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

July 15, 1981

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: KENNETH W. STARR *KWS*

Jim Baker telephoned this afternoon to report on his telephone conversation earlier today with Senator Helms. The Senator indicated that two key questions would be focused upon during the Judge's confirmation hearings:

1. Is Roe v. Wade still good law?
2. What does the Judge mean when she says that she is morally opposed to abortion or finds it morally repugnant? What form does her opposition take?

I indicated that question 1 was fraught with difficulty, since to respond directly would be to comment on a specific case which might well come before the Court again. Jim replied that Senator Helms' position was that while the Senate could not properly ask her how she would vote on a case, the Senate was entitled to know her view of that case, which was already on the books.

Although we will more fully develop materials with respect to this specific issue, it would be entirely appropriate for the Judge to indicate her familiarity with the jurisprudential arguments made by constitutional scholars (and the dissenting Justices) against Roe v. Wade, but to reserve judgment on the case itself on the ground that to do so would cross the line between expressing personal views on the subject and engaging in the judicial function outside the judicial process.



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

July 7, 1981

MEMORANDUM FOR THE ATTORNEY GENERAL

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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:

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The President indicated that he is fully satisfied with Mrs. O'Connor philosophically and in terms of legal competence. Knowing this was a most important appointment and that the President considered a number of prospects, I'm satisfied she will make an excellent addition to the Court.



**national  
RIGHT TO LIFE**  
committee, inc.

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

SANDRA O'CONNOR  
ABORTION RECORD

- 1970 Arizona Senate, a bill to legalize abortion.  
Bill passed the Senate Judiciary Committee. 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.
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PRESS RELEASE

FOR IMMEDIATE RELEASE

July 7, 1981— 2 p.m.

CONTACT: J.C. WILLKE, M.D.

(202) 638-4396

WASHINGTON, D.C.— "We are extremely disappointed with the appointment of Sandra O'Connor to the U.S. Supreme Court," National Right to Life Committee President Dr. J.C. Willke said today. "We intend to oppose her confirmation by the U.S. Senate because of her consistent pro-abortion record."

Willke said that information on O'Connor's pro-abortion record had been submitted to the White House, but apparently disregarded. "This appointment represents a repudiation of the Republican Platform pledge to appoint judges who respect the sanctity of innocent human life," Willke said.

The National Right to Life Committee will hold a press conference on the O'Connor appointment at 3:30 p.m. today at Room EF 100 at the Capitol (next to the Law Library).

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That also refers to her 1974 leadership of the opposition to Arizona's calling upon Congress for a Human Life Amendment. There was no record vote. The pro-life lobbyists in Arizona vividly recall O'Connor's ~~opp~~ pro-abortion position. O'Connor "cannot remember" what her position and her vote were.

Please note another lie: The last paragraph of Ken Starr's memo -- and by the way, does anybody know about Ken Starr at Justice? check that one out -- is a dreadful deceit.

The woman physician referred to is Dr. Carolyn Gerster, a bitter opponent of O'Connor and everything she stands for. No one at the White House bothered to check this out because they did not want to know the truth.



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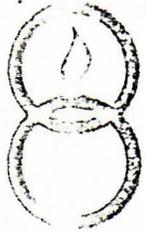
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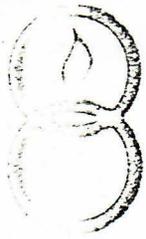


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THE WHITE HOUSE  
WASHINGTON

PM-FYI

July 7, 1981

MEMORANDUM TO: JAMES A. BAKER, III  
FROM: ELIZABETH H. DOLE  
SUBJECT: SUPREME COURT NOMINATION  
CONFIDENTIAL CALL-OUTS

The following organizations will be contacted in solicitation of support for the President's Supreme Court nominee:

Business

Business Roundtable  
U.S. Chamber  
NAM  
NFIB  
BGRC

Ethnic Group

Nat'l Italian American Foundation  
Order Sons of Italy in America  
UNICO (Ital. Fraternal Org)  
Polish American Congress  
AHEPA (Greek Fraternal Org.)  
Ukrainia Congress Comm. of America

Women's Organizations

Gen. Fed. of Women's Clubs  
Business & Professional Women  
National Women's Political Caucus  
Congresswomen's Caucus  
Rural American Women  
Association of American Univ. Women  
Nat'l Association of Women Judges  
NY Women in Banking

Consumers

National Consumers League  
Consumer Federation of America

Disabled

U. S. Council for the Int'l Year of the Disabled Persons

Aging

American Assoc. of Retired Persons  
National Council on Aging

Health

American Academy of Ophthalmology  
American Medical Assoc.  
American Federation of Hospitals

Jewish Organizations

American Jewish Congress  
American Jewish Committee  
Bnai Brith  
Anti-Defamation League  
National Jewish Community Relations Council  
Hadassah

Labor

MEBA  
Teamsters  
AFL-CIO Building and Trades Dept.  
Plumbers  
AFL-CIO

Agriculture

American Farm Bureau Federation  
Nat'l Council of Farmer Coops  
W.I.F.E.  
American Soybean Assn.  
Nat'l Assn of Wheat Growers  
Corn Growers Assoc.

Blacks & Youth

American Assoc. of MESBICS  
Coalition for Social & Economic Change  
National Business League  
70001  
National Assoc. of Black Manufacturers  
Health Occupation Student Assoc.  
Future Farmers of America

Opinion Leaders\*

R. Emmett Tyrrell  
George F. Will  
John O'Sullivan  
Irving Kristol

Conservative Leaders\*

Paul Weyrich - CSFC  
Terry Dolan - NCPAC  
Howard Phillips - TCC  
Rep. Mickey Edwards - ACU  
Phyllis Schlafly - Eagle Forum  
Jerry Falwell - Moral Majority  
Peter Gemon - Nat. Pro-Life PAC  
Cooper Hold - VFW  
Mylio Kraijo - Am. Legion  
Richard Viguerie - Cong. Digest  
Tom Winter - Human Events  
Ed Feulner - Heritage Foundation  
Reed Larson - Nat'l Right to Work

\* Areas of concern for opposition

THE WHITE HOUSE  
WASHINGTON

7/14

Powell -

Fyi.

Pass

COPY OF PRESS RELEASE ISSUED 7/13/81  
BY MEMBERS OF ARIZONA STATE LEGISLATURE  
ON THE NOMINATION OF SANDRA D. O'CONNOR TO THE U.S. SUPREME COURT

TODAY TWENTY-SIX REPUBLICAN AND DEMOCRAT MEMBERS OF THE HOUSE OF REPRESENTATIVES SIGNED LETTERS TO SENATORS STROM THURMOND, HOWARD BAKER, ORRIN HATCH AND JESSE HELMS WHICH GIVE THE FOLLOWING STATEMENT:

"The undersigned members of the Arizona House of Representatives have consistently supported the Right To Life Constitutional Amendment to the U.S. Constitution.

We wholeheartedly endorse the Honorable Sandra D. O'Connor for the nomination to the U.S. Supreme Court. Because of her integrity, morality and knowledge we believe Sandra D. O'Connor will be an asset to the U.S. Supreme Court."

WE BRING THIS TO THE ATTENTION OF THE MEDIA AND THE NATION AS WE FEEL THERE HAVE BEEN A LOT OF UNFOUNDED RUMORS AND INNEUNDOES IN REGARD TO THIS NOMINATION.

Pete Corpstein  
State Representative

July 8, 1981

COPY

The Honorable Strom Thurmond  
Chairman, U.S. Judiciary Committee  
Russell Senate Office Building  
Washington, D.C. 20510

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Sincerely,

(S)

11 5  
THE WHITE HOUSE  
WASHINGTON

7/13

Powell:

FYI.

Any changes, additions?

Pres

O'Connor  
Lil'

SANDRA D. O'CONNOR

Q: What is her schedule in Washington?

A: She will arrive in Washington on Monday evening. She has no appointments on the Hill scheduled until Tuesday.

Q: Where will she be staying?

A: She is staying with close family friends.

Q: Does she have any plans to meet with anyone other than White House officials and-Senators?

A: No.

Q: Has she been invited to meet with any Right-to-Life or ERA groups?

A: No.

Q: When will she meet with the President?

A: Probably Tuesday or Wednesday.

Q: What is her schedule for Tuesday?

A: We are still working on the final details.  
FOR INFORMATION ONLY: Tentatively, she will meet with the Attorney General and Justice officials in the morning. In the afternoon she will go to the Hill to meet with Senators Goldwater, DeConcini, Baker, Thurmond, Biden and Byrd.

Q: Is she scheduled to meet with Senator Helms and conservative Senators on Wednesday as has been indicated?

A: Her initial priority will be meeting with all Senators who are members of the Judiciary Committee.

Q: When do you anticipate hearings starting?

A: As you know, this is basically a five-step process. Nomination, FBI check, then the nomination is sent to the Hill, after which there is a 7-day courtesy period for Committee preparation, then hearings and confirmation. We hope hearings will begin as soon as possible.

#### STARR MEMORANDUM

Q: Why did the President decide on Judge O'Connor's nomination before he received Ken Starr's memo?

A: That memo was not intended to be a decisional memo, but rather was for informational purposes. The President made his decision based on the Justice Department's checks on her record--both judicial and legislative, and his personal interview with her on July 1st. Her choice was the result of efficient and orderly process.

#### VOTING RECORD

Q: How did the President understand she had voted on abortion?

A: Mrs. O'Connor is personally opposed to abortion and finds it abhorrent. The President is completely satisfied with her stand on abortion and feels it is consistent with the Republican platform which called for the appointment of judges who respect traditional family values and the sanctity of human life.

Q: If the President had thought she was pro-choice, would he have picked her?

A: The President is completely satisfied with Mrs. O'Connor's position on abortion. In addition, since this was the appointment of a person to a politically independent institution charged with making judgments about the meaning of our most fundamental law, he was interested in the whole shape of her legal thought--not just a single issue. Also, she looks upon the judicial function as one that is to interpret the law and not make it, and that is completely consistent with the President's view.

Q: How many opinions have been written by Judge O'Connor?

A: Approximately 124.

#### ISSUES

(FOR INFORMATION ONLY)

#### ERA

Q: Her position on ERA?

A: In 1974, she supported a conservative alternative to ERA--an advisory resolution referring the issue to the voters. It dies in committee.

#### ABORTION

Q: What about the 3 abortion bills she voted for that are of most concern to the Right-to-Life groups?

A: In 1973, SB 1190 was assigned to the Public Health and Welfare Committee. This was a family planning bill which would have provided family planning information to minors. There was no vote by O'Connor on this bill because she wasn't on the Committee.

In 1974, she voted against SB 1245, as amended in the House. The bill was designed to permit the University of Arizona to issue bonds for expanded sports facilities. The House amendment included a rider prohibiting abortions at the University of Arizona hospital. Thus, she voted against the bill because of the non-germane amendment which she believed violated the state constitution.

In 1974, HCM 2002 was reported out of the Judiciary Committee on which O'Connor served with a "do pass" recommendation. This was a resolution calling on Congress to amend the Constitution to outlaw abortions. The resolution was held in the Republican caucus and did not go to the floor for a vote.

#### DEATH PENALTY

Q: Her position on the death penalty?

A: In 1973, she worked for, supported and voted for the death penalty bill which was passed and became law.

#### BUSING

Q: Her position on busing?

A: In 1973, she voted for SCM 1002, a memorial resolution urging Congress to take action to prohibit busing. In 1972, she voted for SCM 1001, urging a constitutional amendment to prohibit busing.

#### FIREARMS

Q: Her position on federal firearms legislation?

A: In 1973, she voted for SCM 1002, which also urged Congress to oppose federal firearms legislation.

#### HANDGUNS

Q: Her position on handgun legislation?

A: In 1974, she voted for SCM 1001, urging Congress to oppose

handgun legislation.

PRAYER IN SCHOOL

Q: Her position on prayer in schools?

A: In 1972, she voted for HCR 2009, urging Congress to amend the Constitution to permit voluntary prayer in schools.

LAW SCHOOL--CLASS STANDING

Q: There is some confusion as to her exact standing in her law school class. Can it be verified that she did rank 3rd as has been reported?

A: There were no actual rankings made of the class. That particular ranking was given in a news story. The fact is she ranked in the top ten percent of the Stanford Law School class of 1952. She was elected to the Order of the Coif, which confirms such ranking. Beyond that, no specific rankings were made and Justice Rehnquist himself does not claim first place listing in the biography he filed with the Supreme Court.



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2. What does the Judge mean when she says that she is morally opposed to abortion or finds it morally repugnant? What form does her opposition take?

I indicated that question 1 was fraught with difficulty, since to respond directly would be to comment on a specific case which might well come before the Court again. Jim replied that Senator Helms' position was that while the Senate could not properly ask her how she would vote on a case, the Senate was entitled to know her view of that case, which was already on the books.

Although we will more fully develop materials with respect to this specific issue, it would be entirely appropriate for the Judge to indicate her familiarity with the jurisprudential arguments made by constitutional scholars (and the dissenting Justices) against Roe v. Wade, but to reserve judgment on the case itself on the ground that to do so would cross the line between expressing personal views on the subject and engaging in the judicial function outside the judicial process.



U.S. Department of Justice  
Office of Legislative Affairs

Office of the  
Assistant Attorney General

Washington, D.C. 20530

Powell -  
for your information.

BB

To  
Fran  
for O'Connor file  
some

To ~~Sherrill~~  
for file

July 16, 1981

## Abortion Issue Spurs Uproar over Reagan's High Court Choice

White House 'Moderate Mafia' Provokes Confrontation with Anti-Abortors, 'New Right'

### PRO-ABORT RECORD CITED

Mrs. O'Connor Can't Remember Key Votes, Claims Abortion Is 'Personally Abhorrent'



Mrs. Sandra O'Connor: a controversial High Court nomination . . .



Sen. John P. East: praised for his swift, decisive action . . .

## Human Life Bill Wins Crucial Senate Test In Showdown Vote

Helms, Hyde Laud Sen. East's Big 'First Ever' Success in a Congressional Committee

### FOES CLAIM DELAY 'VICTORY'

Sen. Hatch Would Halt HLB's Momentum for Hearings on Human Life Amendments

THAT'S THE WAY THE HEADLINES might have reported last week's startling developments -- but in fact the media provided a crazy-quilt of distorted and conflicting interpretations of both stories (especially -- see more below -- widespread "defeat" stories re the HLB victory!). Still one theme did come through loud and clear: abortion remains a dominant issue in the big news.

•The newspersons did make abortion the instant No. #1 when President Reagan made his July 8 surprise announcement that Judge Sandra O'Connor was his "promised woman" for the High Court -- because all Washington was buzzing with a background story that got pretty well buried when the big story broke. Here's what happened: Mrs. O'Connor's name only "surfaced" on July 1, when "Administration sources" leaked her name as a "top contender." Both intent and timing seemed obvious: the advance signal would produce the expected support from the Establishment and -- coming only hours before the start of the long Fourth of July weekend -- the expected opposition from anti-abortionists would be defused. But Arizona papers had already been touting Mrs. O'Connor, and local "pro-lifers" (notably Phoenix Dr. Carolyn Gerster, a national leader as well) had flashed the "awful record" word immediately. Despite the holiday exodus, anti-abortion activists manned the phone banks, and the telegrams and calls began pouring into the White House. By Monday morning (the 6th) thousands of anti-O'Connor messages had piled up (with virtually none in support). Indeed, some of our sources say that the unexpected avalanche unnerved Reagan's "Moderate Mafia" (the White House liberal cabal that urged O'Connor's nomination not least because it would provide a desired showdown with the "too-pushy" anti-abortors), causing the obviously-hurried "let's get it over with" announcement press conference the next day!

•The President certainly seemed visibly unhappy as he got behind the mikes Tuesday morning. He emphasized that he'd answer no questions (Attorney General William French Smith would handle that) after he read his brief prepared statement. But as soon as he finished, the room exploded in a wild flurry of shouted questions -- about abortion. And Reagan (again, visibly unhappy) finally answered. Here is how the New York Times (July 8) reported the exchange: "Q. Do you agree with her position on abortion, Mr. President? A. I said I'm going to turn over all questions [to the AG] ... Q. The right-to-life people may oppose it,

(over, please)

sir, and we just wonder if ... ? A. All those questions the Attorney General is prepared to answer. Q. Mr. President, yours is a pro position on that; can you give us your feelings about that pro position? A. I am completely satisfied. Q. On her right-to-life position? A. Yes. Q. And did you interview her first personally? A. Yes."

● In fact the AG didn't add much in the lengthy questioning that followed: Yea, she was fine on abortion; no, he didn't think she'd face tough opposition, etc. (Reporters switched over to the news that the Administration had acted so hastily the FBI hadn't even checked on O'Connor yet!). But the "unexpected" opposition instantly went loudly public nationwide as virtually every "right-to-life" group howled -- as did most of the "New Right" organizations clustered in Washington -- giving the media a golden opportunity to label all opposition to Mrs. O'Connor "conservative" (that's still the line as we go to press, even though most newsmen will privately admit that the anti-abortion movement draws its broad strength from all but the far-Left of the political spectrum). And the fires were quickly fanned by the gleeful approval from the Big Spokespersons of Women's Lib groups, all strongly pro-abort, of course. (What could outrage pro-lifers more than seeing Bella Abzug -- on TV the next day -- calling it a "marvelous" choice of a "marvelous" woman?!)

● Trouble is, "the deed is done," as one Washington anti-abort strategist ruefully admitted. Mr. Reagan obviously was determined to appoint a Mz, and the political wisdom is that any woman nominated will be approved, no matter how outraged the opposition. This grim reality was instantly plain. Barry Goldwater, "Godfather" of the Old Right, was roused to loud praise of his home-state nominee, even cussed out the Moral Majority's Jerry Falwell (thus splitting the Right); Strom Thurmond -- head of the Senate Judiciary Committee that will in effect confirm O'Connor -- said "I will do everything I can to help the President." Orrin Hatch -- citing Reagan's word that she finds abortion "personally abhorrent," endorsed "an excellent choice" (even though Mrs. O'Connor is at least cautiously pro-ERA, hardly a popular cause back home in Utah?). Jesse Helms reacted with unaccustomed modulation (shrewd as always, he asked the President to set up a meeting with Mrs. O'Connor this week). In his inimitable way, Jesse symbolizes the dilemma: nobody wants to vote against the First Person nominee (perhaps least of all the courtly Helms?). And Columnist William Buckley (see the New York Daily News, July 12) put it bluntly: "... the anti-abortion constituency will make a grave mistake if it launches an all-out effort to defeat Mrs. O'Connor ... she is going to be confirmed by a heavy majority ... it would be a pity to invite the conclusion that the political strength of the [anti-aborts] is measured by the size of the minority who vote against Mrs. O'Connor."

● Right now, the whole topsy-turvy situation looks like a horrible, potentially disastrous miscalculation by the "Moderate Mafia" (unless of course Jim Baker & Co. wanted to satisfy only those who didn't vote for RR?). As Columnist Joe Sobran put it, Reagan "promised to appoint a woman ... He has kept that promise, but he has also broken another one in the process" -- his pledge to support the 1980 GOP Platform's call for judges who respect "the sanctity of human life." As Sobran points out, "Mrs. O'Connor, in the Arizona legislature a decade ago, was voting for liberalized abortion laws before the Supreme Court made such votes unnecessary." In effect, Reagan is saying that Mrs. O'Connor has changed her mind -- we have his word for it. Trouble is, that's all he has; once on the bench, Justices notoriously become unbound by past statements or positions; nobody can know how she'll vote -- or how any "better" nominee would vote. If she does vote anti-abort (or at least anti Roe v. Wade) Reagan is home free; if otherwise, she'll become an albatross round the neck of the Administration and the GOP.

● In politics, perception often is reality. Unless/until Mrs. O'Connor herself proves otherwise, the President is stuck with the perception that he deliberately broke faith with that part of his own constituency to which faith means more than anything else. As it happened, a mid-West anti-abort political organizer (one of the most effective we know) was sitting in Lifeletter's Washington "bureau" when the news exploded: her instant reaction was "I'll never be able to get people to work for them again" -- said with feeling, because most of "her" people are Democrats! To such people, the spectacle of "just another Country Club Republican" nomination makes rubbish of the "promise" they wanted to see in Candidate Reagan: that he would make things different. Presumably, the "Mafia" calculates that such "in-

initial" reactions will fade away; that it's a long time to '84 -- or even '82 -- and, with a little luck, plenty of time before Mrs. O'Connor will face an up-or-down abortion decision. That's conventional political wisdom. But the record clearly shows that, in the politics of abortion, the ordinary rules don't apply: all votes/decisions become up-or-down litmus tests -- ask the Congress (in re Hyde) or last year's flock of defeated Dem senators!

•The President himself may know better already (throughout his remarkable political career, every time he's listened to his "advisors" he's paid dearly, e.g., remember Iowa?). He's already felt the sting of live "pro-life" opposition -- immediately after his announcement, he flew to Chicago for a speech; by the time he returned to the airport for the flight back, pickets were there to greet him with "Reagan Reneges" placards! And he should have little difficulty figuring out what needs to be done. No way he can back off from the O'Connor appointment now, of course. But he can take immediate action to restore his position with a great many (maybe most) anti-aborts: the Human Life Bill is now in the Senate "hopper"; Mr. Reagan could once again -- as he did in his famous March 6 press conference -- publicly support the HLB (and the constitutional amendments as well) and join Henry Hyde in calling for "a little congressional activism" on abortion!

SHORTLY AFTER NOON ON THURSDAY, JULY 9 the press wires crackled with the history-making news: "A Senate subcommittee voted 3-2 today to approve legislation defining life as beginning at conception, taking the first congressional step toward overturning the 1973 Supreme Court decision legalizing abortion ... a major victory for opponents of legalized abortion ... The bill also would prohibit lower federal courts from considering challenges to the anti-abortion legislation ... no previous legislation to prohibit abortions has survived any congressional committee ... the bill ... is supported by President Reagan ... " -- those highlights vividly illuminate what the "Human Life Bill" now means to both sides in the bitter abortion struggle. For those anti-aborts who pushed hard for the HLB (a big majority nationwide, if our own mail is any indication), it was sweet vindication of the bold new strategy that launched this daring flank thrust only last January 19, taking the Congress by surprise, and completely discombobulating the pro-aborts, who were "ready" with zillions of expensive "Stop HLA" materials they couldn't use! Six months may seem long elsewhere, but it is an amazingly short time for so revolutionary a new bill to move right through complicated, in-depth committee hearings and on to the crucial vote (i.e., had the HLB lost this vote, it would be dead).

•Original Chief Sponsors Jesse Helms and Henry Hyde were quick to hail the victory, and praise the gutsy guy responsible: in a joint letter to Sen. John East the following morning, they told East they were delighted by the vote and hoped "that the full [Judiciary] Committee will give this vital piece of interim pro-life legislation the same swift, professional and thorough examination that your fine Judiciary Subcommittee ... gave our bill ... our deepest gratitude for your outstanding and courageous efforts." And no doubt about it, East is the hero of the hour: a GOP freshman (from "Helms' country," North Carolina) who didn't sound like a tough anti-abort pro when he rolled into town last January (polio confined him to a wheelchair 26 years ago), East learned mighty fast. Quickly assembling a first-rate staff, he took firm command of the HLB hearings and pushed them through against strong opposition from both the desperate pro-aborts and not a few "pro-lifers," who gave him plenty of (albeit mainly behind-the-scenes) trouble.

•Indeed, the victory was flawed in the end only by such "friendly" opposition. Back at the start, the plan was for joint hearings by East's Separation of Powers subcommittee and Sen. Orrin Hatch's Constitution subcommittee; on March 20, Hatch's office issued a release setting the opening dates for April 23-4, and stating that "Both senators agreed that the decision to hold joint hearings ... stemmed from the 'paramount importance' of this issue throughout the nation and the need to involve as broad a range of [Judiciary Committee] members as possible." But then Hatch changed his mind; he appeared at the first (April 23) session to announce that he had "reservations" about the HLB's constitutionality (see Life-letter #7 for details). Undaunted East plowed ahead alone, despite the obvious fact that Hatch would end up with the deciding vote; i.e., only East and his fellow Republican, Alabama Freshman Jeremiah Denton, were solid for the HLB; Dems Howell Heflin (also Alabama) and Max Baucus (Montana) are pro-abort. When the showdown came last week, Hatch was still

playing Hamlet (as one observer quipped: "HLB or not HLB, that is the question") he showed up to express afresh his "constitutional reservations"; he "preferred" a constitutional amendment, and announced that his own subcommittee would hold "Human Life Amendment" hearings in the fall -- which will undoubtedly delay full Judiciary Committee action for nobody knows how long!

•Once again the media was quick to seize the opening: while most of the newspapers played the story as above (i.e., as a landmark anti-abortion victory -- the NY Daily News banner head said simply "'Human Life Bill' is OK!"), TV and radio coverage that night ballyhooed Hatch's demurrals, and featured the great squeals of relief from pro-abortion spokespersons: e.g., NARAL's Suellen Lowery chortled "We [*our emphasis* -- Ed.] have managed to push this bill onto the back burner, and it shows that we have some real political strength" -- an interpretation that must surely have made Sen. Hatch less than comfortable with what he got in return for his vote. In fact, of course, it's too early to tell what might happen next. What is certain is that, had Hatch voted Nay, he would have snatched stinging defeat from the proverbial jaws of victory (no less for himself than for East!). As it is, the HLB remains fully alive, and ready for the first available opportunity to move it to a vote (if not first in the Senate, then in the House? -- needless to say, we'll have more on all this in upcoming issues).

•Meanwhile, Hatch may be happy for some return favors if and when he gets his own hearings underway. The July 9 Action Line (newsletter of the Christian Action Council, the leading Evangelical anti-abortion organization) describes the latest "alternative" being posed by anti-HLB groups: a "two amendment" package that would a) first pass a "states rights" type amendment and b) then pass another one which would make the unborn "legal persons" (i.e., what the HLB would do now!). "Obviously, such a 'two-step' strategy can only protract the battle against abortion," comments Action Line, for many more years, and "More perplexing, these 7 to 10 years of grueling effort will have produced a states' rights amendment" -- which, as everybody knows, has been anathema to many (if not most) anti-abortion groups all along. No doubt Sen. Hatch has in mind consideration of the several Human Life Amendments already proposed; if his hearings get tangled up with a whole new series (based on a wholly new, radical approach that most grass-roots supporters have never even heard of), there's big trouble ahead. So the vote that saved the HLB, however equivocal, may end up paying big dividends for Hatch, who can count on HLB supporters to help him stick to the on-the-table agenda.

A FASCINATING FOOTNOTE to the Judge O'Connor saga: in their July 10 column, Evans & Novak (everybody reads 'em in Washington) report that "A hurriedly prepared, error-filled memo" by a young Justice Dept. lawyer was what convinced the President "to go through with" his Court nomination "even at grave political risk." The memo "softened O'Connor's pro-abortion record," says E & N, and Reagan "took it at face value" -- an example, they say, of the "narrow flow of information" that subjects him to "staff manipulation." The column goes on quoting chapter and verse about the whole disastrous mixup, e.g., that a former colleague of O'Connor's in the Arizona state legislature sent the White House a "stack of clippings" that revealed her pro-abortion, pro-ERA and even "caution in restricting pornography" stands. Worse, they say that RR even called AG Smith to check specifically on her abortion record -- presumably if he'd got the available information he might have changed his mind -- but Smith turned the job over to the young memo-writer, who promptly telephoned O'Connor herself for his answers! Not surprisingly, they say, his memo gave O'Connor a "clean bill of health" on the issue (he also said she had "no recollection" of how she voted on a bill to legalize abortion, whereas in fact she was a co-sponsor!). E & N conclude that Reagan "has lost control" of his administration to "moderate forces in general" -- what we called the "Moderate Mafia"? -- and Jim Baker in particular. All in all, it's a devastating column.

HENRY HYDE'S HOUSE DISCHARGE PETITION #5 (to "spring" Dr. Everett Koop's Surgeon General nomination for a floor vote) now has over 160 signers -- but needs 218; over 100 members who have voted anti-abortion have not signed as yet (better check yours quick?).



SANDRA D. O'CONNOR  
JUDGE

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A handwritten signature in cursive, appearing to read "Heflin", written in dark ink.

August 14, 1981

The Honorable Howell Heflin  
United States Senator  
Washington, D.C. 20510

I am enclosing a photograph taken at breakfast at the White House when you were kind enough to join me during my visit there in July. I look forward to seeing you in September.

Sincerely,

A handwritten signature in cursive, appearing to read "Sandra", written in dark ink.

Sandra D. O'Connor

SO'C/bw

enc.

cc: Powell A. Moore  
Deputy Assistant to the  
President for Legislative  
Affairs (Senate)