in school; opposed forced busing; opposed labor union contributions to political campaigns, and helped draft capital punishment legislation (as trial judge, she imposed death penalty).

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ACTION NEWS

1. O'CONNOR POSITION: REAGAN LETTER
2. AUGUST 15 DAY OF RESCUE

WEEKEND, AUG. 14-16, 1981

PRO-LIFE WEEKEND ACTION NEWS FOR AUGUST 14 THRU 16. WHILE ALL THE TRENDY LIBERALS IN THE COUNTRY, THE LIBBERS, PRO-ABORTIONISTS AND MAJORITY OF NEWS-EDITORS AND COLUMNISTS, AND A BEVY OF CONSERVATIVES WHO AREN'T EXACTLY MARCHING AGAINST ABORTION, JUMPED QUICKLY ON THE SANDRA-DAY-O'CONNOR-FOR-SUPREME-COURT-JUSTICE BANDWAGON IN A GREAT NATIONAL KNEE-JERK REACTION TO PRESIDENT REAGAN'S APPOINTMENT, STALWART PRO-LIFERS STOOD THEIR GROUND AND SAID NO TO THE O'CONNOR APPOINTMENT. AND NOW IT APPEARS THAT A CHINK OR TWO HAVE APPEARED IN THE O'CONNOR ARMOR, THAT ARE GOING TO BE HARD TO PATCH OVER WHEN CONFIRMATION HEARINGS BEGIN SEPTEMBER 9. ONE OF THE CHINKS CURRENTLY AMAZING PRO-LIFERS AND SOME WHO APPROVED THE APPOINTMENT, IS A STATEMENT IN A NOW FAMOUS LETTER TO CHICAGO'S MARIE CRAVEN FROM THE PRESIDENT DEFENDING HIS APPOINTMENT. IN TRYING TO JUSTIFY A PRO-ABORTION VOTE O'CONNOR MADE WHILE AN ARIZONA STATE SENATOR, THE PRESIDENT CLAIMS THAT O'CONNOR VOTED AGAINST AN AMENDMENT TO A STATE UNIVERSITY FUNDING BILL THAT WOULD HAVE STOPPED ABORTIONS AT THE UNIVERSITY HOSPITAL. REAGAN ASSURES MRS. CRAVEN THAT O'CONNOR WAS ONLY VOTING AGAINST AN EXTRANEOUS AMENDMENT BECAUSE THE ARIZONA CONSTITUTION PREVENTED ADDING NON-GERMAIN CLAUSES TO BILLS, AND THAT SHE VOTED WITH THE MAJORITY IN TURNING THE AMENDMENT DOWN. THE FACT IS THAT THE AMENDMENT PASSED ALONG WITH THE BILL 20 TO 9, AND O"CONNOR WAS IN THE MINORITY. FURTHERMORE, THE FULL BILL WITH THE AMENDMENT WAS SIGNED BY THE GOVERNOR A FEW DAYS LATER, AND ONE YEAR LATER THE WHOLE BILL, WITH SPECIAL ATTENTION TO THE CONSTITUTIONALITY OF THE HOSPITAL CUT-OFF, WAS APPROVED BY THE ARIZONA SUPREME COURT. IT IS SIGNIFICANT THAT PRESIDENT REAGAN WAS MIS-INFORMED ON THIS IMPORTANT MATTER. THE MEDIA HAS BEEN USING IT TO TRY TO SHOW HOW UNREASONABLE PRO-LIFERS ARE IN CONSIDERING THIS AN O'CONNOR PRO-ABORTION VOTE. IT IS ALSO SIGNIFICANT THAT THIS IS THE ONLY O'CONNOR PRO-ABORTION VOTE THE PRESIDENT ALLUDES TO IN HIS LETTER TO MRS. CRAVEN, WHEREAS AT LEAST FIVE SEPARATE PRO-ABORTION VOTES ARE ON HER RECORD. THE MOST OUTRAGEOUS, WE THINK, IS HER REFUSAL TO VOTE FOR A MEMORILIZATION OF A HUMAN LIFE AMENDMENT, WHICH MERELY SAYS ROE. V. WADE IS NOT A PROPER INTERPRETATION OF THE CONSTITUTION:A MEMORILIAZATION IS A PIECE OF PAPER THAT EVEN A GENROUS MINDED PRO-ABORTIONIST COULD SIGN WITHOUT BOTHERING HIS CONSCIENCE. BUT ADDED TO THIS WAS AN O'CONNOR SPONSORED PLANNED PARENTHOOD BILL ALLOWING TEENS TO BE GIVEN CONTRACEPTIVES AND ABORTION REFERRALS WITHOUT PARENTAL CONSENT, A BILL THAT WOULD HAVE STRUCK DOWN ALL STATE ABORTION RESTRICTIONS THREE YEARS BEFORE ROE V. WADE. O'CONNOR ALSO HAD A STRICT ANTI-PORNOGRAPHY BILL SOFTENED UP, AND CALLED GOVERNMENT HELP FOR PAROCHIAL SCHOOL STUDENTS "UNCONSTITUTIONAL." WE ARE PROUD OF THE PRO-LIFERS WHO ARE STANDING BY THEIR GUNS ON THE STOP O'CONNOR DRIVE, AND THANK MARIE CRAVEN FOR HER LETTER TO PRESIDENT REAGAN, TO WHOEVER IT WAS IN THE WHITE HOUSE WHO GOT THE LETTER TO THE PRESIDENT, TO PATRICK BUCHANAN FOR HIS COLUMN PUBLICIZING IT, AND TO THE PRESIDENT FOR HIS REVEALING ANSWERS -- ANSWERS THAT REVEAL THAT IF PRESIDENT REAGAN HAD BEEN GIVEN THE STRAIGHT DOPE ON SANDRA DAY O'CONNOR HE MIGHT NEVER HAVE APPOINTED HER TO THE HIGH COURT. MAYBE IT"S NOT TOO LATE YET. /// THIS SATURDAY IT WILL UNDOUBTEDLY RAIN, BUT WE STILL EXPECT A GOOD TURN OUT AT THE LOCAL ABORTION MILL FOR THE DAY OF RESCUE. BRING AN UMBRELLA, AND THANK YOU FOR CALLING PRO LIFE WEEKEND ACTION NEWS.

Joe Scheidler

The Phyllis Schlafly Report

VOL. 14, NO. 12, SECTION 1 BOX 618, ALTON, ILLINOIS 62002 JULY, 1981

The Rightness of Reaganomics

Almost every American President has suffered a loss of his own party's strength in Congress in the mid-term elections. The exception was Franklin D. Roosevelt elected in 1932; the Democrats increased their majorities in the Congressional elections of 1934. F.D.R. was able to keep his 1932 political momentum going and bring about a massive change in American political, economic and social trends.

The question is, can Ronald Reagan do likewise? Was the 1980 election a freak of timing, or is it the start of a new conservative era? Will conservative strength gain or fade in the 1982 elections? That question will be answered by the economy in general and by tax cuts in particular.

Ronald Reagan was elected with a mandate to cut taxes 10 percent a year for each of three years in order to stimulate the private enterprise economy and drastically cut the size of the Federal Government. Reagan's campaign promise was to enact Kemp-Roth tax cuts based on what is called "supply-side" economics. Simply put, that means: let incentives stimulate the economy, resulting in investment, capital formation, and creation of private-sector jobs. It means the fulfillment of Reagan's promise to "get America back to work again."

The Democrats in Congress have already forced Reagan to compromise his hope for a 30 percent tax cut (10 percent for each of three years) down to 25 percent over three years. Does that still sound like a big tax cut? It isn't really. The legacy of Jimmy Carter is that, even if Congress took no action at all, taxes would rise at about $100 billion a year (from inflation bracket creep, windfall profits, and Social Security taxes).

In the famous Reagan-Carter debate, Reagan asked Americans, Are you better off today than you were four years ago? The American voters answered NO to that question. The best way to fulfill Reagan's election mandate is to reduce the income tax. We've suffered long enough at the hands of the Keynesian borrow-and-spend, deficit-and-inflation economists. It's time to give the reins to "supply-side" economists.

Tax Cuts Essential Now

Although the Reagan budget cuts are essential to his economic program, the Reagan tax cuts are the heart of it. The tax cuts represent the innovative change, the real turning of the corner from the old, tired liberalism of the past, to the new conservative economics of the future.

The structure and rates of the current Federal income tax are the primary reason for the sluggish capital formation in the United States, which in turn restricts economic growth. High marginal tax rates discourage savings because they grab much income which would otherwise go into savings. To discourage savings means to discourage capital formation, which in turn means to discourage the creation of jobs.

The close relationship between savings and growth is reflected in the experience of other countries. Our big competitor, Japan, has a savings rate which is 4.4 times that of the United States, and a real Gross National Product growth rate which is more than ten times that of ours.

The United States also suffers by comparison with the savings and growth rates of Germany, France and Canada, although they are not as high as Japan's. These unhappy comparisons are despite the fact that we are about 60 percent self sufficient in oil, whereas Japan, Germany and France are almost totally dependent on oil imports.

Even though Congress has taken credit for voting a number of "tax cuts" since 1965, these have not been enough to cover the increases in real taxes caused by inflation. We have suffered a striking net increase in taxes due to tax bracket creep, the popular term for the effect of inflation in raising the rates on individual taxpayers by pushing them into higher tax brackets.

Look at how the jaws of the progressive income tax joined with inflation bit into and crushed the individual who had a $10,000 income in 1965. Between 1965 and 1979, his taxes were supposedly reduced $520 by legislative tax cuts, but actually inflation alone increased his taxes by $2,185. At the $40,000 income level, Congress supposedly reduced taxes $1,449, but inflation actually increased the individual's taxes by $18,999. It is obvious that inflation makes windfall profits for the government.

Inflation has made the progressive tax system become progressively more progressive even over the last five years. In 1973, one fifth of the taxpayers were paying 63.7 percent of federal income taxes. By 1978, one fifth of the taxpayers were paying 66.6 percent of the federal tax burden.

"Supply-Side" Means Incentives

Reagan's "supply-side" economics should be called "incentive" economics, because that's what it really means. Incentive is a word that any child can understand and relate to.

Incentive is a motivator that affects all people without discrimination. It moves rich and poor, black and white, male and female. Just as financial incentives may motivate a poor person to remain on welfare rather than take a low-paying job, financial incentives may motivate a rich person to relax and enjoy life rather than invest in a new enterprise.

Unfortunately, liberal economics and our present tax structure provide powerful incentives to idleness. When the poor person chooses idleness instead of work, society loses only the small amount of taxes he would otherwise pay (plus the cost of supporting him on welfare). However, when the rich man chooses idleness over work, society loses not only the large amount of taxes he would otherwise pay, but loses something far more valuable -- new jobs for other people.

The rich man, by definition, has more income than he needs to pay for the groceries and to meet the mortgage payments. When he makes more money than he can spend on himself and his family, he normally invests this excess income in other enterprises; and that's what creates new businesses, plant expansion, and more jobs.

Our present tax structure provides incentives to the rich to quit working, quit producing, quit investing; in other words, to become the "idle" rich instead of the productive rich. If the rich man is in the 60% tax bracket, for every additional dollar he earns, the tax collector gets 60c and he gets only 40c. Since he doesn't really need the money anyway, he decides that leisure is more appealing than extra work or risky investments.

Incentive economics focuses on the marginal tax rates, that is, the tax rate applying to the *next* dollar of income you receive. That's the point at which incentives or disincentives encourage you to earn more or to remain idle. Tax cuts provide incentives to the rich to withdraw from tax shelters, reject leisure, work overtime, forgo consumption, sell gold, buy stocks, start a business, and risk their savings in order to earn more.

Now suppose we cut the tax rates so the rich man can keep 60c from every additional dollar he earns, while paying the tax collector only 40c. All of a sudden, his leisure time costs him 50 percent more. The tax cut has given him an incentive to work harder and to invest more.

It matters a great deal whether the rich remain idle or go to work because, when the rich work overtime or invest in productive enterprises, they pay taxes -- lots of taxes. Rich people make more money for themselves, yet they pay a larger share of the national tax burden. Cutting the marginal tax rates will make the rich pay more taxes.

More important, their investments create more jobs, so more people move into the productive part of the economy. That means a healthier economy, more tax revenues, and less inflation because the nation moves closer to a balanced budget.

A productive economy depends on people working in jobs. If there are not enough jobs for the people who want to work (as now), what we need more than anything else is incentives to induce people with savings or extra income (i.e., rich people) to invest in businesses in a way that creates more jobs (called capital formation).

Incentive economics is the wave of the future which is destined to wash into oblivion the destructive economics of Lord Keynes which preached deficit spending and produced the politics of cynicism: tax and tax, spend and spend, elect and elect. The farsighted "supply-siders" who have developed incentive economics include Paul Craig Roberts, Norman B. Ture, Arthur B. Laffer, George Gilder, Jack Kemp and William Roth.

Block Grants Vs. Categorical Grants

President Ronald Reagan's most far-reaching proposal is his plan to convert some "categorical" grants into "block" grants. The Reagan plan is imaginative, constructive, and would be a giant step forward for every economic, social, and political goal so devoutly sought by Reagan and by his enthusiastic followers.

The spectacular growth of Federal spending and regulatory power over the last decade has spawned a steady and increasing flow of tax dollars to a big variety of special-interest groups. These are called "categorical" grants; they go to particular categories of concerns, designated and regulated by Federal officials.

The Reagan Administration proposes to take some 83 of these categorical grants, divide them into six "blocks" which are designated for broad areas of purpose, cut overall funding by 25 percent, and then turn the money over to the states to spend among the 83 categories.

Just because funding for these programs would be cut 25 percent does not mean that there will be a 25 percent cut in services. The cost of unnecessary regulations, bureaucratic red tape, and Federal overhead is probably at least 25 percent.

The block grant proposal is an historic opportunity to do exactly what the voters elected Ronald Reagan to do: cut Federal spending, slash excessive Federal regulations, and return power, funds, and decision-making to the states. We would get better value for our tax dollars because the states would exert closer supervision over smaller amounts of money.

The Congressional debate on block grants has helped to educate the voters about the variety of special-interest programs on which our tax dollars have been spent. No wonder taxes on Middle Americans are so oppressive! Here are the proposed block grants:

1. The Social Service Block Grant would receive $3.8 billion. This grant covers funding for Day Care, Child Abuse and Prevention, Adoption Assistance, Development Disabilities, Runaway and Homeless Youth, Community Services Administration, Rehabilitation Services, and the Legal Services Corporation.

2. The Energy and Emergency Assistance Grant would receive $1.4 billion. This would cover programs of Home Energy Costs, Low-Cost Weatherization, Emergency Medical Care, and Emergency Social Services.

3. The Health Services Block Grant would be funded at $1.1 billion. This block covers 15 categorical grants including Community Health Centers, Black Lung Clinics, Migrant Health, Home Health Services, Maternal and Child Health, Hemophelia, Sudden Infant Death, Mental Health Services, Drug Abuse, and Alcoholism.

4. The Preventive Health Service Block Grant would be funded at $242 million. This block would include High Blood Pressure Control, Health Incentive, Risk Reduction and Health Education, Venereal Disease, Fluoridation, Rat Control, Lead-Based Paint Poisoning Prevention, Genetic Disease, Family Planning Services, and Adolescent Health Services.

5. The Local Education Agency Block Grant would be funded with $3.6 billion. This block would include Elementary and Secondary Education Grants, plus grants for the Handicapped, Preschool Incentive, Adult Education, Bilingual Education, Basic Skills, and Emergency School Aid.

6. A second block grant of nearly $1 billion for education programs would give lesser amounts under the Elementary and Secondary Education Act, plus grants to Severely Handicapped Projects, Regional Resources Centers, Early Childhood Education, Gifted and Talented, Educational Television, Basic Skills Improvement, Arts in Education, Metric Education, Pre-College Science Teacher Training, Career Education Incentives, Consumer Education, and Women's Educational Equity. (This last has been receiving an annual budget of $10 million.)

Lobbying Against Reagan's Program

All the special interests are lobbying hard to keep funds flowing from Washington directly into their treasuries without the prying eyes of state and local officials and citizens. We would all be better off -- socially, politically, and financially -- if we reassert state and local supervision. Here is one example of tax-funded lobbying against the Reagan program.

The Federal agency called ACTION gave Federal tax funds to a "recipient organization" called the Institute for the Study of Civic Values. In March 1981, the Institute published a survey quiz for the stated purpose of helping citizens "assess the impact of President Reagan's Economic Recovery Program on their own communities or cities." Here is how this ACTION-funded document explains its unique methodology:

"The Cruelty Index is a measure of the hardship imposed upon a community or city by Ronald Reagan's proposed budget cuts in 1982. The Greed Index is a measure of the benefits that the taxpayers -- primarily wealthy taxpayers -- will receive under the President's Tax Reduction plan in 1982."

In case you didn't get the full import of the adroit choice of words "cruelty" and "greed", the document then purports to explain in more detail that the Reagan tax cuts would benefit the wealthy (called the "greedy"), and that the Reagan budget cuts would hurt the poor ("cruelly") by cutting their public services.

In order to spell this out in gruesome detail for those who cannot comprehend the concept of billions of dollars, the ACTION-funded quiz devised a point system to make its smear use of "cruelty" and "greed" more graphic. Each city and community is supposed to undertake its own analysis of the local impact of the Reagan program by assigning one point to every $10 million. For example, New York City was given a Cruelty Index of 53, Philadephia a Cruelty Index of 20.

In opening its investigation of this use of Federal funds, the General Accounting Office stated, "It is apparently a political document intended for wide distribution and would be useful in advocacy or lobbying campaigns." Indeed, it is.

If the Reagan economic program has a hard time getting through Congress, it will be because the American taxpaying public was outspent and outmaneuvered by Federal lobbyists using our tax dollars against us.

Reagan's Regulatory Relief

Regulatory relief for every segment of the economy is an essential part of Ronald Reagan's economic program. Under the capable command of Murray L. Weidenbaum, chairman of the President's Council of Economic Advisers, the Reagan Administration did 104 acts of deregulation in its first four months.

The number of final rules published in the Federal Register dropped by 47%. The number of proposed rules dropped by 54%. The number of published pages dropped by 60%.

Weidenbaum's goal is to reverse the intrusion of the Federal Government into the lives of citizens, into the decisions of businessmen, and into the choices faced by tens of thousands of state and local government officials and administrators. He doesn't think that workers, managers, investors or administrators need the Federal Government to make decisions for them on how to organize and run their daily lives and activities.

Look at the embattled auto industry. The liberal formula is to hamstring it with costly regulations (a burden that Japanese manufacturers don't have to bear), raise taxes, and give a federal subsidy or loan. The Reagan-Weidenbaum way is to rescind 34 specific regulations which, over a five-year period, will save the American motorist $9.3 billion in the cost of buying and operating cars and trucks.

This will also release $1.3 billion in company funds which can now go into capital improvement rather than down the drain of federally-mandated equipment, facilities, and compliance paperwork.

The regulations being lifted or lightened range from rules on bumper strength to exhaust emissions standards and certification procedures. The Administration will also propose that Congress amend the Clear Air Act by eliminating the requirement that all passenger cars meet 1984 emissions standards at higher altitudes.

Here is one example of how a simple change in an auto regulation will reduce costs greatly, allow consumers a wider range of choice, but have no adverse effect on clear air. The Reagan EPA will allow auto manufacturers to meet diesel exhaust emissions standards by using sales-weighted averages of the results from all their different model lines. Some can emit more pollution, some less, but the total of a manufacturer's emissions will be within the clean air standards.

The Reagan Administration has requested the D.C. Court of Appeals to remand to the Environmental Protection Agency for reconsideration a rule EPA previously issued which set noise emissions standards for garbage trucks. The costs, although not great by federal standards, are high in relation to the benefits sought.

More important, the Federal Government has no business being a busybody in the matter of garbage collection, which is a strictly local matter. If noise is a problem, municipalities could solve it better by altering truck routes to accommodate residential neighborhoods, rather than buying expensive sound-proof trucks to comply with EPA regulations.

The Reagan Administration withdrew the Department of Energy's proposed standards for the minimum energy efficiency of major household appliances, such as refrigerators and air conditioners. These unnecessary standards would have required the complete redesign of almost every appliance model by 1986. Appliance purchase prices would increase by $500 million a year, a cost that would never be recouped in saved energy costs, and which would bankrupt the smaller manufacturers that couldn't afford such rapid model changes.

The Secretary of Education withdrew proposed rules that would have required all school systems to offer a particular form of bilingual instruction to children whose primary language is other than English. The cost saving will be substantial and the lifting of this Federal harassment of local school curriculum is welcome.

The Department of Transportation delayed four regulations which would have imposed costly requirements on state and local governments, dictating how they conduct urban transportation planning, design traffic control devices, and rehabilitate or stockpile buses.

The Federal regulatory burden has simply risen way out of all reason. Between 1970 and 1981, Federal spending for regulatory activities alone rose from $0.9 billion to $7.1 billion. In constant dollars, that was an increase of 3½ times. The Reagan Administration is moving on schedule to try to stimulate a more productive economy.

The Productivity State

"What's in a name?" Shakespeare asked. "That which we call a rose by any other name would smell as sweet." But would it? American businesses spend millions of dollars to research and choose (or invent) a name before marketing a product. Publishers know that a book's title often makes or breaks its sale.

The rather unique economic system under which America, from a little band of immigrants who landed on our shores with only the clothes on their backs, grew into far-and-away the most prosperous and productive nation in the world is the greatest success story in history. But the people who enjoy its fruits don't seem to have much respect for the tree or know how to keep it producing.

The reason may be that the tree suffers from the handicap of not having a winning name. "Capitalism" (mistakenly, I believe) connotes *big* business to which most Americans do not relate with affection. "Free enterprise" and "private enterprise" have a hard time competing semantically and sentimentally with "the welfare state" or "the social welfare state," probably because more people relate to "welfare" than to "enterprise."

Yet the proven failure of the social welfare state and of socialism is just as dramatic as the success of capitalism/free enterprise. From Europe to Africa to the Caribbean to Asia, socialism is shown to be a congenitally diseased system which produces perennial shortages, food lines, black markets, political prisons, and people voting with their feet to escape to a capitalist country.

Even Sweden, long touted as the Perfect Experiment in democratic welfare statism, provides convincing evidence of its failure under the most advantageous circumstances: a homogeneous population, rich natural resources, and 150 years of avoidance of war.

With the government now consuming 64 percent of the Gross National Product, a typical Swedish industrial worker pays 50 to 60 percent of his wages in taxes, plus an additional 22.5 percent in value-added tax (VAT), a form of sales tax on all goods and services including food.

The United States may be rushing headlong down the same dead-end road. High taxes to make costly incentive-destroying, non-productive handouts have resulted in double-digit inflation, double-digit interest rates, high unemployment, and low savings and investment. Despite the proven success of the American economic experiment, Americans appear to lack understanding of and commitment to the system that produced our prosperity.

The uniqueness of our economic system has been its high level of capital formation -- the investment in plant and equipment which creates jobs, enables worker-plus-machine to produce more per manhour and thereby be paid higher wages. That's why it is accurate to call our system "capitalism."

However, in the 1980s the word "capitalism" inherits the semantic baggage of decades of leftwing smears. The word "capitalism" looks at the system through the eyes of the saver-investor-owner whom the worker-student-journalist-academician types have been taught to believe is the enemy. We need a new name to sell the successful American system. We need a name to which all participants in the economic process can relate personally.

I suggest we call our unique American economic system "The Productivity State." Productivity is a "good" word; whether we are workers, bosses, or journalists, we all understand that increased productivity (producing more per manhour of labor) brings a higher financial reward. Therefore, all types can relate to the goal: let's increase our productivity so we can labor less and enjoy it more.

The United States over the last decade has had the lowest employee productivity rate of any Western industrial nation. The auto industry, which has priced itself out of the world market, is only the most dramatic proof of our nationwide malaise.

Restoring our world leadership in productivity will require many things, starting with Federal budget cuts, which in turn will allow tax cuts, which in turn will allow increases in savings and investment, which in turn will cause more capital formation, which in turn will create more jobs and more productive jobs.

Calling the American economic system "The Productivity State" will give us a vision of a more prosperous future in which all individuals and groups have a vital stake, can work toward, and can taste their rewards. "The Productivity State" can dispose of the semantic problem so we can get on with more prosperity for more workers.

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U.S. Department of Justice

Assistant Attorney General
Legislative Affairs

TO: Powell Moore

FROM: Robert McConnell

Attached are copies of all materials which were enclosed in the National Right to Life Committee's packet given to Senator DeConcini by Dr. Carolyn Gerster.

To Sherrie -

national RIGHT TO LIFE committee, inc.

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

PRESS RELEASE

ADDENDA

July 22, 1981

Contact: J. C. Willke, M.D., President

(202) 638-4396

DID PRESIDENT REAGAN KNOW?

Regarding Sandra O'Connor's stand on abortion, did Mr. Reagan know of her pro-abortion votes before he nominated her?

On June 25, a list of possible names was sent to the President from the National Right to Life office. Sandra O'Connor was listed as "non-acceptable."

On July 2nd, two direct letters went to Mr. Reagan, one from Dr. Carolyn Gerster, former president of NRLC and founding board member from Arizona, and the other from Dr. J. C. Willke, president of NRLC. Both specifically objected to her possible appointment and gave some details of her pro-abortion voting record.

On July 3rd, a follow-up letter from Dr. Willke with substantive additional details was delivered.

On July 6th, a telegram from Dr. Gerster and a strongly worded letter from Dr. Willke were delivered and also, late in the day, a press release from NRLC naming O'Connor and for the first time publicly stating a strong objection to her nomination.

All of the above addressed to the President were hand delivered to Mr. Edwin Meese's office.

-30-

national RIGHT TO LIFE committee, inc.

Suite 311, National Press Bldg. — 529 14th Street, N.W. — Washington, D. C. 20045 — (202) 638-4396

PRESS RELEASE

July 22, 1981

Contact: Carolyn F. Gerster, M.D.
(202) 638-4396
J.C. Willke, M.D., President
(202) 638-4396

Early in 1980, while president of the National Right to Life Committee, I asked to meet privately with then Governor Ronald Reagan.

I was met at LaGuardia Airport by a member of the Reagan staff, Mr. Tom McMurray, and driven to the Hilton Hotel in Rye, New York. I arrived at the hotel at 12:30 a.m. January 17th, and spoke with Mr. Reagan for approximately 40 minutes.

The President reaffirmed his support of a Human Life Amendment to restore legal protection to the unborn child except in those cases in which the mother's life was in jeopardy

During the course of our conversation, the President initiated the subject of the United States Supreme Court. He told me that there would be possibly three, probably two, and certainly one vacancy during the next four years. He emphasized the importance of the election of a president who would appoint justices to that court who respected the sanctity of innocent human life before, as well as after, birth, and stated that this was his intent.

On January 19, I informed the 51 member Board of Directors of the National Right to Life Political Action Committee of my meeting with Mr. Reagan. With full awareness of the possible loss of the upcoming Iowa caucus and recognizing the political

pitfalls of early endorsement, the Board voted to endorse Mr. Reagan that day.

The President reaffirmed the commitment on at least one occasion early in the campaign and his pledge was later incorporated in the 1980 Republican Party Platform.

I would like to make it clear that I still have complete faith in the President's intentions. I believe he was misinformed regarding Judge Sandra Day O'Connor's senate voting record.

The oft repeated reassurance that Judge O'Connor is "personally opposed to abortion" is meaningless unless clarified.

What must be understood by all concerned, is that many legislators are personally opposed to abortion while insisting that it remain free of any legal restraint.

Unless Judge O'Connor now supports the restoration of legal protection of the unborn child, we respectfully request President Ronald Reagan to withdraw the appointment.

- 30 -

STATE OF ARIZONA
31st LEGISLATURE
2nd REGULAR SESSION

HOUSE

H. C. M. 2002
INTRODUCED
January 17, 1974

REFERENCE TITLE: Constitutional Amendment; Rights; Unborn Child

Referred on January 17, 1974 to Committees:
Rules
Judiciary
Economic Affairs

Committee of Whole
3rd Reading Aye No Absent
Senate Action

Sent to Governor Action

Introduced by Representatives Skelly of District 25; Brown of District 3; Guerrero of District 4; Bradford of District 5; Alley of District 6; Pacheco of District 7; Fenn, Sawyer of District 8; Dewberry, Richey of District 9; Cajero of District 10; Carrillo of District 11; Carlson, Kincaid of District 13; H. Everett, Ratliff of District 15; Lindeman of District 17; West of District 19; Adams, McCune of District 20; Hamilton, Pena of District 22; Abril, Thompson of District 23; Corpstein of District 24; Carvalho, Hungerford of District 28; Cooper, Taylor of District 29; Kunasek of District 30; co-sponsored by Senators Tenney of District 1; Gabaldon of District 2; Hubbard of District 3; Hardt of District 4; Swink of District 7; Ulm of District 9; Lena of District 10; Felix of District 11; Strother of District 16; Koory of District 17; Stinson of District 20; Pena of District 22; Camping of District 25; Ellsworth of District 29; Turley of District 30

A CONCURRENT MEMORIAL

URGING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES ESTABLISHING THAT HUMAN LIFE WITH LEGAL PERSONALITY BEGINS AT THE TIME OF CONCEPTION AND THAT ALL CONSTITUTIONAL RIGHTS, INCLUDING DUE PROCESS OF LAW, APPLY TO THE UNBORN IN THE SAME MANNER AND TO THE SAME EXTENT AS TO ALL OTHER CITIZENS OF THE UNITED STATES.

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, respect for human life has been a hallmark of civilized society for millennia; and

Whereas, a legal threat to the right to life of any individual member of a society imperils the right to life of every other member of that society; and

Whereas, respect for and protection of unborn human life has been traditional with the medical profession since long before the beginning of the Christian era regardless of prevailing political, religious or social ideologies; and

Whereas, the moment of birth represents merely an identifiable point along the course of human development and not the beginning of human life; and

Whereas, the United States Supreme Court has withdrawn all legal protection from an entire class of human beings, namely, the unborn.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress of the United States take appropriate action to amend the Constitution of the United States establishing that with respect to the right to life, the word "person" in the fifth and fourteenth amendments to our federal constitution applies to all human beings, including their unborn offspring at every stage of their biological development, irrespective of age, health, function or condition of dependency, except in an emergency where a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother.

...morial Advanced By Panel

GAZETTE APR 23 1974

The Senate Judiciary Committee reported out a House-approved Right to Life Memorial after hearing comments from both sides.

The final vote was 4 to 2 with Republican Sens. Sandra O'Connor of Paradise Valley and John Roeder of Scottsdale voting against the memorial. Roeder told the committee his response by phone calls and written message ran 175 to 72 against the memorial.

Sen. Hal Runyan, R-Litchfield Park, added an amendment which would permit abortions where rape, incest or other criminal action was responsible for a pregnancy.

The memorial calls on Congress to extend constitutional propositions to unborn babies by prohibiting abortions. An exception als would be made where mother's life was imperil

EXCERPTS FROM A LENGTHY ARTICLE...
(Original copy too light to reproduce)
Phoenix (Az) Gazette, May 7, 1974

...Mrs. Meyer's interview occured at a time during which Arizona House Memorial 2002, which urges the U.S. Congress to pass an amendment to the U.S. Consitution giving the fetus all constitutional rights including the right to life from the moment of conception, is under debate in the Senate majority caucus...
...Sen. Sandra O'Connor (R-Paradise Valley), Senate Majority Leader, is hopeful that the bill will go to the floor before the end of this legislative session. "Im working hard to see to it that no matter what the personal views of people are, the measure doesn't get held up in our caucus."

WEDNESDAY, MAY 15, 1974

Pro-Life Head Raps Senate GOP

The president of Arizona Youth for Life has blamed the GOP Senate caucus for the failure of a legislative memorial against abortion to be passed.

Margaret Saunders of Scottsdale, head of the 400-member student organization formed recently, said, "No other measure up for the state legislature's consideration this session had such an overwhelming demonstration of citizen support."

She said that more than 10,000 persons attended a prolife rally at the State Capitol in January and 35,000 persons signed petitions supporting the memorial introduced in the House, which approved the measure 41-13 in March.

"Thus the very heavy responsibility for blocking this measure to death rests squarely with the Senate GOP caucus," which did not schedule the proposal onto the Senate floor for action, Miss Saunders said.

She said the group will "increase our determination to electorally remove from office that insensitive group who blockaded the efforts of so many other conscientious legislators of both parties."

Phoenix Az Gazette

Right To Life Counsel Calls IUD

One and a half million American women prevent pregnancy through the use of intrauterine devices (IUD's), coil devices which are inserted in the uterus.

According to one school of thought, they are abortifacients.

During a recent radio interview, Rosemary Meyer, counsel for Arizona Right to Life, an anti-abortion group, indicated that she thought IUDs were abortive.

"It is my understanding that there is evidence it (IUD) aborts rather than contraceptes," she later clarified during a telephone interview.

Mrs. Meyer's interview occurred at a time during which Arizona House Memorial 2002, which urges the U.S. Congress to pass an amendment to the U.S. constitution giving the fetus all constitutional rights, including the right to life from the moment of conception, is under debate in the Senate majority caucus. (It already has passed out of the House, and on April 23, the Senate rules committee.)

Whether the memorial will reach the Senate floor before the end of this session, which possibly may be this week, may depend in part on the biological functions of the IUD.

A majority vote (16 out of 28) of the majority caucus is needed before the bill can be scheduled for floor debate. At least one senator has been influenced by Mrs. Meyer's radio statement.

Sen. Leo Corbet (R-Phoenix) said, in noting that the possibility the IUD is abortive may affect his vote, "A lot of us are against unrestricted abortion. I also feel birth control is important."

He suggests a memorial that would permit abortions, [illegible]

Sen. Sandra O'Connor (R-Paradise Valley) Senate majority leader, is hopeful that the bill will go to the floor before the end of this legislative session.

"I'm working hard to see to it that no matter what the personal views of people are, the measure doesn't get held up in our caucus."

Whatever the fate of the bill, the function of the IUD still remains a mystery.

Ann Maerz, RN and clinical director of Planned Parenthood, contends there is evidence pointing in two directions. There is substantiation that the IUD is spermicidal and thus prevents fertilization. But other data indicates that the IUD is an irritant to the lining of the uterus and provides a hostile atmosphere for implantation of the egg. The theory concludes that two to three days after conception, the fertilized egg is unable to implant and thereby aborts.

She observes that the Catholic Church as debated the IUD's function for several years.

While she is not certain of the IUD's functions, she fears possible effects of the proposed constitutional amendment if the IUD is found to be abortive.

"What would you do with the 1.5 million who have IUDs?" She notes that the IUD is the second best form of contraception, next to the birth control pill. "Nothing else alone is that effective."

She also ponders the fate of [illegible] women who take the IUD because medical conditions preclude their use of the pill. Among these medical conditions are high blood pressure, obesity, impaired liver, renal disturbances, thrombosis, migraine headaches, epilepsy or seizures and mental depression.

Dr. Carolyn Gordon, Scottsdale internist, who works with National Right to Life contends that the majority of research points to the IUD's abortive functions. Personally, she would not use or prescribe the IUD because of her doubt. She does not denounce women who use the IUD. But she fears misinterpretation of the IUD controversy, [illegible] which Right to Life has not yet taken a stand.

"I'm afraid people are going to get the thing confused and say that Right to Life is against contraception." She is not concerned about possible outlawing of the IUD.

"Things are moving so fast in contraception."

Not all doctors have interpreted data concerning the IUD in the same manner. Dr. Fred E. Mecklenburg, Minneapolis obstetrician formerly active with Planned Parenthood and Right to Life, feels that the abortive theory is too simplistic. According to his studies, evi-

5/7/74

Use Abortion

[illegible] indicates that the IUD [illegible] sperm capacitation [illegible] therefore is not abortive.

[illegible] case studies used to substantiate the abortive [illegible] of the IUD [illegible] from IUD malfunctions be added. Experiments [illegible] with new and better IUDs such as Dopper [illegible] indicate that the IUD prevents sperm capacitation, he says.

Rep. Jim Skelly (R-Phoenix), sponsor of the memorial, feels the IUD controversy is a political maneuver.

"It's a case of abortion proponents at the last minute trying to bring up something that is not relevant to the situation."

"I believe and think that available evidence is that it's a contraceptive."

To substantiate his viewpoint, he noted that in the past, when anti-abortion statutes were in force, the question of IUD's abortive functions never was brought up.

—NATALIE FIEDLER

[illegible] afternoon, I began to [illegible] took me ten minutes to con-

NATALIE FIEDLER

see other side
for returned copy of relevant statement

July 21, 1981
Phoenix, Arizona

TO WHOM IT MAY CONCERN:

While serving in the Arizona State Senate from 1971 to 1974, I served with Mrs. O'Connor. On May 15, 1974, after the H.M 2002 passed the Judiciary Committee, Mrs. O'Connor voted against the Memorial in Caucus.

Trudy Camping

Mrs. Trudy Camping

Subscribed and sworn to before me this 21st day of July, 1981.

Madeline R. Jakubczyk

Notary Public

My commission Expires 4-14-85

JIM SKELLY
7747 EAST FOURTH STREET
SCOTTSDALE, ARIZONA 85251

COMMITTEES:
COMMERCE, CHAIRMAN
EDUCATION
JUDICIARY
WAYS & MEANS

Arizona House of Representatives

Phoenix, Arizona 85007

July 15, 1981

Mr. Gerald Trautman, Chairman
The Greyhound Corporation
~~Greyhound Towers~~
Phoenix, AZ 85077

Dear Mr. Trautman:

Please consider this letter my official resignation from The Greyhound Corporation effective today, July 15, 1981.

I'm sorry that my "personal beliefs are inconsistent with the interests of Greyhound." However, I would not be true to the responsibilities of my office as a state representative, nor honest with myself if I were to tone down what you feel are my intemperate remarks about Judge Sandra O'Connor.

To your credit, you have never asked me or even hinted that I vote a particular way during the 5 1/2 years I have been employed with Greyhound. Although Judge O'Connor's confirmation is extremely important to you as you indicated, I obviously do not share your sentiments.

In our conversation earlier today, you asked me to wait a week when I offered to resign so that I might think it over. My decision would be the same in a week, a month, or a year. The welfare of the innocent unborn is far more important to me than Judge O'Connor's nomination, and, if I were to tone down my remarks, as you suggested, I would be compromising my beliefs which I won't do.

In our conversation, when I asked what particular part of the Tom Fitzpatrick article showed intemperance on my part, you indicated that my statement that I was outraged at the nomination of Judge O'Connor was intemperate. Although the word "outraged" in Mr. Fitzpatrick's column was not in quotes, it could very easily have been, because I was.

I have enjoyed my tenure with Greyhound and have appreciated the kindness you have shown me during my years with the company.

Sincerely,

JIM SKELLY
State Representative

JS/dmr

Legislator refuses to tone down opposition to high-court nominee as bus firm requested

Arizona Republic 7-17-81

Skelly quits Greyhound over his O'Connor views

By Don Harris
Republic Staff

Rep. Jim Skelly, R-Scottsdale, disclosed Thursday that he has quit his job at the Greyhound Corp. over his outspoken opposition to Judge Sandra O'Connor's nomination to the U.S. Supreme Court.

Skelly, 47, a strong anti-abortionist, said he decided to leave the firm after Gerald Trautman, Greyhound board chairman, asked him to tone down his criticism of Judge O'Connor.

Related stories, A15

Skelly's opposition to the O'Connor nomination stems from her votes on abortion when she was a state senator.

The nominee, a judge on the Arizona Court of Appeals, has said she personally is opposed to abortion but would follow existing high-court rulings, including one that legalized abortion.

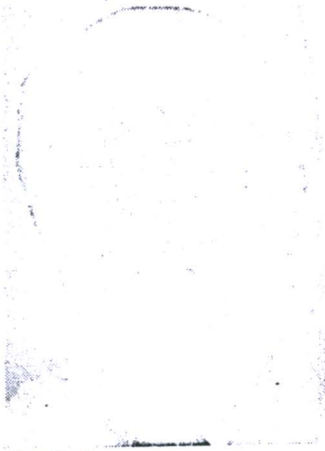
President Reagan nominated Judge O'Connor to the Supreme Court. Conservative groups oppose her because of votes involving abortion that she cast in the Arizona Senate in the early 1970s.

In a letter dated Wednesday and which Skelly said he hand-delivered to the Greyhound corporate headquarters in Phoenix, the lawmaker wrote, "I'm sorry that my 'personal beliefs are inconsistent with the interests of Greyhound.' However, I would not be true to the responsibilities of my office as a state representative, nor honest with myself if I were to tone down what you feel are my intemperate remarks about Judge Sandra O'Connor."

Trautman could not be reached for comment, but Dorothy Lorant, vice president of public relations for Greyhound, issued the following statement:

"We at Greyhound feel that Judge O'Connor is one of the most level-headed, intelligent justices, male or

— *Skelly, A2*



Jim Skelly

Skelly

Continued from A1

female, ever to serve on the bench and that her appointment to the U.S. Supreme Court would enhance that body.

"Jim Skelly is a fine man and a conscientious legislator, and yet, he feels quite differently on the matter of Mrs. O'Connor. We have to respect the sincerity of his feelings about Mrs. O'Connor without in any way sharing them, and it became necessary to ask Mr. Skelly to be a little more temperate in his remarks because the public had begun to believe that his opposition to Mrs. O'Connor was in his capacity as a Greyhound representative rather than in his capacity as a private citizen."

Skelly, the only pro-life advocate in the Legislature who has refused to endorse Judge O'Connor's nomination, said he was summoned to Trautman's office Wednesday after his views on Judge O'Connor appeared Tuesday in an *Arizona Republic* column by Tom Fitzpatrick.

A copy of Fitzpatrick's column was on Trautman's desk when Skelly entered the office, the legislator said.

"He said that some of my remarks were intemperate," Skelly said. "When I asked him to be specific, he pointed to a sentence that said I was outraged by the nomination.

"I pointed out that the word outraged was not in quotes, but that didn't change anything because I really am outraged."

Skelly's decision to quit his $18,700-a-year job in Greyhound's customer-relations department was almost instantaneous. He said Trautman tried to talk him out of resigning and suggested that he think it over for a week or so.

"My decision would be the same in a week, a month, or a year," Skelly wrote to Trautman. "The welfare of the innocent unborn is far more important to me than Judge O'Connor's nomination, and, if I were to tone down my remarks, as you suggested, I would be compromising my beliefs — which I won't do."

At Greyhound, Skelly worked in customer relations for 3½ years handling customer complaints, answering phones and taking care of fare adjustments. He joined Greyhound 5½ years ago and was allowed to take time off from that job to tend to his legislative duties.

Skelly said this was the first time that anyone at Greyhound had attempted to influence his role as a legislator.

Skelly made his resignation effective Wednesday and told Trautman he has enjoyed his tenure at Greyhound and "appreciated the kindness you have shown me."

Some of Skelly's closest friends in the Legislature urged him not to make such a quick decision about resigning, but he brushed them aside.

"I could wait until hell freezes over, and it wouldn't make any difference," he told one colleague.

Asked what he is going to do now, Skelly grinned and replied, "Look for a job."

The Phoenix Gazette

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Darrow Tully
Publisher

Loyal Meek
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Alan Meyer
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Director of Operations

"Where the Spirit of the Lord is, there is Liberty," II Corinthians 3:17

Editorials

A fading Democratic tradition

The highway system in Arizona is largely a product of the Democratic Party. The party dominated state politics for so long that most of the routes now traveled by Arizonans were established by Democratic state governments. The late Sen. Carl Hayden, an Arizona Democrat who served this state so well in Washington for so many years, was instrumental in setting up the federal highway aid program that has provided vast sums of money for many miles of the state's roads.

Something has happened, however, to that Democratic tradition of progressive emphasis on meeting transportation needs. As the Arizona Legislature meets in special session on transportation financing, the Democratic members are coming close to obstructionism.

Without offering comprehensive proposals of their own, the Democrats refuse to give fair consideration to Republican initiatives. Ordinarily a dynamic leader, Democratic Gov. Bruce Babbitt is making only feeble efforts, if any at all, to lead Democratic lawmakers toward a solution to the transportation financing crisis.

To their credit, four Senate Democrats voted for adequate transportation as a financing measure cleared that house — Bill Hardt, Ed Sawyer, Bill Swink and Polly Getzwiller.

The issue is more mathematical than political. Revenues from gasoline taxes are declining, largely because automobiles are more fuel efficient, while construction and repair costs soar.

Unless Arizona comes up with something like $3.6 billion in additional revenues for street and highway maintenance and construction over the next 10 years, the state's roads will crumble away. The Democratic Party, so instrumental in developing transportation in Arizona, owes it to the people of this state to join in finding a way to keep that from happening.

Skelly's treatment undeserved

During his 11 years in the Arizona Legislature, Rep. Jim Skelly has earned a reputation as a staunch opponent of abortion and a fervent defender of the free enterprise system.

It was Skelly who sponsored the bill that put a course on free enterprise economics in Arizona high schools. He has also backed numerous measures to protect unborn life.

Because of his deep conviction that abortion is morally wrong Skelly has spoken out against the appointment of Sandra O'Connor to the U.S. Supreme Court. Skelly and Mrs. O'Connor cast opposing votes on the issue when Mrs. O'Connor was in the Legislature.

Skelly is apparently too outspoken for the Greyhound Corporation for whom he worked as a customer representative. Upset with his views on the O'Connor nomination, Greyhound asked Skelly to tone down his opposition. Unable to compromise his principles, Skelly resigned.

Skelly's stand is all the more courageous because he knows that it will have no influence on whether Mrs. O'Connor is confirmed by the U.S. Senate. She enjoys overwhelming support from Arizona and in Washington.

That Skelly should be treated so shabbily by a major representative of the free market system he so ardently defends is indeed ironic.

The Starr Memo

The Justice Department made a final check on Judge Sandra O'Connor's abortion record on the day before President Reagan announced her nomination. The Starr memo summarizing that check appears below.

Kathleen Teague, executive director of the American Legislative Exchange Council, expressed the views of many prolifers when she stated during a press conference on Capitol Hill July 9, "The information we have on her abortion record, when compared with the information contained in the memorandum . . . shows an apparent prima facie *cover-up either on the part of Mrs. O'Connor or on the part of the attorney general's office, or both, of her voting record on abortion."*

Kenneth W. Starr, who wrote the memo, said on July 9 that it "accurately memorialized my conversations" with O'Connor. (See the Washington Post, *July 10.)*

Office of the Attorney General
Washington, D.C. 20530

July 7, 1981

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: KENNETH W. STARR
COUNSELOR TO THE ATTORNEY GENERAL

On Monday, July 6, 1981, I spoke by phone on two occasions with Judge O'Connor. She provided the following information with respect to her public record on family-related issues:

- As a trial and appellate judge, she has not had occasion to rule on any issue relating to abortion.
- Contrary to media reports, she has never attended or spoken at a women's rights conference *on abortion.*
- She was involved in the following legislative initiatives as a State Senator in Arizona:
  - In 1973, she requested the preparation of a bill, which was subsequently enacted, which gave the right to hospitals, physicians and medical personnel *not* to participate in abortions if the institution or individual chose not to do so. The measure, Senate Bill 1133, was passed in 1973.
  - In 1973, she was a co-sponsor (along with 10 other Senators) of a bill that would permit state agencies to participate in "family planning" activities and to disseminate information with respect to family planning. The bill made no express mention of abortion and was not viewed by then Senator O'Connor as an abortion measure. The bill died in Committee. She recalls no controversy with respect to the bill and is unaware of any hearings on the proposed measure.
  - In 1974, Senate Bill 1245 was passed by the Senate. Supported by Senator O'Connor, the bill as passed would have permitted the University of Arizona to issue bonds to expand existing sports facilities. In the House, an amendment was added providing that no abortions could be performed at any educational facility under the jurisdiction of the Arizona Board of Regents. Upon the measure's return from the House, Senator O'Connor voted against the bill as amended, on the ground that the Arizona Constitution forbade enactment of legislation treating unrelated subject matters. In her view, the anti-abortion rider was unrelated to the primary purpose of the bill, namely empowering the University to issue bonds to expand sports facilities. Her reasons for so voting are nowhere stated on the record.
  - In 1970, House Bill 20 was considered by the Senate Committee on which Senator O'Connor then served. As passed by the House, the bill would have repealed Arizona's then extant criminal prohibitions against abortion. The Committee majority voted in favor of this pre-*Roe v. Wade* measure; a minority on the Committee voted against it. There is no record of how Senator O'Connor voted, and she indicated that she has no recollection of how she voted. (One Senator voting against the measure did have his vote recorded.)

Judge O'Connor further indicated, in response to my questions, that she had never been a leader or outspoken advocate on behalf of either pro-life or abortion-rights organizations. She knows well the Arizona leader of the right-to-life movement, a prominent female physician in Phoenix, and has never had any disputes or controversies with her.

national committee, inc.

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

July 15, 1981

Mr. William French Smith
Office of the Attorney General
Washington, DC 20530

Dear Mr. Smith,

I am an Arizona physician and was the co-founder and first president of the Arizona Right to Life Committee in October of 1971. I have served as director from Arizona to the board of directors of the National Right to Life Committee since its formation in 1973 and am the immediate past president of the national organization. My current position is Vice President in Charge of International Affairs.

I have been informed of a Justice Department memorandum from Kenneth W. Starr, dated July 7, 1981, summarizing his July 6th telephone investigation of Judge Sandra D. O'Connor's voting record on family-related issues during the period that she served in the Arizona State Senate. The memo reads in part: "Judge O'Connor further indicated, in response to my questions, that she had never been a leader or outspoken advocate on behalf of either pro-life or abortion-rights organizations. She knows well the Arizona leader of the right-to-life movement, a prominent female physician in Phoenix, and has never had any disputes or controversies with her."

I was not contacted by the Justice Department for verification. This statement has been understandably misunderstood by members of the legislature and media to imply that Judge O'Connor and I share similar beliefs on the abortion issue.

I have known Sandra Day O'Connor since 1972. She is a dedicated, highly intelligent, capable, and a very likeable person. Quite apart from our social contact, however, we were in an adversary position during 1973 and 1974 due to Senator O'Connor's position on abortion related legislation while she served as Senate majority leader.

The Justice Department memorandum is, in addition, misleading and incomplete regarding Senator O'Connor's voting record from 1970 through 1974.

All of her votes cast on abortion related bills during this period have been consistently supportive of legalized abortion with the possible exception of S. B. 1333 which allows physicians, medical personnel, and hospitals the right to refuse to participate in abortion procedures on moral or religious grounds. The bill was more related to freedom of conscience than to abortion, per se. The memo

neglects to point out that S. B. 1333 passed unanimously (30 to 0) in the Senate, supported by those on both sides of the abortion debate.

In 1970, H. B. 20 (sponsored by Rep. Tony Buehl and John Roeder) proposed to remove all restrictions from abortions done by licensed physicians without regard to indication or duration of pregnancy. This bill, predating the 1973 Supreme Court decision by three years, would, if enacted, have allowed abortion on request to term, a radical concept even when compared to the most permissive of existing state laws in New York.

The Justice Department memo states that, "There is no record of how Senator O'Connor voted and that she indicated that she has no recollection of how she voted."

An article by Howard E. Boice, Jr. appearing in the Arizona Republic on April 30, 1970 records the vote of all nine members of the Senate Judiciary Committee. Sen. O'Connor is recorded as casting one of the six votes for the bill, as she did in the Senate Rules Committee where the bill later failed to pass (Arizona Republic, May 1, 1970).

There are no votes cast by Senator O'Connor in 1971, as the two proposed abortion bills, H. B. 51 and S. B. 123, were sent to the Senate Public Health and Welfare Committee where they failed to pass.

In 1972, no abortion related legislation was introduced, as the legislative route was abandoned by abortion advocates in favor of the judiciary. (The Arizona abortion law was upheld as constitutional in 1972 on appeal).

In 1973, Senator O'Connor co-sponsored the Family Planning Act (S. B. 1190) which, as originally worded, would have furnished "all medically acceptable family planning methods and information" to anyone regardless of age, sex, race, income, number of children, marital status, or motive. A state or county physician could refuse to provide the family planning method on "medical grounds." Religious or moral grounds are not mentioned.

The Justice Department memo states that, "The bill made no express mention of abortion and was not viewed by then Senator O'Connor as an abortion measure.... She recalls no controversy with respect to the bill and is unaware of any hearings on the proposed measure."

In 1973, abortion certainly was regarded by many as a "medically acceptable method of family planning" and was so regarded by several state senators as well as the Arizona Republic (see attached Senate Public Health and Welfare minutes and Arizona Republic editorial of March 5, 1981).

The bill passed Public Health and Welfare Committee but was held up in Rules Committee. Contrary to the memo, hearings were held and the bill certainly was regarded as controversial.

On May 9, 1974, Senator O'Connor was one of nine senators voting against S. B. 1245 after an amendment had been added in the House "prohibiting certain abortions at educational institutions under jurisdiction of the board of regents." (S. B, 1245 passed 20 to 9 with one member absent). Senator O'Connor's vote is explained in the memo as being "on the ground that the Arizona Constitution forbade enactment of legislation treating unrelated subject matters... Her reasons for so voting are nowhere stated on the record."

The most important piece of pro-life legislation is totally omitted from Mr. Staff's memorandum.

In 1974, after a rally of over 10,000 Arizonans on January 22 at the State Capitol and the submission of over 35,000 names of registered voters favoring the measure, House Memorial 2002 passed the Arizona House of Representatives by a 41 to 18 vote. The memorial would have petitioned the U. S. Congress to pass a Human Life Amendment to the Constitution restoring legal protection to the unborn child except where the mother's life was in jeopardy.

H. B. 2002 passed the Senate Judiciary by a 4 to 2 vote. Sandra O'Connor is reported in the April 23, 1974 Phoenix Gazette as voting against it even after amended to include rape and incest in addition to life of the mother.

On May 7, 1974, a Phoenix Gazette article quoted Sandra O'Connor as follows: "I'm working hard to see to it that no matter what the personal views of people are, the measure doesn't get held up in our caucus." On May 15, 1974, H. R. 2002 failed to pass the majority caucus by one vote. At least one senator on the caucus is willing to testify that Senator O'Connor voted against the memorial.

Because this deeply flawed and seriously misleading Justice Department memorandum may have played a major role in President Reagan's decision to appoint Judge Sandra Day O'Connor to the United States Supreme Court, we respectfully request that you transmit this documentation to the President and to all persons who received Kenneth Starr's original memorandum.

Sincerely,

Carolyn Gerster, MD

Carolyn F. Gerster, M. D.
Vice President in Charge of
International Affairs

CFG:em

National Right to Life committee, inc.

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

July 3, 1981

President Ronald Reagan
The White House
Washington, D.C. 20500

Dear President Reagan:

This is a follow-up to my letter of yesterday with more documentation of the strong pro-abortion position of Sandra O'Connor, the jurist mentioned as a possible U.S. Supreme Court nominee.

1970-- Arizona Senate, a bill to legalize abortion.
Bill passed the Senate Judiciary Committee. Senator Sandra O'Connor, a member of the committee, voted pro-abortion.
Bill defeated in Senate Republican Caucus with Senator Sandra O'Connor, a member of the caucus, voting pro-abortion.

1973-- Sen. Sandra O'Connor was prime sponsor of S-1190, a family planning bill, which would have provided family planning information to minors without parental knowledge or consent.
Included under "family planning" were "contraceptives and surgical procedures" (abortion).

1974-- a memorialization resolution calling upon Congress to pass a Human Life Amendment had passed the Arizona House by a wide margin.
Sen. Sandra O'Connor voted against the resolution in the Senate Judiciary Committee.
Sen. Sandra O'Connor voted against it again in the Senate Majority (Republican) Caucus, and thus helped to kill the bill.

1977-- As reported, Sandra O'Connor was a keynote speaker at the pro-abortion International Women's Year state meeting in Arizona.

As noted in my previous letter to you, this nominee is totally unacceptable to the right-to-life movement. Her nomination would be seen as a complete repudiation of your pro-life position, and also of the Republican Platform. It would produce a firestorm reaction across the nation.

We fully assume and hope that such will not occur, now that these facts have been brought to your attention.

May I, in closing, request once again that I, or another top member of our central right-to-life organization, be allowed some (top secret) review of names before they get to a final stage of consideration. Such an almost-catastrophe as this could easily have been prevented if this opportunity had been provided.

Sincerely,

J.C. Willke/dj

John C. Willke, M.D.
President

JCW:dj

National Right to Life committee, inc.

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

July 1, 1981

The President
The White House
Washington, DC 20510

Dear Mr. President,

It has come to our attention that Sandra D. O'Connor, an Arizona jurist, is a candidate for the U. S. Supreme Court vacancy. I would like to submit our evaluation of her from a prolife standpoint. This is an elaboration of our listing of her as "not acceptable" in the list of candidates which we delivered to you on June 26.

While an Arizona State Senator in 1974, she was a member of that body's judiciary committee. A memorialization resolution asking the U. S. Congress to pass a Human Life Amendment had passed the Arizona House by a wide margin. It was killed in the majority caucus of the Arizona State Senate and it is our understanding that hers was one of the deciding votes against the memorialization.

Prior to the International Women's Year Conference in Houston in 1977, there were preliminary meetings in each state to elect delegates. With several notable exceptions, all states including Arizona sent delegations composed almost exclusively of people who were pro-abortion, pro-ERA, and pro-lesbian. Sandra O'Connor keynoted the Arizona meeting, reflecting these anti-life and anti-family themes.

The immediate past president of the National Right to Life Committee is Dr. Carolyn Gerster, a pracitcing cardiologist in Scottsdale, Arizona. She knows Ms. O'Connor personally and politically. She has stated that Ms. O'Connor is "strongly pro-abortion" and that her appointment to the U. S. Supreme Court would be "a prolife disaster."

With all due respect and best wishes, I submit this information to you. Our organization concurs with Dr. Gerster's evaluation and recommends in the strongest possible way that Ms. O'Connor be dropped from consideration. The appointment of a person such as Ms. O'Connor would be interpreted by prolife people across the nation as a direct repudiation of both the Republican Platform and of your public commitment regarding judicial appointments.

Sincerely,

J. C. Willke M.D.

John C. Willke, M. D.
President

JCW:cm

National Right to Life Committee, Inc.

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

July 2, 1981

The President
The White House
Washington, D.C. 20510

Dear President Reagan:

Ordinarily I would applaud the consideration of a woman and a fellow Arizonan for the U.S. Supreme Court. However, as the immediate past president of the National Right to Life Committee, I must object to the proposed appointment of Sandra D. O'Connor as a candidate for the high court.

As an Arizona state senator from 1969-74, Sandra O'Connor was never supportive of efforts to restore legal protection to the unborn. In a majority caucus committee of the state senate in 1974, her vote prevented House Memorial 2002 (urging enactment of a Human Life Amendment) from reaching the senate floor after it had passed the Arizona House of Representatives. In addition, Sandra O'Connor alienated pro-family advocates by her early support for the Equal Rights Amendment.

I know that you share our concern for the right to life of the unborn, the handicapped, and the elderly. This was confirmed by our conversation in Rye, New York, on January 17, 1980.

The consideration of Sandra O'Connor has brought strong objections from those Republicans who support the 1980 party platform and from those persons of both parties who are concerned with the American family and the right to life of all innocent persons. I hope to hear that you have set aside consideration of Mrs. O'Connor and of any other proposed nominees who fail to measure up to your party's position and your personal position regarding the necessity of bringing men and women of pro-life, pro-family views to the federal bench.

Sincerely,

Carolyn Gerster, M.D.

Carolyn Gerster, M.D.,
Past President

CG:dj

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

Mailgram

4-060459S187002 07/06/81 ICS IPMRNCZ CSP WSHB
1 6029480318 MGM TDRN PHOENIX AZ 07-06 0501P EST

JUL - 7 1981

NATL. RIGHTS TO LIFE COMMITTEE
529 14 ST NW STE 341
WASHINGTON DC 20045

Duplicate sent to Lyn

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

6029480318 TDRN PHOENIX AZ 186 07-06 0501P EST
PMS MAX FRIEDERSDORF, SPECIAL ADVISER LEGISLATIVE AFFAIRS RPT DLY MGM. D
LR
WHITE HOUSE
WASHINGTON DC 20045
PRESIDENT REAGAN HAS EXPRESSED PRIVATELY AND PUBLICLY THE IMPORTANCE OF FUTURE U.S. SUPREME COURT CANDIDATES POSITIONS ON THE LIFE ISSUES. THIS WAS LATER REFLECTED IN THE REPUBLICAN PARTY PLATFORM. FOR THIS REASON PLEASE REQUEST THE PRESIDENT TO WITHHOLD THE FINAL DECISION ON JUDGE SANDRA O'CONNORS APPOINTMENT UNTIL OUR DOCUMENTATION ARRIVES BY FEDERAL EXPRESS SENT 7-6-81.
WHILE IN THE ARIZONA STATE SENATE JUDGE O'CONNOR COSPONSORED THE 1973 FAMILY PLANNING BILL ALLOWING BIRTH CONTROL MEASURES, INCLUDING SURGICAL PROCEDURES, MADE AVAILABLE TO MINORS WITHOUT PARENTAL CONSENT.
SHE VOTED AGAINST ARIZONA HOUSE MEMORIAL 2002 IN THE SENATE JUDICIARY COMMITTEE, EVEN AFTER A RAPE EXCEPTION CLAUSE HAD BEEN ADDED TO THE LIFE OF THE MOTHER.
SANDRA O'CONNOR VOTED AGAINST THE MEMORIAL AGAIN IN THE SENATE MAJORITY CAUCUS.
SANDRA O'CONNOR CAST ONE OF THE NINE VOTES AGAINST THE 1974 SENATE BILL WHICH WOULD BAR ABORTION IN TUCSON UNIVERSITY HOSPITAL EXCEPT TO SAVE THE LIFE OF THE MOTHER. IN ADDITION TO HER PRO-ABORTION VOTING RECORD, JUDGE O'CONNOR'S PRO-ERA POSITION IN 1972 AND 1974 HAS AROUSED THE OPPOSITION OF PRO-FAMILY ORGANIZATIONS.
IT IS VITAL THAT THE ADMINISTRATION BE APPRIISED OF SANDRA O'CONNOR'S RECORD.
CAROLYN F GERSTER, M.D.VICE PRESIDENT IN CHARGE OF INTERNATIONAL AFFAIRS NATIONAL RIGHT TO LIFE COMMITTEE
529 14 ST NW STE 341
WASHINGTON DC 20045

17:02 EST

MGMCOMP

TO REPLY BY MAILGRAM, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

AYES 29: Alexander, Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Gutierrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, McNulty, O'Connor, Osborn, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, Ulm, President Jacquin.

NOT VOTING 1: Pena.

House Bill 2079 was signed in open session WITH THE EMERGENCY and returned to the House.

HOUSE BILL 2116: An Act relating to education; defining the rights of parents and guardians of school children to examine pupil records; providing for certain filing of transcript of change of boundaries of new school districts, and amending title 15, Arizona Revised Statutes, by adding chapter 1.1.

AYES 26: Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Gutierrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, O'Connor, Osborn, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, President Jacquin.

NOES 3: Alexander, McNulty, Ulm.

NOT VOTING 1: Pena.

House Bill 2116 was signed in open session WITH THE EMERGENCY and returned to the House.

SENATE BILL 1245: An Act relating to education; prescribing certain additional powers and responsibilities of the board of regents relating to educational institutions; authorizing the Arizona Board of regents to remodel the stadium at the university of Arizona and acquire, construct, equip, furnish and maintain an addition thereto and enter into projects for other purposes for which revenue bonds may be issued by the board of regents for any of the universities, and for those purposes to accept gifts, to borrow money and issue bonds, to refund bonds heretofore and

hereafter issued for such educational institutions, to provide for the payment and security of all bonds issued hereunder, and to perform necessary or convenient acts in connection with such projects; superseding inconsistent provisions of all other laws; prohibiting certain abortions at educational institutions under jurisdiction of board of regents; amending title 15, chapter 7, article 2, Arizona Revised Statutes, by adding section 15-730, and declaring an emergency.

AYES 20: Camping, Corbet, Ellsworth, Gabaldon, Hardt, Hubbard, Koory, Lena, Mack, McNulty, Osborn, Rottas, Runyan, Stinson, Strother, Swink, Tenney, Turley, Ulm, President Jacquin.

NOES 9: Alexander, Baldwin, Felix, Gutierrez, Holsclaw, Kret, O'Connor, Roeder, Stump.

NOT VOTING 1: Pena.

Senate Bill 1245 was signed in open session WITH THE EMERGENCY and transmitted to the Governor.

RECESS

At 5:31 a.m., the Senate stood at recess subject to the sound of the gavel.

The President called the Senate to order at 9:10 a.m.

MESSAGES FROM THE HOUSE

Messages from Chief Clerk K. E. Betty West advised that on May 10, 1974:

The House acceded to the request of the Senate in the matter of disagreement on Senate Bill 1283, natural resources coordinator, and appointed Members T. Goodwin, Kelley and Dewberry as a FREE conference committee.

The House concurred in Senate amendments to the following bills and passed on final reading as amended by the Senate:

impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this act in any one or more instances shall not be taken to affect or prejudice its applicability or validity in any other instance.

Sec. 14. Supplemental nature of act; construction and purpose

The powers conferred by this act shall be in addition to and supplemental to the powers conferred by any other law, general or special, and bonds may be issued under this act notwithstanding the provisions of any other such law and without regard to the procedure required by any other such laws. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, the provisions of this act shall be controlling.

Sec. 15. Title 15, chapter 7, article 2, Arizona Revised Statutes, is amended by adding section 15-730, to read:

15-730. Abortion at educational facility prohibited; exception

NO ABORTION SHALL BE PERFORMED AT ANY FACILITY UNDER THE JURISDICTION OF THE BOARD OF REGENTS UNLESS SUCH ABORTION IS NECESSARY TO SAVE THE LIFE OF THE WOMAN HAVING THE ABORTION.

Sec. 16. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

SB 1245
1974

AYES 29: Alexander, Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Gutierrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, McNulty, O'Connor, Osborn, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, Ulm, President Jacquin.

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hereafter issued for such educational institutions, to provide for the payment and security of all bonds issued hereunder, and to perform necessary or convenient acts in connection with such projects; superseding inconsistent provisions of all other laws; prohibiting certain abortions at educational institutions under jurisdiction of board of regents; amending title 15, chapter 7, article 2, Arizona Revised Statutes, by adding section 15-730, and declaring an emergency.

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SB 1245
1974

ZONA

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973

State–May 14, 1973

LAWS OF ARIZONA

CHAPTER 155

Senate Bill 1333

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PROVIDING FOR RIGHT TO REFUSE TO DO ANY ACT RESULTING IN OR CONTRIBUTING TO AN ABORTION; AND AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 36, Arizona Revised Statutes, is amended by adding chapter 20, article 1, section 36-2151, to read:

CHAPTER 20
RIGHT OF REFUSAL TO AID ABORTION
ARTICLE 1. GENERAL PROVISIONS

36-2151. Right to refuse to participate in abortion

NO HOSPITAL IS REQUIRED TO ADMIT ANY PATIENT FOR THE PURPOSE OF PERFORMING AN ABORTION. A PHYSICIAN, OR ANY OTHER PERSON WHO IS A MEMBER OF OR ASSOCIATED WITH THE STAFF OF A HOSPITAL, OR ANY EMPLOYEE OF A HOSPITAL, DOCTOR, CLINIC, OR OTHER MEDICAL OR SURGICAL FACILITY IN WHICH AN ABORTION HAS BEEN AUTHORIZED, WHO SHALL STATE IN WRITING AN OBJECTION TO SUCH ABORTION ON MORAL OR RELIGIOUS GROUNDS SHALL NOT BE REQUIRED TO PARTICIPATE IN THE MEDICAL OR SURGICAL PROCEDURES WHICH WILL RESULT IN THE ABORTION.

Sec. 2. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor–May 14, 1973

Filed in the Office of the Secretary of State–May 14, 1973

Kret, Lena, Mack, O'Connor, Pena, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, Ulm, President Jacquin.

Senate Bill 1302 was signed in open session WITH THE EMERGENCY and transmitted to the House.

SENATE BILL 1321: An Act relating to public health and safety; prescribing that qualified nurse-midwife may practice as such without midwife license, and amending section 36-752, Arizona Revised Statutes.

AYES 30: Alexander, Awalt, Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Giss, Guteirrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, O'Connor, Pena, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, Ulm, President Jacquin.

Senate Bill 1321 was signed in open session and transmitted to the House.

SENATE BILL 1333: An Act relating to public health and safety; providing for right to refuse to do any act resulting in or contributing to an abortion; and amending title 36, Arizona Revised Statutes, by adding chapter 20.

AYES 30: Alexander, Awalt, Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Giss, Guterirrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, O'Connor, Pena, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, Ulm, President Jacquin.

Senate Bill 1333 was signed in open session WITH THE EMERGENCY and transmitted to the House.

HOUSE BILL 2045: An Act relating to public buildings, prescribing requirements for places of public accommodation to make such buildings more accessible to the physically handicapped; providing for incorporation of standards into building codes; amending sections 34-402 and 34-403, Arizona Revised Statutes; amending title 34, chapter 4, article 1, Arizona Revised Statutes, by adding section 34-411.

AYES 25: Alexander, Baldwin, Corbet, Ellsworth, Felix, Gabaldon,

Cross References

Classification of offenses, see § 13-601 et seq.
Fines, see § 13-801 et seq.
Sentencing, imprisonment, see § 13-701 et seq.

§§ 13-3601, 13-3602. Repealed by Laws 1978, Ch. 201, § 222, eff. Oct. 1, 1978

Historical Note

The repealed sections were derived from Pen.Code 1901, §§ 234, 238; Pen. Code 1913, §§ 235, 239; Rev.Code 1928, §§ 4597, 4601; Code 1939, §§ 43-4902, 43-4906, A.R.S. former §§ 13-201, 13-202, as amended by Laws 1973, Ch. 172, §§ 31 and 32, and as transferred and renumbered as §§ 13-3601 and 13-3602 by Laws 1977, Ch. 142, § 99, effective October 1, 1978.

Former § 13-3601 proscribed abduction for the purpose of marriage, and former § 13-3602 proscribed seduction.

§ 13-3603. Definition;[1] punishment

A person who provides, supplies or administers to a pregnant woman, or procures such woman to take any medicine, drugs or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless it is necessary to save her life, shall be punished by imprisonment in the state prison for not less than two years nor more than five years.

Formerly § 13-211. Renumbered as § 13-3603 by Laws 1977, Ch. 142, § 99, eff. Oct. 1, 1978.

[1] Abortion.

Validity

See Notes of Decisions, post.

Historical Note

Source:

Pen.Code 1901, § 243.
Pen.Code 1913, § 273.
Rev.Code 1928, § 4645.
Code 1939, § 43-301.
A.R.S. former § 13-211.

Adopted from California, see West's Ann.Pen.Code § 274.

Cross References

Drug administered to aid felony, see § 13-1205.
Medical and surgical practice violations, penalties, see § 32-1455.

Law Review Commentaries

Abortion, privacy and public funding. 18 Ariz.Law Rev. 903 (1976).

Thalidomide—catalyst to abortion reform. 5 Ariz.Law Rev. 105 (1963).

Therapeutic abortion practices in Chicago hospitals—vagueness, variation, and violation of law. Law & Soc. Order, 1971, p. 757.

Note 9

pregnant plaintiff was before trial court. Planned Parenthood Center of Tucson, Inc. v. Marks (1972) 17 Ariz. App. 308, 497 P.2d 534.

10. Review

An appeal lay where defendant, convicted of performing an illegal abortion, was placed on probation. State v. Keever (1969) 10 Ariz.App. 354, 458 P.2d 974.

§ 13-3604. Soliciting abortion; punishment; exception

A woman who solicits from any person any medicine, drug or substance whatever, and takes it, or who submits to an operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless it is necessary to preserve her life, shall be punished by imprisonment in the state prison for not less than one nor more than five years.

Formerly § 13–212. Renumbered as § 13–3604 by Laws 1977, Ch. 142, § 99, eff. Oct. 1, 1978.

Validity

See Notes of Decisions, post.

Historical Note

Source:

Pen.Code 1901, § 244.
Pen.Code 1913, § 274.
Rev.Code 1928, § 4645.
Code 1939, § 43–301.
A.R.S. former § 13–212.

Adopted from California, see West's Ann.Pen.Code § 275.

Law Review Commentaries

Abortion, privacy and public funding. 18 Ariz.Law Rev. 903 (1976).

Notes of Decisions

In general 2
Validity 1

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1. Validity

Arizona abortion statutes, former §§ 13–211 to 13–213 (transferred and renumbered as §§ 13–3603, this section, and 13–3605) were unconstitutional; thus, former § 13–213 making it a misdemeanor to wilfully write, compose or publish a notice of advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, which was part of one statutory plan was unconstitutional. State v. New Times, Inc. (1973) 20 Ariz.App. 183, 511 P.2d 196.

Court of appeals was bound by United States Supreme Court decision generally invalidating abortion criminal laws. State v. Wahlrab (1973) 19 Ariz.App. 552, 509 P.2d 245.

Abortion statutes, former §§ 13–211 to 13–213 (transferred and renumbered as §§ 13–3603, this section, and 13–3605) were unconstitutional. Nelson v. Planned Parenthood Center of Tucson, Inc. (1973) 19 Ariz.App. 142, 505 P.2d 580.

2. In general

Where physicians alleged that, but for criminal statutes relating to abortion, they would perform abortions in certain circumstances even though abortion might not be necessary to save life of mother and nonprofit corporation engaged in providing family planning services alleged that it would refer clients to physicians for abortions and would offer services to assist clients in procuring abortions but for criminal statutes,

dismissal of action f
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versy was improper

§ 13-3605.

A person who
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Formerly § 13–213.
eff. Oct. 1, 1978.

Source:

Pen.Code 1901, § 28
Pen.Code 1913, § 31
Rev.Code 1928, § 46

Virginia. Adverti
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1. Validity

Arizona abortion
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App. 183, 511 P.2d 196.

Court of appeals
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STATE OF ARIZONA
29th LEGISLATURE
2nd REGULAR SESSION

HOUSE

H.B. 20
INTRODUCED
January 13, 1970

254

Referred to	Date	Reported Out
Rules		

Committee of Whole_____
3rd Reading — Aye_____ No_____ Absent_____
Senate Action_____

Sent to Governor_____ Action_____

Co-sponsored by Members Roeder of District 8, Buehl of District 7

AN ACT

RELATING to Crimes; Prescribing Punishment for Violation of Statutes Pertaining to Abortions, and Amending Sections 13-211 and 13-212, Arizona Revised Statutes.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 13-211, Arizona Revised Statutes, is amended to read:

13-211. DEFINITION; PUNISHMENT

A person OTHER THAN A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ARIZONA, who provides, supplies or administers to a pregnant woman, or procures such woman to take any medicine, drugs or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, *[unless it is necessary to save her life,]* shall be punished by imprisonment in the state prison for not less than two years nor more than five years.

Sec. 2. Sec. 13-212, Arizona Revised Statutes, is amended to read:

13-212. SOLICITING ABORTION; PUNISHMENT; EXCEPTION

A woman who solicits from any person OTHER THAN A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ARIZONA, any medicine, drug or substance whatever, and takes it, or who submits to an operation, or to the use of any means whatever, with intent thereby to procure a miscarriage BY ANY PERSON OTHER THAN A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ARIZONA,

(Proposed Changes)

[unless it is necessary to preserve her life,] shall be punished by imprisonment in the state prison for not less than one nor more than five years.

CITY

Abortion bill clears Senate judiciary panel

By HOWARD E. BOICE JR.

A long-dormant bill to legalize abortions cleared the Senate Judiciary Committee over the objections of its chairman yesterday and moved to Rules Committee, where it could be voted on today.

The bill, which passed the House Feb. 26, would remove all legal sanctions against abortions performed by licensed physicians.

It was the first time the measure appeared on the Judiciary Committee agenda. It passed by a 6 to 3 vote.

Chairman John Conlan, R-Maricopa, and Sens. Dan Halacy, R-Maricopa, and James F. McNulty, D-Cochise, voted against the bill.

Sens. Chris Johnson, R-Maricopa, Harold C. Giss, D-Yuma, Michael Farren, R-Maricopa, David B. Kret, R-Maricopa, James F. Holley, R-Maricopa, and Sandra O'Connor, R-Maricopa, voted in favor of the measure.

The Judiciary Committee also approved bills to establish a division of children's services in the State Welfare Department, to permit courts to remove a felony conviction from the record of a defendant believed to have been rehabilitated, to overhaul initiative and referendum procedures and to stop the prosecution of persons now subject to criminal charges for acts of self-defense.

The Senate, meanwhile, passed and sent to the House bills to permit creation of metropolitan transit authorities with the power to levy taxes to cover operating losses and to issue revenue bonds up to $2 million for capital outlay, and to establish a nine-member commission on judicial qualifications with the power to recommend removal of incompetent judges.

Also, the Senate Appropriations Committee reversed an earlier action and voted 6 to 4 for $2.75 million to build a maximum security facility at the Arizona State Hospital. The committee had killed a similar bill earlier this session.

The Appropriations Committee also approved a bill to provide state aid for public school kindergartens.

Several members of the Senate, both Republican and Democrat, made floor speeches yesterday condemning what they termed political motivation behind recent attacks on the welfare department by Rep. Frank Kelley, R-Maricopa, and Rep. Burton S. Barr, R-Maricopa.

Sen. E.B. Thode, D-Pinal, contended that Kelley had used a directive by an interim committee of which he was chairman to spend $25,000 for a welfare department "study" that he released before having committee approval.

She termed the study and subsequent statements by Kelley and Barr about the report a "witch hunt" directed at Welfare Commissioner John O. Graham.

Sen. Boyd Tenney, R-Yavapai, said Kelley was using the report, prepared by Prof. Edmund Mech of Arizona State University, as a "vendetta."

In another matter, Barr and House Speaker John Haugh, R-Pima, were accused by Sen. Dan Halacy, R-Maricopa, of engineering the "execution" in the House of a bill that would have lowered the presumptive level of drunkenness from .15 per cent blood alcohol to .10.

". . . Speaker John Haugh decreed the fate of Senate Bill 147," Halacy stated, "and majority leader Burt Barr was the Lord High Executioner."

"It is clear to me, and to many who are more expert in these matters than I," Halacy added, "that .10 per cent is a needed change. Why did the House leadership kill it?"

THE ARIZONA REPUBLIC
April 30, 1970

AYES 29: Alexander, Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Gutierrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, McNulty, O'Connor, Osborn, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, Ulm, President Jacquin.

NOT VOTING 1: Pena.

House Bill 2079 was signed in open session WITH THE EMERGENCY and returned to the House.

HOUSE BILL 2116: An Act relating to education; defining the rights of parents and guardians of school children to examine pupil records; providing for certain filing of transcript of change of boundaries of new school districts, and amending title 15, Arizona Revised Statutes, by adding chapter 1.1.

AYES 26: Baldwin, Camping, Corbet, Ellsworth, Felix, Gabaldon, Gutierrez, Hardt, Holsclaw, Hubbard, Koory, Kret, Lena, Mack, O'Connor, Osborn, Roeder, Rottas, Runyan, Stinson, Strother, Stump, Swink, Tenney, Turley, President Jacquin.

NOES 3: Alexander, McNulty, Ulm.

NOT VOTING 1: Pena.

House Bill 2116 was signed in open session WITH THE EMERGENCY and returned to the House.

SENATE BILL 1245: An Act relating to education; prescribing certain additional powers and responsibilities of the board of regents relating to educational institutions; authorizing the Arizona Board of regents to remodel the stadium at the university of Arizona and acquire, construct, equip, furnish and maintain an addition thereto and enter into projects for other purposes for which revenue bonds may be issued by the board of regents for any of the universities, and for those purposes to accept gifts, to borrow money and issue bonds, to refund bonds heretofore and

hereafter issued for such educational institutions, to provide for the payment and security of all bonds issued hereunder, and to perform necessary or convenient acts in connection with such projects; superseding inconsistent provisions of all other laws; prohibiting certain abortions at educational institutions under jurisdiction of board of regents; amending title 15, chapter 7, article 2, Arizona Revised Statutes, by adding section 15-730, and declaring an emergency.

AYES 20: Camping, Corbet, Ellsworth, Gabaldon, Hardt, Hubbard, Koory, Lena, Mack, McNulty, Osborn, Rottas, Runyan, Stinson, Strother, Swink, Tenney, Turley, Ulm, President Jacquin.

NOES 9: Alexander, Baldwin, Felix, Gutierrez, Holsclaw, Kret, O'Connor, Roeder, Stump.

NOT VOTING 1: Pena.

Senate Bill 1245 was signed in open session WITH THE EMERGENCY and transmitted to the Governor.

RECESS

At 5:31 a.m., the Senate stood at recess subject to the sound of the gavel.

The President called the Senate to order at 9:10 a.m.

MESSAGES FROM THE HOUSE

Messages from Chief Clerk K. E. Betty West advised that on May 10, 1974:

The House acceded to the request of the Senate in the matter of disagreement on Senate Bill 1283, natural resources coordinator, and appointed Members T. Goodwin, Kelley and Dewberry as a FREE conference committee.

The House concurred in Senate amendments to the following bills and passed on final reading as amended by the Senate:

impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this act in any one or more instances shall not be taken to affect or prejudice its applicability or validity in any other instance.

Sec. 14. Supplemental nature of act; construction and purpose

The powers conferred by this act shall be in addition to and supplemental to the powers conferred by any other law, general or special, and bonds may be issued under this act notwithstanding the provisions of any other such law and without regard to the procedure required by any other such laws. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, the provisions of this act shall be controlling.

Sec. 15. Title 15, chapter 7, article 2, Arizona Revised Statutes, is amended by adding section 15-730, to read:

15-730. Abortion at educational facility prohibited; exception

NO ABORTION SHALL BE PERFORMED AT ANY FACILITY UNDER THE JURISDICTION OF THE BOARD OF REGENTS UNLESS SUCH ABORTION IS NECESSARY TO SAVE THE LIFE OF THE WOMAN HAVING THE ABORTION.

Sec. 16. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

SB 1245
1974

STATE OF ARIZONA
31st LEGISLATURE
1st REGULAR SESSION

SENATE

S. B. 1190
INTRODUCED
February 8, 1973

REFERENCE TITLE: Family Planning

Referred to	Date	Reported Out
Rules		
Pub. Health & Welfare		

Committee of Whole _____
3rd Reading ____ Aye ____ No ____ Absent ____
House Action _____
_____
Sent to Governor _____ Action _____

Introduced by Senators Holsclaw, Alexander, Baldwin, Corbet, O'Connor, Giss, Felix, Ulm, Awalt, Hardt

AN ACT

RELATING TO PUBLIC HEALTH; PROVIDING FAMILY PLANNING METHODS, AND AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Legislative declaration

The legislature finds and declares that it is desirable for the health, welfare and economy of this state that persons desiring and needing family planning information and methods shall have access thereto without inhibitions or restrictions.

Sec. 2. Title 36, chapter 6, Arizona Revised Statutes, is amended by adding article 4.1, sections 36-681 through 36-687, to read:

ARTICLE 4.1. FAMILY PLANNING

36-681. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT OF PUBLIC HEALTH.

2. "DEPARTMENT" MEANS THE STATE DEPARTMENT OF HEALTH.

3. "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR DOCTOR OF OSTEOPATHY LICENSED TO PRACTICE IN THIS STATE.

36-682. Policy; authority and prohibitions

A. ALL MEDICALLY ACCEPTABLE FAMILY PLANNING METHODS AND INFORMATION SHALL BE READILY AND PRACTICABLY AVAILABLE TO ANY PERSON IN THIS

STATE WHO REQUESTS SUCH SERVICE OR INFORMATION, REGARDLESS OF SEX, RACE, AGE, INCOME, NUMBER OF CHILDREN, MARITAL STATUS, CITIZENSHIP OR MOTIVE.

B. A HOSPITAL, CLINIC, MEDICAL CENTER, PHARMACY, AGENCY, INSTITUTION OR ANY UNIT OF LOCAL GOVERNMENT SHALL NOT HAVE ANY POLICY WHICH INTERFERES WITH EITHER THE PHYSICIAN-PATIENT RELATIONSHIP OR ANY PHYSICIAN OR PATIENT DESIRING TO USE MEDICALLY ACCEPTABLE FAMILY PLANNING PROCEDURES, SUPPLIES OR INFORMATION.

C. DISSEMINATION OF MEDICALLY ACCEPTABLE FAMILY PLANNING INFORMATION IN STATE AND COUNTY HEALTH DEPARTMENTS, STATE AND LOCAL WELFARE OFFICES AND AT OTHER AGENCIES AND INSTRUMENTALITIES OF THE STATE IS CONSISTENT WITH PUBLIC POLICY.

D. THIS ARTICLE DOES NOT PROHIBIT A PHYSICIAN FROM REFUSING TO PROVIDE FAMILY PLANNING METHODS OR INFORMATION FOR MEDICAL REASONS.

E. A PRIVATE INSTITUTION OR PHYSICIAN OR ANY AGENT OR EMPLOYEE OF SUCH INSTITUTION OR PHYSICIAN MAY REFUSE TO PROVIDE FAMILY PLANNING METHODS AND INFORMATION AND NO SUCH INSTITUTION, EMPLOYEE, AGENT OR PHYSICIAN SHALL BE HELD LIABLE FOR SUCH REFUSAL.

36-683. Furnishing services to minor

A PHYSICIAN MAY FURNISH FAMILY PLANNING SERVICES TO A MINOR WHO IN THE JUDGMENT OF THE PHYSICIAN IS IN SPECIAL NEED OF AND REQUESTS SUCH SERVICES. THE CONSENT OF THE PARENT, PARENTS OR LEGAL GUARDIAN OF THE MINOR IS NOT NECESSARY TO AUTHORIZE SUCH FAMILY PLANNING SERVICES

36-684. Performing surgery

A PHYSICIAN MAY PERFORM APPROPRIATE SURGICAL PROCEDURES FOR THE PREVENTION OF CONCEPTION UPON ANY ADULT WHO REQUESTS SUCH PROCEDURE IN WRITING.

36-685. Duties, powers of department

A. IN ORDER THAT FAMILY PLANNING SERVICES SHALL BE AVAILABLE TO PERSONS, THE DEPARTMENT MAY RECEIVE AND DISBURSE SUCH FUNDS AS MAY BECO AVAILABLE TO IT FOR FAMILY PLANNING PROGRAMS.

B. FOR THE PURPOSE OF PROVIDING SERVICES PURSUANT TO SUBSECTION A, THE DEPARTMENT MAY CONTRACT WITH PHYSICIANS OR ORGANIZATIONS, PUBLIC OR PRIVATE, ENGAGED IN PROVIDING FAMILY PLANNING METHODS AND INFORMATIO

36-686. Acceptance of funds

THE DEPARTMENT MAY ACCEPT PUBLIC OR PRIVATE FUNDS, GRANTS OR DONATIONS IN AID OF ANY PROGRAM AUTHORIZED BY THIS ARTICLE.

36-687. Rules, regulations

THE COMMISSIONER MAY ADOPT AND ISSUE RULES AND REGULATIONS NECESSARY TO ENABLE THE DEPARTMENT TO IMPLEMENT THE PROVISIONS OF THIS ARTIC

THE ARIZONA REPUBLIC

March 5, 1973

Editorial: "Dangers of vague bill"

The family planning bill being considered by the Arizona Senate, S. B. 1190, is inexcusably vague, precisely the sort of measure to lead to agonies of judicial interpretation.

At the Senate Public Health and Welfare Committee's meeting scheduled today, members should give closer attention to a bill they've already revised slightly because of uncertain language.

The bill says that "all medically acceptable family planning methods and information" should be furnished to anyone in Arizona seeking them, "regardless of sex, race, income, number of children, marital status, citizenship or motive."

Regardless of motive? Is a prostitute to be guaranteed state contraceptives for her job?

Regardless of citizenship? Is a tourist state such as Arizona to dole out contraceptives to every visitor from near and far who demands them?

Regardless of marital status? Obviously, the new morality.

The original wording also said regardless of age, but some senators apparently realized this could mean the state must approve the facilitation of statutory rape.

In addition, the bill says that a physician can refuse to provide family planning methods or information "for medical reasons." Medical, but not moral.

While the legislature may feel itself inadequate to decide questions of family planning morality, it should recognize that physicians don't uniformly approve encouraging sexual relations under every circumstance, even if medically acceptable.

The bill does add that private institutions, physicians, and their employees shouldn't be held liable for refusing to supply the information and methods, although these are treated as every citizen's right. But if they are automatically a right, could they be legally withheld?

Late last year in Montana, a judge ordered a Catholic hospital to sterilize a woman because she considered it her right, even though the hospital and staff objected.

Perhaps the most important question, however, has been raised by Sen. John Roeder who, as even he describes himself, is not the most anti-abortion member of the legislature.

He fears the vagueness of the bill's reference to "all medically acceptable family planning methods" could positively put the state into the business of encouraging abortions.

Only a decade ago, family planning was commonly accepted as referring to contraception, but contraception was sharply differentiated from abortion even by family planning's faithful boosters.

But now the abortion front has developed dishonest terminology in which abortion isn't even described as "interruption of pregnancy" but "post-conceptive family planning."

Planned Parenthood used to be distressed by people who believed contraception was murder, just like abortion. Yet now PP often blurs the distinction even more terribly.

Rather than inhibiting abortion, as some unwise supporters of the bill contend, it might make it more widespread.

[Why, indeed, is this bill proposed? The state certainly has no policy of discouraging contraception. The bill appears gratuitous -- unless energetic state promotion of abortion is the eventual goal.]

Minutes from 3/5/73 hearing

Senator Runyan moved to insert the words "required by a licensed practical nurse in this state." on line 2, page 5, after the word "qualifications" and then strike the remainder of the section; the motion carried. He then moved to insert the words "for a license" on line 10, after the word "applicant" and on line 11 after the words "meets" to strike the remainder of the section and insert "the qualifications for licensing specified in Section 32-1637."; the motion carried.

Senator Runyan then moved the bill be returned to the Senate with a do pass recommendation as amended, the motion carried. Senator Roeder voted no and requested a minority report.

SB 1190 - Family Planning

This bill had been discussed at the previous meeting and some amendments had been made. Senator Runyan asked what the status of the bill was at this point. The chairman stated that copies of the amendments considered at the last meeting were ready for each member but that they would have to be considered again. Senator Runyan moved the bill for purpose of amendments. He then moved to strike lines 2 through 6 on page 1.; on page 2, line 2, strike "AGE" and on line 9, strike "IN" and insert "BY"; on line 10, after "OFFICES" insert a period and strike remainder of line and strike line 11.

Senator Roeder stated that the editorial appearing the the morning Republic (2/5/73) stated far better than he could that the bill before the Committee was useless; that since the Supreme Court had ruled on Abortion it was not a legislative problem but a legal problem and that presently abortion was a perfectly proper form of family planning.

Senator Corbet stated he hoped the members were not equating abortion with birth control as that was not his understanding of the bill. He did not favor abortion but felt this bill was an attempt to change some of the practices of the past whereby birth control information was not available. He further stated that his vote killed the abortion bill in Committee two years ago and he still feels the same way but sees a difference in the Supreme Court Ruling and this bill before the Committee. He stated the Legislature should be one of action and not reaction. He also stated that while he did not wish to court trouble with the Arizona Republic he did not agree with their article in the morning paper.

Senator Alexander stated that the Federal Government (Health Education & Welfare) has already issued guide lines for block grants and that family planning plays a big part and this should be considered as Arizona will be affected eventually. He stated that he felt the time has come when the state should adopt a statewide program providing for limited family planning. He stated he does not advocate the State providing abortions.

Senator Runyan moved an amendment to his original amendment on page 2, line 2, strike "OR MOTIVE". A vote was taken on the entire amendment and carried.

Senator Runyan moved to amend the bill on page 2, line 19, after "SERVICES" insert ",EXCLUSIVE OF SURGICAL PROCEDURES EXCEPT WHERE REQUIRED FOR DIAGNOSIS" This motion carried with Senators Camping and Roeder voting no.

Senator Runyan moved to amend on line 21 after "PARENT" by inserting the words "IS OBTAINED" and striking the remainder of the paragraph.

Mr. William Carter of Maricopa County Health Dept. and Mr. Joe Davis of Phoenix Planned Parenthood both spoke against this amendment.

Senator Roeder stated the amendment would do away with the basis of the bill and that is why he felt the Committee should put the bill aside and re-do it in order to have something the people of Arizona could live with.

Dr. William Russell stated it was the minors they were trying to help and the need was now.

Senator Runyan stated he was aware of the problem but that he had a moral problem in that he felt the bill was one more step in breaking down the family unit and he could not see taking control of minors away from the parents.

Senator Corbet stated he felt very strongly about the family as a unit but that something had to be done Dr. Russell stated that the minors most doctors were seeing had already strayed and that it was not the family that got pregnant. Senator Camping stated that maybe these youngsters had never heard that it was wrong.

Senator Gutierrez stated that the amendments being offered in the bill were not going to change the family situation, those parents with control of their children would still have control. Dr. William Moore said the Committee might want to substitute the word "contraceptive" for family planning. Father M. Calegari called attention to two contraceptives already on the market.

Senator Alexander offered a substitute motion to Senator Runyan's, to insert the words "DESIRABLE WHERE POSSIBLE BUT" on line 22, after the word "IS", this motion carried with Senator Runyan and Camping voting no.

THE ARIZONA REPUBLIC

92nd Year, No. 61 Phoenix, Arizona Thursday, July 16, 1981

Judge O'Connor backs '73 ruling on legal abortion

Republic Wire Services

WASHINGTON — Sandra O'Connor was quoted Wednesday as saying that whatever her personal views are, she believes Supreme Court justices should follow existing high-court rulings — including one that legalized abortion.

In a 1973 decision, the Supreme Court said abortion is covered by privacy rights guaranteed under the Constitution.

In her second day of a somewhat frenetic tour among the powerful of Washington, Judge O'Connor met with President Reagan and various members of the Senate Judiciary Committee, including Sen. Charles Mathias Jr., R-Md.

Reagan and Mathias joined Senate leaders in predicting easy Senate confirmation of Judge O'Connor to become the first woman Supreme Court justice.

The soft-spoken judge met five Republican senators Wednesday, including Mathias, Orrin Hatch of Utah, Roger Jepsen and Charles Grassley of Iowa, and Rudy Boschwitz of Minnesota.

More meetings are scheduled with Jesse Helms, R-N.C., and others today.

Grassley said he spoke about abortion with the judge for five minutes during which she expessed the view that it was a subject that could be handled by Congress.

Saying he had not made up his mind on how he would vote, Grassley said he believes Judge O'Connor is a "strict constructionist" who believes in interpreting the Constitution, and not legislating from the court.

Mathias, a moderate Republican who often is at odds with the conservative majority on the Judiciary Committee, said he learned during his 40-minute meeting with Judge O'Connor that she believes Supreme Court justices should follow existing high-court rulings — including those on abortion.

"She made it clear she would apply the law," Mathias said. "We were in total agreement."

Conservative critics, including anti-abortion organizations, oppose Judge O'Connor's nomination because they believe she cast a number of votes indicating support for legalized abortions while she was a member of the Arizona Senate.

On Tuesday, Democratic Sen. Dennis DeConcini, also from Arizona, said, "She opposes abortions."

— *O'Connor, A16*

AP

U.S. Supreme Court nominee Sandra O'Connor takes a stroll through the White House Rose Garden with President Reagan on Wednesday during her second frenzied day of meetings with dignitaries and congressmen.

Reagan & Bush

Reagan Bush Committee

901 South Highland Street, Arlington, Virginia 22204 (703) 685-3400

-ABORTION-

Ronald Reagan believes that interrupting a pregnancy is the taking of a human life and can be justified only in self-defense--that is, if the mother's own life is in danger.

The January 22, 1973 Supreme Court decisionwhich overruled the historic role of the states in legislating in areas concerning abortion took away virtually every protection previously accorded the unborn. Later decisions have intruded into the family structure through their denial of parent's obligations and right to guide their minor children.

Ronald Reagan supports enactment of a constitutional amendment to restore protection of the unborn child's right to life.

Republican National Convention one year ago, stated:

> "There can be no doubt that the question of abortion, despite the complex nature of its various issues, is ultimately concerned with equality of rights under the law. While we recognize different views on this question among Americans in general--and in our own party--we affirm our support of a Constitutional amendment to restore protection of the right to life for unborn children. We also support the Congressional efforts to restrict use of tax payers' dollars for abortion.
>
> We protest the Supreme Court's intrusion into the family struction through its denial of the parents' obligation and right to guide their minor children."
>
> "We will work for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life."

SUBJECT: The O'Connor Controversy and the Right-to-Life Issue

Following the eruption of controversy that has been associated with President Reagan's decision to nominate Judge Sandra D. O'Connor to the United States Supreme Court, the Administration has been defending the nomination against the charges that the nominee is "pro-abortion" with a series of assertions that some charges against Judge O'Connor are based on "misleading" accusations. In turn, these claims that the charges are based on "misleading" information appear to be based on a memorandum prepared by Kenneth Starr of the Justice Department and on the nominee's assurances that she is "personally opposed" to abortions. I am sending this memorandum because various sources have assured me that you are interested in this controversy. I shall attempt to explain the deficiencies of these defenses in the terms of the debate over abortion as understood by those who, until recently, have been among the President's strongest supporters. I share with you a desire that the President maintain faith with those who elected him and that he avoid controversies that have no substantial merit.

In a phone conversation, you assured me that the Starr memorandum would present the facts of the matter, and, on the surface, the memorandum appears to give merely data. These facts, however, would be interpreted by anyone marginally familiar with the abortion debate as confirmation of the worst fears of those who favor the President's position on this issue. I shall elaborate on each of the points in the Starr memorandum, as those points would be understood by the right-to-life movement.

1. No one, as far as I am aware, has raised any charges about her rulings from the bench. Most would agree that an appellate judge in a state court would have little occasion to rule directly on this issue, especially when the guiding precedent would appear so clearly settled by the Supreme Court. We shall undoubtedly discover, during the course of the coming months, whether or not she has ruled on any of the tangential issues that the right-to-lifers consider related to the main question in this controversy.

2. I don't know how garbled the media reports might have been, but the charges that I have heard rumored have addressed her participation in the activities associated with International Women's Year in 1977. Others will undoubtedly discover any activity in this regard, if there is any.

3. She was actively involved in the preparation of legislation that enables doctors and nurses to refuse to participate in abortions if that is their preference. This will strike most people as a rather hollow and non-controversial kind of measure. Indeed, considering the alternatives, there would be a great deal of worry if she had been involved in legislation that would have required these medical professionals to lend their assistance at abortions even when conscientiously opposed.

4. By 1973, "family planning" had lost some of the luster that it had had during the 1960s. After Roe v. Wade, people interested in the Right-to-Life issue are concerned not merely that legislation dealing with this subject make "no mention" of abortion, but that it state rather clearly that the legislature does not believe that abortion is an acceptable means of family planning.

5. The rider on the University of Arizona bond bill will cause many problems among those interested in this issue. Congress, as well as the Arizona legislature, has procedural regulations that prohibit the enactment of substantive legislation in the course of appropriations bills. These riders are nevertheless commonly attached, and are recognized as part of the legislative process. In Harris v. MacRae last year, the Supreme Court sustained the power of Congress to enact such riders by a 5-4 vote, Justice Stewart voting with that narrow majority. The rider in question is the one that prohibits the expenditure of appropriated funds for abortions. If, as a member of the Supreme Court, Justice O'Connor would vote her convictions on this matter of procedure as she voted in the Arizona legislature, she would be voting to require federal funding of abortions. To put it as mildly as possible, the right-to-life constituency did not expect this when they supported the President last fall.

6. Nominee O'Connor's failed memory on the 1970 vote is a rather curious case. The proposed legislation was one of the most liberal abortion statutes proposed prior to the Roe v. Wade decision. The matter had been handled by a committee on which she sat in the Arizona Senate, generating front-page newspaper coverage over a period of two months. She was recorded voting favorably on a 6-3 committee vote supporting this legislation. The matter was later stalled in the Rules Committee and never reached the Senate floor. Given this coverage and controversy, the President's supporters in the right-to-life movement are a bit skeptical of the claim to a failed memory.

7. The alleged friendship, or absence of controversy, with Dr. Carolyn Gerster strikes most people as irrelevant. The President and the Speaker of the House also have a personal friendship which in no way mitigates their politically substantive differences. Dr. Gerster has described Judge O'Connor as "philosophically opposed" to the right-to-life movement and has strongly opposed this nomination.

Beyond the Starr memorandum, the White House has circulated a release that describes Judge O'Connor as "personally opposed" to abortions, and claiming that she finds the concept "personally abhorrent." In the political shorthand that commonly characterizes such debate, these phrases have become short for "I am personally opposed to abortion,

but I do not believe that the law should do anything to stop it." Among the people who have made this "personally opposed" rhetoric famous are Edward Kennedy and Patrick Leahy, legislators who have substantial records supporting the public funding of this practice that they oppose personally.

No one doubts that the nomination of Sandra O'Connor will be confirmed, at least barring any substantial revelations in the Department of Justice background investigation. But far from clearing any doubts about the nominee, the memorandum provided by the Justice Department should have set off numerous alarms within the President's staff. The evidence presented there offers confirmation, in effect, of the charges levelled against the nominee by those who have been among the President's strongest supporters.

The other red herring that deserves mention in this debate is the claim, voiced by some, that only one of their own could ever pass muster with the right-to-life groups. No one expects that any single issue should ever rule a Supreme Court nominee out of consideration, but, as the Justice Department memorandum demonstrates, one finds great difficulties limiting the right-to-life controversy to any single issue dimension. The matters of the power of the Court to create abortion rights, to overrule Congress on matters of funding, and to involve itself in matters of familial concern all get in the way of considering this a "single" issue. What the right-to-life constituency seeks, more than anything else, is someone who will say that Roe v. Wade was an abuse of judicial power, and that it was decided wrongly. One can arrive at evidence supporting that conclusion by looking at a variety of other dimensions of the potential nominee's judicial perspective. One does not reassure those who have supported the President by telling Senators that she feels bound by precedent, and would construe Roe v. Wade as valid precedent.

I share your concerns on this topic, as I have come to understand them. Naturally, decisions on such matters must remain in the hands of those familiar with the judicial process. One would only hope that, next time, those familiar with the judicial process also possess some awareness of this debate that has proven only too divisive.

U.S. Department of Justice

Assistant Attorney General
Legislative Affairs

Mr. Moore,
Mr. McConnell
asked that I forward
this to you.

Susan Platt

State of Arizona
House of Representatives
Thirty-first Legislature
First Regular Session

To Sherri

HOUSE CONCURRENT MEMORIAL 2003

A CONCURRENT MEMORIAL

RELATING TO AMERICAN BROADCASTING; URGING CONGRESS TO ENACT LEGISLATION EXTENDING FIRST AMENDMENT FREEDOMS OF THE CONSTITUTION TO BROADCASTING.

To the Congress of the United States:

Your memorialist respectfully represents:

Whereas, the citizens' right to know requires the free and uninhibited flow of information from the broadcasters as well as from the printed news media to the public; and

Whereas, the First Amendment of the United States Constitution provides that the Congress shall make no law abridging the freedom of speech, or of the press; and

Whereas, American free broadcasting has become in its fifty-year history the practical enlargement of a free American press; and

Whereas, legislation now pending before the Congress would provide needed stability to the broadcasting industry in programming, and technological investment, in turn creating added broadcast services to the citizens.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the President and the Congress give their most earnest consideration to the prompt enactment of legislation prohibiting government or any of its agencies from dictating, influencing or

CM1 RC03

regulating in any way programming or content of news broadcasts on radio and television stations licensed to operate in the United States.

2. That the Honorable Wesley Bolin, Secretary of State of the State of Arizona, transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each member of the Arizona Congressional delegation.

Passed the House March 8, 1973 Passed the Senate ....., 19.....

by the following vote: 49 Ayes, by the following vote: ..... Ayes,

6 Nays, 5 Not Voting. ..... Nays, ... Not Voting.

Stanley W. Akers
Speaker of the House.

President of the Senate.

K. E. Betty Heat
Chief Clerk of the House.

Secretary of the Senate.

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this ..... day of .....,

19....., at ..... o'clock, ... M.

Secretary to the Governor.

APPROVED THIS ..... DAY OF

....., 19.....

Governor of Arizona.

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of

State this ..... day of .....,

19....., at ..... o'clock ..... M.

Secretary of State.