Pro-Life

March 10, 1982

Dear Mr. Sheehan:

I want to express my sincere thanks to you and the members of the North Shore Educational Committee for the copy of Life lines which Henry Luthin kindly presented on your behalf, on the occasion of my briefing with other pro-life leaders. It was indeed thoughtful of you to share your publication with me, and I am glad to have this opportunity to convey my personal appreciation for your own deep concern for the sanctity of all human life. With the support of citizens like you, I look forward to the day when legal protection shall have been restored to the God-given right to life of every American.

I also want to take this occasion to affirm my gratitude for the generous support you and your colleagues gave to me during the Presidential campaign. Our tremendous success in the 6th Congressional District can be attributed primarily to the loyalty and goodwill of hardworking folks like you. Please know that I shall do all that I can to continue to be worthy of your confidence.

With my best wishes to you and your associates for the continued success of your efforts,

Sincerely,

Mr. Francis J. Sheehan
c/o North Shore Educational Committee
Massachusetts Citizens for Life, Inc.
23 Kosciusko Street
Peabody, Massachusetts 01960

cc: Mr. Henry C. Luthin
Executive Director
Massachusetts Citizens for Life, Inc.
313 Washington Street
Newton, Massachusetts 02158

cc: Kathy Christiansen, Morton Blackwell's Office

RR:CMF:MP:AVH:mlg

Pro Life

March 10, 1982

Dear Mr. Packard:

Thank you very much for the copy of Life Lines which Henry Luthin kindly presented as a gift from you and your fellow members of the North Shore Educational Committee, on the occasion of my briefing with other pro-life leaders. I appreciate your thoughtfulness in remembering me with your publication and am grateful for your own deep concern for the sanctity of all human life. With the support of citizens like you, I look forward to the day when legal protection shall have been restored to the God-given right to life of every American.

I also deeply appreciate the generous support you and your associates gave to me during the Presidential campaign. Your loyalty and hard work contributed greatly to our overriding victory in the 6th district. Again, many thanks for all your help.

With my best wishes to you and your colleagues,

Sincerely,

RONALD REAGAN

Mr. Edward A. Packard
36 Walter Road
Danvers, Massachusetts 01923

cc: Kathy Christiansen, Morton Blackwell's Office

RR:CMF:MP:AVH:mlg

STATEMENT BY RONALD REAGAN TO BE READ BY SECRETARY SCHWEIKER

I AM PLEASED TO WELCOME THE 1982 MARCH FOR LIFE TO WASHINGTON.

I KNOW YOU ARE AWARE OF MY FEELINGS, WHICH I HAVE OFTEN EXPRESSED, ON THE QUESTION OF ABORTION. I BELIEVE THAT WHEN WE TALK ABOUT ABORTION, WE ARE TALKING ABOUT TWO LIVES -- THAT OF THE MOTHER AND THAT OF THE UNBORN CHILD.

IT IS INSTRUCTIVE I THINK THAT IN RECENT HEARINGS ON THE HILL, THE QUESTION OF WHEN LIFE BEGINS COULD NOT BE RESOLVED. THAT IS A FINDING IN AND OF ITSELF. THE FACT THAT DOUBTS CONTINUE TO EXIST ON THIS ISSUE LEAD ME TO THE CONCLUSION THAT GOVERNMENT HAS THE RESPONSIBILITY TO OPT ON THE SIDE OF LIFE FOR THE UNBORN, EXCEPT IN THOSE RARE CASES WHERE THE MOTHER'S LIFE IS IN DANGER.

AS I SAID EARLIER THIS WEEK IN MY PRESS CONFERENCE, IF ONE WERE TO COME UPON AN IMMOBILE BODY, AND IT COULD NOT BE DETERMINED AS TO WHETHER IT WERE DEAD OR ALIVE, YOU WOULDN'T GET A SHOVEL AND START COVERING IT UP. IF WE DON'T KNOW, THEN SHOULDN'T WE MORALLY OPT ON THE SIDE OF LIFE. IN MY

OPINION, WE SHOULD DO THE SAME THING WITH REGARD TO ABORTION.

THE CONGRESS IS EXAMINING THE ENTIRE ABORTION QUESTION. THERE ARE SEVERAL PIECES OF LEGISLATION ON THE HILL RANGING FROM CONSTITUTIONAL AMENDMENTS TO A HUMAN LIFE STATUTE. THE FACT THAT THESE PROPOSALS TAKE DIFFERENT APPROACHES SHOULD NOT OBSCURE THE MORE IMPORTANT POINT THAT THEY HAVE THE SAME GOAL -- TO PROVIDE GREATER PROTECTION FOR THE MOST DEFENSELESS AND INNOCENT AMONG US -- THE UNBORN CHILD.

I LOOK FORWARD TO ONE OF THESE PROPOSALS REACHING MY DESK FOR ACTION.

THE RIGHT-TO-LIFE MOVEMENT IS MADE UP OF COUNTLESS AMERICANS OF ALL BACKGROUNDS. YOUR ANNUAL MARCH FOR LIFE HERE IN WASHINGTON IS A SYMBOL OF A SHARED COMMITMENT. I WISH YOU WELL IN YOUR EFFORTS TO PROTECT THE LIFE OF THE UNBORN.

THE WHITE HOUSE

WASHINGTON

April 26, 1982

MEMORANDUM FOR ELIZABETH H. DOLE

THRU: DIANA LOZANO

FROM: MORTON BLACKWELL

SUBJECT: Presidential Statement on Handicapped Newborns

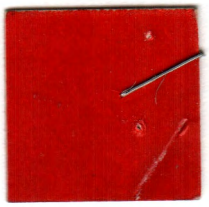
This is an excellent draft statement.

The unnecessary death of this infant has shocked many Americans. The President's statement and actions will be applauded by all who appreciate the President's role as our national leader.

The wording is careful. All of the right points are made.

I suggest that this statement be issued as soon as possible because the annual meeting late this week of the President's Committee on Employment of the Handicapped will bring a large (several thousand) group of persons vitally concerned with rights of handicapped to D. C.

It goes without saying that the pro-life community will deeply appreciate the President's sensitivity to this issue.



EHD
Red
Diana L
Virginia K.
Morton B.

Document No. 044463CS

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/26/82 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. TODAY 4/26

SUBJECT: BLOOMINGTON BABY CASE

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☑	☐
MEESE	☐	☑	HARPER	☐	☑
BAKER	☐	☑	JAMES	☐	☐
DEAVER	☐	☑	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐P	☑SS	WILLIAMSON	☑	☐
DOLE →	☑	☐	WEIDENBAUM	☐	☐
DUBERSTEIN	☑	☐	BRADY/SPEAKES	☐	☐
FIELDING	☑	☐	ROGERS	☐	☐
FULLER	☐	☐	_____	☐	☐

Remarks:

Per discussion in Senior Staff, the attached is circulated for your consideration at the request of Ed Harper. Please focus particularly on the proposed statement by the President -- and provide comments by c.o.b. TODAY. Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:

Background on the Bloomington Baby Case

Approximately two weeks ago, a child was born in a Bloomington , Indiana hospital with Downs Syndrome (otherwise known as mongolism, a defect which occurs in roughly one of every seven-hundred births). Quite apart from its mongolism, the child had an apparently operable esophagal-tracheal disorder, which unless surgically corrected made it impossible for the child to be fed without causing death.

A pediatric group advised the parents to operate; another advised them to do nothing. The parents decided to pursue the latter course. Informed of this, the pediatric group apparently threatened legal action, whereupon parents hired counsel of their own.

The hospital, fearing possible liability on its part, sought and received from the parents a signed statement indicating their knowledge of the consequences of their decision (namely, death of the infant). Because it was not authorized to perform any further medical services, the hospital then recommended that the child be taken home. The parents refused, but as a courtesy to their wishes, the child was removed from the special infant care unit to a private room.

At this point, hospital attorneys began to worry about the Indiana child abuse and neglect statute and thereupon sought a court order to provide necessary treatment. The court denied the motion, but a day later the judge (who apparently began to have second thoughts) appointed a guardian ad litem in the form of the local Child Protection Agency. The Agency decided not to appeal, another day passed, and the judged appointed a second guardian. Appeal was taken to the Indiana Supreme Court, which in a split opinion, upheld the lower court.

Before an appeal to the U.S. Supreme Court could be effectuated, the child died.

WASH. POST

4.22.82

George F. Will

'The Killing Will Not Stop'

The baby was born in Bloomington, Ind., the sort of academic community where medical facilities are more apt to be excellent than moral judgments are. Like one of every 700 or so babies, this one had Down's syndrome, a genetic defect involving varying degrees of retardation and, sometimes, serious physical defects.

The baby needed serious but feasible surgery to enable food to reach its stomach. The parents refused the surgery, and presumably refused to yield custody to any of the couples eager to become the baby's guardians. The parents chose to starve their baby to death.

Their lawyer concocted an Orwellian euphemism for this refusal of potentially life-saving treatment—"Treatment to do nothing." It is an old story: language must be mutilated when a perfumed rationalization of an act is incompatible with a straightforward description of the act.

Indiana courts, accommodating the law to the *Zeitgeist*, refused to order surgery, and thus sanctioned the homicide. Common sense and common usage require use of the word "homicide." The law usually encompasses homicides by negligence. The Indiana killing was worse. It was the result of premeditated, aggressive, tenacious action, in the hospital and in courts.

Such homicides can no longer be considered aberrations, or culturally incongruous. They are part of a social program to serve the convenience of adults by authorizing adults to destroy inconvenient young life. The parents' legal arguments, conducted in private, reportedly emphasized—what else?—"freedom of choice." The freedom to choose to kill inconvenient life is being extended, precisely as predicted, beyond fetal life to categories of inconvenient infants, such as Down's syndrome babies. There is no reason —none— to doubt that if the baby had not had Down's syndrome the operation would have been ordered without hesitation, almost certainly, by the parents or, if not by them, by the courts. Therefore the baby was killed because it was retarded. I defy the parents and their medical and legal accomplices to explain why, by the principles affirmed in this case, parents do not have a right to kill by calculated neglect any Down's syndrome child—regardless of any medical need—or any other baby that parents decide would be inconvenient.

"The freedom to kill inconvenient life is being extended beyond fetal life to categories of infants such as Down's syndrome babies."

Indeed, the parents' lawyer implied as much when, justifying the starvation, he emphasized that even if successful the surgery would not have corrected the retardation. That is, the Down's syndrome was sufficient reason for starving the baby.

In 1973 the Supreme Court created a virtually unrestrictable right to kill fetuses. Critics of the ruling were alarmed because the court failed to dispatch the burden of saying why the fetus, which unquestionably is alive, is not protectable life. Critics were alarmed also because the court, having incoherently emphasized "viability," offered no intelligible, let alone serious, reason why birth should be the point at which discretionary killing stops. Critics feared what the Indiana homicide demonstrates: the killing will not stop.

The values and passions, as well as the logic of some portions of the "abortion rights" movement, have always pointed beyond abortion, toward something like the Indiana outcome, which affirms a broader right to kill. Some people have used the silly argument that it is impossible to know when life begins. (The serious argument is about when a "person" protectable by law should be said to exist.) So what could be done about the awkward fact that a newborn, even a retarded newborn, is so incontestably alive?

The trick is to argue that the lives of certain

By Susan Davis

kinds of newborns, like the lives of fetuses, are not sufficiently "meaningful"—a word that figured in the 1973 ruling—to merit any protection that inconveniences an adult's freedom of choice.

The Indiana parents consulted with doctors about the "treatment" they chose. But this was not at any point, in any sense, a medical decision. Such homicides in hospitals are common and will become more so now that a state's courts have given them an imprimatur. There should be interesting litigation now that Indiana courts—whether they understand this or not—are going to decide which categories of newborns (besides Down's syndrome children) can be killed by mandatory neglect.

Hours after the baby died, the parents' lawyer was on the "CBS Morning News" praising his clients' "courage." He said, "The easiest thing would have been to defer, let somebody else make that decision." Oh? Someone had to deliberate about whether or not to starve the baby?

whether to love or starve their newborns?

The lawyer said it was a "no-win situation" because "there would have been horrific trauma — trauma to the child who would never have enjoyed a — a quality of life of — of any sort, trauma to the family, trauma to society." In this "no-win" situation, the parents won: the county was prevented from ordering surgery; prospective adopters were frustrated; the baby is dead. Furthermore, how is society traumatized whenever a Down's syndrome baby is not killed? It was, I believe, George Orwell who warned that insincerity is the enemy of sensible language.

Someone should counsel the counselor to stop babbling about Down's syndrome children not having "any sort" of quality of life. The task of convincing communities to provide services and human sympathy for the retarded is difficult enough without incoherent lawyers laying down the law about whose life does and whose does not have "meaning."

The Washington Post headlined its report: "The Demise of 'Infant Doe'" (the name used in court). "Demise," indeed. That suggests an event unplanned, even perhaps unexplained. ("The Demise of Abraham Lincoln"?) The Post's story began:

"An Indiana couple, backed by the state's highest court and the family doctor, allowed their severely retarded newborn baby to die last Thursday night...."

"'Severely retarded' is a misjudgment that is both a cause and an effect of cases like the one in Indiana."

But "severely retarded" is a misjudgment (also appearing in The New York Times) that is both a cause and an effect of cases like the one in Indiana. There is no way of knowing, and no reason to believe, that the baby would have been "severely retarded." A small fraction of Down's syndrome children are severely retarded. The degree of retardation cannot be known at birth. Furthermore, such children are dramatically responsive to infant stimulation and other early interventions. But, like other children, they need to eat.

When a commentator has a direct personal interest in an issue, it behooves him to say so. Some of my best friends are Down's syndrome citizens. (Citizens is what Down's syndrome children are if they avoid being homicide victims in hospitals.)

Jonathan Will, 10, fourth-grader and Orioles fan (and the best Wiffle-ball hitter in southern Maryland), has Down's syndrome. He does not "suffer from" (as newspapers are wont to say) Down's syndrome. He suffers from nothing, except anxiety about the Orioles' lousy start.

He is doing nicely, thank you. But he is bound to have quite enough problems dealing with society—receiving rights, let alone empathy. He can do without people like Infant Doe's parents, and courts like Indiana's asserting by their actions the principle that people like him are less than fully human. On the evidence, Down's syndrome citizens have little to learn about being human from

PROPOSED STATEMENT BY THE PRESIDENT

The recent death of a handicapped newborn baby in an Indiana hospital has shocked and saddened us all. Not the least of the ironies associated with this incident is that it occurred in this country, which has pioneered so many of the miraculous medical advances for the care of newborn infants.

The men and women of the health care professions struggle daily to save the lives of the smallest and most infirm of children. Even when they lose the battle, their work -- aiding the struggle of the newborn to live -- reaffirms our respect for the sanctity of human life.

Their heroic efforts make all the more poignant what happened in Indiana a few weeks ago. My purpose is not to second-guess the particular judgment of the parents, medical professionals, or courts who decided to withhold food and medical treatment in that case. My purpose, rather, is a larger one: to underscore the commitment of this nation and its laws to the protection of human life.

The central question before us is whether, in the United States of America, handicapped children will be allowed to die simply because they are less than perfect.

My answer is unequivocal: they will not.

As a first step in fulfilling that pledge, I have instructed Secretary Schweiker to notify health care providers of the applicability of Section 504 of the Rehabilitation Act of 1973 to the treatment of handicapped newborn infants. That law forbids recipients of federal funds to withhold from the handicappped any benefit or service which ordinarily would be provided to patients without handicaps.

In the most serious cases, those in which the question of life or death is involved, further protective measures may be necessary. Accordingly, I have instructed the Attorney General to report to me on the possible application of federal constitutional and statutory remedies in appropriate circumstances to prevent the taking of human life.

I salute those in the health care professions whose daily dedication to the care of the handicapped enobles the medical profession and reflects the highest ideals of our people.

I call upon All Americans to consider in their hearts whether the law should approve the taking of innocent human life simply because it is less than perfect, or whether, as I believe, it should seek equal protection for all.

Pres. Council on Handicapped

Thurs Friday

United Together

Annual Meeting

of Pres. Committee

on Employment

of the Handicapped

a large

4/27/82

QUOTE - FOR PUBLICATION

"The President is on record in favor of each of the major proposed remedies. So far as I know there is no Administration plan to advance one in preference over another."

QUESTION:

If one comes up for a vote and is defeated despite support by ~~x~~ the Administration, will the Administration then support the other when it comes to a vote?

"Emphatically yes. The President is on record in support of both."

file
Nat. Right to Life Committee

May 5, 1982

Dear Dr. Driesbach,

I have received your letter and I want you to know the great horror and sadness evoked by the incident you described. When all is said and done, being confronted with the reality of abortion and its consequences removes all traces of doubt and hesitation. The terrible irony about this sudden discovery is not that so many lives were legally aborted but that they are only a tiny proportion of the 1.5 million unborn children quietly destroyed in our nation each year. This is the truth many would rather not face.

Your decision to hold a memorial service for these children is most fitting and proper. On such an occasion we must strengthen our resolve to end this national tragedy. I am hopeful that evidence like that found in California will move those who have thus far preferred silence or inaction and encourage them to agree that something must be done. I have expressed my anticipation that Congress act expeditiously on this matter and approve a measure which will remove this evil and all its vestages from our society. Thank you for writing and may God bless you in all your efforts.

Sincerely,

Ronald Reagan

Phillip B. Driesbach, M.D.
Secretary, California Pro-Life Medical Association

Fetus find embroils state Senate race

MAY 28 1982

By Rex Dalton
Medical writer

An effort to use a shipping container of about 17,000 fetuses and embryos found in Wilmington to capture the anti-abortion vote in a hotly contested Los Angeles state Senate race has reached the White House.

A letter from President Reagan reportedly favoring a burial service for some of the fetuses has been sent by Sen. Alex Garcia, D-East Los Angeles, to members of the county Board of Supervisors in hopes the board will release the fetuses, which are the subject of a District Attorney's Office investigation into possible illegal abortions.

Garcia, facing a stiff challenge from Assemblyman Art Torres, D-Los Angeles, wants possession of the fetuses so he can stage what officials of Torres' campaign call "a media event" before the June 8 primary.

The two legislators are vying for the Democratic nomination in Garcia's 24th District, and the abortion issue has become a focal point of Garcia's re-election effort in the heavily Hispanic-Catholic area. Garcia is strongly anti-abortion, while Torres believes women should have the right to choose abortion.

A member of Garcia's staff claimed District Attorney John Van de Kamp is delaying release of the fetuses because he is backing Torres.

A spokesman for Van de Kamp, who is running for state attorney general, denied there is any foot-dragging.

After the February discovery of the fetuses, which came from a now-defunct Santa Monica medical laboratory and were preserved in jars of formaldehyde, the Board of Supervisors ordered a state and county investigation. Of particular concern to the supervisors was the possibility some of 43 well-developed fetuses found in the container might have been old enough to survive.

About three-fourths of the 43 fetuses were at least 20 weeks old when aborted, officials said, but five to seven were considerably more developed, possibly to the point they could have lived.

Garcia recently wrote the supervisors asking that the fetuses not needed as part of the investigation be released.

Attached to Garcia's letter to the board was a letter from Reagan, reportedly favoring the memorial service, that originally had been sent to Dr. Philip Dreisbach, a Palm Springs physician and officer in the California Pro Life Medical Association.

Dreisbach said the president, responding to a letter Dreisbach wrote, indicated he is very interested in the effort to organize a memorial service, but Reagan did not know if he could accept an invitation to attend.

Monday, Dreisbach said his wife would release the letter. But then his wife, Jeannette, refused, saying she "didn't want to participate in political footballing." The Dreisbachs also contend there is a political conspiracy to prevent the release of the fetuses.

In other deaths, bodies are always released after proper documentation is obtained, they said, noting autopsies have been performed on the most-developed fetuses.

Van de Kamp's spokesman, Al Albergate, denied political considerations are involved in the fetuses' case. "There is no truth to it at all."

Officials in the offices of supervisors Kenneth Hahn, Peter Schabarum and Mike Antonovich claim they had no knowledge of Reagan's letter. Supervisor Ed Edelman refused to release the letter.

John Shahabian, Garcia's campaign manager, said he knew nothing about the letter, adding it is possible someone in the senator's district office may have sent it.

But he admitted Garcia wanted to hold the memorial service "as soon as possible."

Later telephone calls to Garcia's office for further questions weren't returned.

Officials in the White House press office said they aren't aware of the letter.

Dave Townsend, Torres' campaign manager, said the memorial service is to be "a media event for those guys. That's a major part of Garcia's campaign."

Manuel Sanerano, identified by Shahabian as a part-time worker in Garcia's campaign, contacted a *Daily Breeze* reporter Saturday for information about the fetuses, saying "we are trying to pull something."

In response to a question, Sanerano indicated Garcia's campaign staff hopes to have the fetuses released before the primary to maximize media coverage of a memorial service.

"A lot of people have been working on this very hard," said Sanerano, adding Reagan had written a letter in support of the memorial service.

Last Tuesday, the Board of Supervisors unanimously passed a motion by Antonovich asking the district attorney and County Counsel's Office to consider releasing the fetuses not needed for investigation.

Senator David Roberti (II) liberal
Pres - protem - Calif Assembly

Assemblyman Mike Antonovich - Board of Supervisors

Sen. Alex Garcia

Dr Phillip Driesbach
Dr Gerald Navarre OB-Gyn) CA Pro Life Med Assn

brown envelope
pers. + conf.

February 23, 1982

Dear Mr. Beckett:

It was a special pleasure to meet you and the other leaders of major pro-life organizations who came to the White House on the occasion of the "March for Life" on January 22. I am grateful for having had the opportunity to reiterate my firm stand against abortion and my deep belief in the inherent sanctity of all human life. Thank you so much for the handsome plaque which you presented to me from the Intercessors For America. I shall keep it as a meaningful expression of your group's friendship.

I am pleased to have this occasion to emphasize that my concern for the unborn is a major part of the agenda of my Administration. With the backing of concerned and committed citizens like the Intercessors For America, I look forward to the day when legislation on the right to life reaches my desk for signature.

With my best wishes to you and your colleagues,

Sincerely,

RONALD REAGAN

Mr. John D. Beckett
President
Intercessors For America
Post Office Box D
Elyria, Ohio 44036

cc: Morton Blackwell

RR:CMF:RH:AVH:vm1--

February 23, 1982

Dear Mr. Horan:

It was a special pleasure to meet you and the other leaders of major pro-life organizations who came to the White House on the occasion of the "March for Life" on January 22. I am grateful for having had the opportunity to reiterate my firm stand against abortion and my deep belief in the inherent sanctity of all human life. Thank you so much for the inscribed copy of New Perspectives on Human Abortion which you presented to me at the meeting. I look forward to reading your work.

I am pleased to have this occasion to restate that my concern for the unborn is a major part of the agenda of my Administration. With the backing of concerned and committed citizens like the Americans United for Life, I look forward to legislation reaching my desk for signature.

With my best wishes to you and your colleagues,

Sincerely,

RONALD REAGAN

Mr. Dennis Horan
Apartment 915
230 North Michigan Avenue
Chicago, Illinois 60601

cc: Morton Blackwell

RR:CMF:RH:AVH:vml--

THE WHITE HOUSE

WASHINGTON

April 30, 1982

MEMORANDUM FOR THE ATTORNEY GENERAL
THE SECRETARY OF HEALTH AND HUMAN SERVICES

SUBJECT: Enforcement of Federal Laws Prohibiting Discrimination Against the Handicapped

Following the recent death of a handicapped newborn child in Indiana, many have raised the question whether Federal laws protecting the rights of handicapped citizens are being adequately enforced.

Therefore, I am instructing Secretary Schweiker to notify health care providers of the applicability of section 504 of the Rehabilitation Act of 1973 to the treatment of handicapped patients. That law forbids recipients of Federal funds from withholding from handicapped citizens, simply because they are handicapped, any benefit or service that would ordinarily be provided to persons without handicaps. Regulations under this law specifically prohibit hospitals and other providers of health services receiving Federal assistance from discriminating against the handicapped.

I am also instructing the Attorney General to report to me on the possible application of Federal constitutional and statutory remedies in appropriate circumstances to prevent the withholding from the handicapped of potentially life-saving treatment that would be given as a matter of course to those who are not handicapped.

Our Nation's commitment to equal protection of the law will have little meaning if we deny such protection to those who have not been blessed with the same physical or mental gifts we too often take for granted. I support Federal laws prohibiting discrimination against the handicapped, and remain determined that such laws will be vigorously enforced.

Ronald Reagan

Mr. Hoover

Blackwell

for your

mailing

I am sure I have seen ~~accounts of this action~~ accounts of this action. The Pres took ~~this~~ ~~precedential~~ But I thought you might like to have a copy of the document.

Anne H.

Pro-Life

THE WHITE HOUSE

WASHINGTON

June 18. 1981

Mr. James W. Beck
Shield of Roses
66 Dixon Street
Waterbury, CT 06704

Dear Mr. Beck:

Thank you for bringing me the case study entitled "Abortion - the Right to Life" and the petitions that accompanied it.

As you know, President Reagan is firmly committed to legal protection for the life of the unborn, and was the first President to meet personally with Right to Life leaders during the annual pro-life demonstration.

It is because of the efforts of organizations such as yours that the Right to Life movement has had such success in the past eight years.

Sincerely,

Morton C. Blackwell
Special Assistant to the President

SHIELD OF ROSES
66 DIXON STREET
WATERBURY, CONNECTICUT 06704
(203) 755-8653

June 1st, 1981 Monday

Office of the Public Liaison
Old Executive Office Bldg.
17th and Pennsylvania
Washington, D.C.

Mr. Blackwell:

We the members of the " Shield of Roses " Roman Catholic Rosary Group do:

Openly protest to the United States Government, our President and political leaders, deploring the United States Supreme Court decision of January 22nd, 1973, which ruled that the " unborn " baby, is the property of the mother " owner " and can be terminated " killed " at her own request or because of her social distress " health. "

We the members of the " Shield of Roses " stress to defend the rights of the unborn child " fetus " and will work, pray and openly protest abortion in our nation. We will continue to stress the need for a " Human Life Amendment."

We the members of the " Shield of Roses " support the Helms-Dornan Human Life Amendment Proposal also called the Paramont Human Life Amendment. We stand firmly with its declaration that, " Human life be protected from the moment of conception to natural death, with absolutely no exception - even if the life of the mother is at stake. " Let God be the judge as to which life shall live, the mother, child or both.

Presented with the enclosed signed petitions expressing our views is a case study on Abortion - " the Right to Life " as prepared by myself to further enlighten you as to our groups views. It is our sincere hope that these petitions and views of our group will eventually reach the President and the proper legislation be made.

May God enlighten our President, Senators, political leaders, the medical profession and our citizens. To killl is to kill ! To terminate a " fetus " is to destroy life. To murder is to murder ! May God have mercy on our country as the cries for justice ring out to Heaven by the defenseless unborn.

Sincerely yours in Christ,

James W. Beck

James W. Beck
Executive Director

encl.

Case Study
Abortion, - " The Right to Life "

Prepared and presented to:
Morton Blackwell
Office of the Public Liaison
Washington, D.C.
on
June 1st, 1981 Monday
by
James W. Beck
Executive Director
" Shield of Roses "
66 Dixon Street
Waterbury, Connecticut 06704

Case Study - Abortion, " Right to Life. "

" An attempted abortion resulted in the live birth of one of a set of twins. Dr. Fritz Fuchs, Chief of Obstetrics and Gynecology, New York Medical Center, explained after being questioned that the saline injection had been successful in killing one fetus but that unexpectedly a second, and live, twin had been delivered. The second twin died after fifteen hours despite life support measures. Dr. Fuchs noted that in the case of twins it is sometimes impossible to inject the solution into both amniotic sacs. "[1]

Didn't the doctor clearly mean to kill both of the twins one day prior to their birth ? Since he succeeded in killing only one, and the other was expelled from his mothers uterus alive, why did he not kill this baby also when he found it alive ? What occurred in his thinking once he saw the baby in daylight compared to when the child still lived in the darkness of the mother's uterus ? Why the total about face from destruction of life to heroic intensive care attempts at preservation of life ?

Never in modern times, except by a small group of physicians in Hitler's Germany and by Stalin in Russia, has a price tag of economic or social usefulness been placed on an individual human life as the price of its continued existence. Never in modern times except by physicians in Hitler's Germany, has a certain physical perfection been required as a condition necessary for the continuation of that life. Never since the ancient law of paterfamilias in Rome, has a major nation granted to a father or mother total dominion over the life or death of their child. Never in western civilization have we legally allowed innocent humans to be deprived of life without due process of law.

It makes no difference to vaguely assume that human life is more human post-born than pre-born. What is critical is, to judge it to be, or not to be, human life. By a measure of "more" or "less" human, one can easily and logically jusitfy infanticide and euthanasia. By the measure of economic and/or social usefullness, the ghastly atrocities of Hitlerian mass murders came to be. One cannot help but be reminded of the anguished comment of a condemned Nazi judge who said to an American judge after the Nuremburg trials: " I never knew it would come to this. " The American judge replied: " It came to this the first time you condemned an innocent life. "[2]

The sprem has life but not an independent life; it shares in the life of the body of the father. The sperm is chromosomally and genetically identified as a cell of the father's body. It has reached the endpoint of its maturation. It cannot reproduce itself. It is destined to fertilize ovum or to die. It is at the end of the line.

The ovum has life but not an independent life; it shares in the life of the body of the mother. The ovum is chromosomally and genetically identified as a cell of the mother's body. It too has reached the endpoint of its maturation. It cannot reproduce itself.

But when the sperm and the ovum join, there is created at that time a new living being. The chromosomes combine. There is nothing that will have to be added or removed from the new life throughout its maturation to death. All that is required is nourishment. This living creature is dependent upon his or her mother for shelter and food, but in all other repsects is a totally new, different, unique, and independent being. One could say that the sperm and the ovum, beofre their union, constitute a potential human being. Once their union is completed however "they" have become an actual human being.3

Let me elaborate on some developments in the fetus's life:

- Baby's heart begins to beat	7 weeks
- brain begins to function	40 days
- Baby squints, swallows, moves his tongue and if you stroke his hand will make a tight fist	9-10 weeks
- Sucks thumb	3 months
- Breathes	3 months
- Stomach secretes gastric juice	8 weeks
- All body systems present	2 months
- All body systems working	11 weeks
- Birth	9 months

Birth is the emergence of the infant from the mothers womb, the severing of the umbilical cord and the beginning of the child's existence physically detached from the mother's body. The only change that occurs at birth is the life support system of the child.

Now let us consider the methods of exterminating life - abortion. There are five kinds of induced abortions: 1) Suction Aspiration, 2) Dilatation and curretage, 3) Prostaglandin, 4) Saline - Salt Poisoning and 5) Hysterotomy. These methods can be further explained:

Suction- Surgeon paralyzes the cervical muscle ring (womb opening) and stretches it open, can be difficult. He inserts hollow plastic tube with knife like edge on tip. The suction tears the baby into pieces. Pain ? Use common sense. He then cuts the deeply rooted placenta from the uterus inner wall. The scraps are sucked out into a bottle. The suction is 29 times more powerful than a home vacuum cleaner.

D & C - This is similiar to the suction type except that the surgeon inserts a currette, a loop shaped steel knife, up into the uterus. With this he cuts the placenta and baby into pieces and scrapes them into a basin. Bleeding is usually profuse. Pain ? Use common sense.

Prostaglandin - Prostin E2 Supposititories or F2 Alpha drugs are used which will usually produce labor and delivery at whatever stage a baby is developed. The baby is discarded.

Salt Poisoning - A needle is inserted into the abdomen of the mother through the abdominal wall and into the amniotic sac. Salt

solution is injected. The baby breathes and swallows the solution. It convulses. It takes an hour to terminate the fetus using this method. Does the fetus suffer pain ? Use common sense. Corrosive effect of the salt burns and strips away the baby's skin. The effect is slow and painful. Mother goes into labor and delivers a dead, " raw skinned " baby.

Hysterotomy - This is like a Caesarian section. The mothers abdomen is opened, the uterus cut and the baby is lifted out and discarded, sometimes still breathing.

The preceeding has shown the growth and development of life and the methods of termination. Now I will use various moral, ethical, theological and philosophical schemes to establish the fetus's " right to life."

Using and argument scheme from Judith Jarvis Thomson sholud be helpful in establishing a point for life to begin:

If we grant that the fetus is a person from the moment of conception then how will the argument go from here ? Every person has a right to life. So the fetus has a right to life. No doubt a mother has a right to decide what shall happen in and to her body; everyone will grant that. But surely a person's right to life is stronger and more stringent than the mother's right to decide what happens in and to her body, and so out weighs it. So the fetus may not be killed; an abortion may not be performed.[4]

Let us consider the word " potential." We would like to eliminate this word. X is a " potential Y (car). X is not a car. X will never become a Y unless something is done to it. (300 workers make a car.) A life is formed when the chromosomes are integrated - sperm unites with egg. If we look at a human, fetus. We can say that it is a potential human. It will not become a human unless something is done to it. False ! It will automatically become a human being.

Aristotle gave advice on doing ethics. He said people can judge only what they know well. We must never forget there is a big difference in ethicc arguments from principles that we agree upon. It is important to start with something that we know about. Some philosophers deal with a beginning that is irrelevant. Abortion and the right to life are relevant and we all basically know to some extent the facts. At no time has any community of man ever drawn a line, in this case to define life, in any way except that reflects their own self interest. Human beings have an excellent manner of depersonalizing those who are unwanted or imperfect. If we look back in history we can see that every group has drawn this line in the

wrong place. They have simply committed the oldest moral problem: syiny that people are non-people and judging in their own self interest. We can consider slavery and the blacks in America or the Jews in Hitler's Germany.

Once again if we go back to the argument that a fetus is a person like everyone else and the killing of a person can not be justified since all persons possess the same set of basic rights and liberties. Let me state that I am here extending the right of consent to the unborn fetus. The mother has consented to the sexual act, well aware of the outcome - production of human life. There is a necessity for saving human life. In conclusion: abortion cannot be morally justified except by saving another human life. We cannot consider killing a fetus because of its dependence on others. Dependence is not a justification for killing anyone who is dependent: ex. handicapped, kidney patient etc. Being unwanted is no reason for killing. Unwantedness by a society or by ones biological parents does not justify killing; ex. senile parents. Elitism has zero credibility. Elitism is the belief that certain people beings; ex. blacks, retarded are not humans as are other people; ex. males and whites.

In my consideration of the the topic the " right to life " I look at conception as a result of the conjugal act as explained in the " sacredness of marriage " Pope PaulVI's Encuclical Letter of Human Life, " Humane Vitae. " The Holy Father speaks as the supreme teacher of the Church, the body of Christ, all men and women of earth. He has reaffirmed the principles to be followed in forming the Christian consciences of married persons in carrying out their responsibility in the " transmission of life. " According to the teaching of Jesus Christ the only licit means of transmitting life is through the married couple. As a result of sin and the institution of " free will " we arrive at illicit or illegitimate births. We cannot deny that life has been transmitted. It is no fault of the child but of the transmittors. Life must still be considered in its " virgin " form; life is life. In this teaching of the Church a strong moral and ethical argument for the unborn and conception itself are presented. I am not at libertytto alter the words of Pope Paul the VI's document. I am therefore enclosing

the Pope's words in double parentheses ((-)) and my own interjections in single parentheses (-).

((The most serious duty of transmitting human life, for which married persons are the free and responsible collaborators of God the Creator, has always been a source of great joy to them , even if sometimes accompanied by not a few difficulties and by distress. (ex. unwantedness, lack of fiancial support, out of wedlock, retardation and birth defect etc.)

Fear is shown by many that the world population is growing more rapidly than the available resources, with growing distress to many families and developing countries, so that " the temptation for authorities to counter this danger with radical measures is great. A change is also seen both in the manner of considering the persons of woman and her place in society, and in the value to be attributed to conjugal love in marriage, and also in the appreciation to be made of the meaning of conjugal acts in relation to that love. Man tends to extend this domination to his own " total " being: to the body, to psychical life, to social life, and even to the laws which regulate the transmission (and termination) of life. It is also asked whether, in view of the increased sense of responsibility of " modern " man, the moment has not come for him to entrust to " his reason and to his will, " rather than to the biological rhythms of his organism, the task of regulating and (terminating) birth.

No believer will wish to deny that the teaching authority of the Church is competent to interpret even the natural moral law. It is in fact, indisputable, as our predecessors have many times declared, [5] that Jesus Christ, when communicating to Peter and to the apostles His Divine authority and sending them to teach all nations His commandments, [6] constituted them as guardians and authentic interpreters of all the moral law, not only, that is, of the law of the Gospel, but also of the natural law, which is also an expression of the will of God, the faithful fulfillment of which is equally necessary for salvation. [7]

The problem of birth, like every other problem regarding human life, is to be considered beyond partial perspectives, whether of biological or psychological, demographic or sociological

orders in the light of an integral vision of man and of his vocation, not only his natural and earthly, but also his supernatural and eternal vocation. Conjugal love reveals its true nature and nobility when it is considered in its supreme origin, God, who is love [8] " the Father, from whom every family in heaven and on earth is named. " [9]

Marriage is not, then, the effect of chance (nor is conception) or the product of evolution of unconscious natural forces; it is the wise institution of the Creator to realize in mankind his design of love, birth - life is a gift. Husband and wife become one heart, one souls and together attain their himan perfection, (in the process transmitting life). " Marriage and conjugal love are by their nature ordained toward the begetting and education of children. Children are really the supreme gift of marriage, (God) and contribute very substantially to the welfare of their parents. " [10]

In relation to the biological processes, responsible parenthood means the knowledge and respect of their functions: human intellect discovers in the the power of giving life biological laws which are part of the human person. [11]

In relation to physical, economic, psychological and social conditions, responsible parenthood is exercised, either by deliberate and generous decision to raise a numerous family, or by the decision, made for grave motives and with due respect for moral law, to avoid for the time being, or even for an indeterminate period, a new birth. Responsible parenthood also and above all implies a more profound relationship to the objective moral order established by God, of which a right conscience is the faithful interpreter.

God has wisely disposed natural laws and rhyths of fecundity which, of themselves, cause a separation of the succession of births. Nonetheless, the Church, calling men back to the observance of the norms of the natural law, as interpreted by their constant doctrine, teaches that each and every marriage act (quilibet matrimonii usus) must remain open to the transmission of life. [12]

One who reflects well must also recognize that a reciprocal act of love, which jeapardizes the responsibility to transmit life which God the Creator, according to particualr laws, inserted therein, is in contradiction with the design constitutive of marriage,

and with the will of the Author of Life. To use this divine gift destroying, even if only partially, its meaning and purpose is to contradict the nature both of man and of woman and of their most intimate relationship, and therefore is to contradict also the plan of God and His will. " Human life is sacred, " Pope John XXIII recalled; " from its very inception it reveals the creating hand of God. " [13]

In conformity with these landmarks in the human and Christian vision of marriage, we must once again declare that the direct interruption of the generative processes already begun, and, above all, directly willed and procurred abortion, even if for therapeutic reasons, are to be absolutely excluded as licit means of regulating birth. [14]

It is the perogative of the human intellect to dominate the energies offered by irrational nature and to orientate them into an end conformable to the good of man., (self control). Let it be considered that a dangerous weapon exists and has thus been placed in the hands of those in public authority who take no heed of moral exigencies. Who could blame a government for applying to the solution of the problems of the sommunity those means acknowledged to be licit for married couples in the solution of a family problem ? Who will stop rulers from favoring, from even imposing upon their people, the method of contraception which they judge to be most efficacious. (Let us recall the post World War II era. Abortion was legalized by Hitler in Germany. Then followed infanticide, the gasing of the old and the infirm, handicapped and mentally retarded. Euthanasia was rampant. Boys were evern exterminated for bed wetting. And what was the final result, genicide.

The Holy Father has given us a set of rules and guidelines which must be followed by all believers. Surely we can see from history that legalized abortion has led to things much worse. What extreme will mankind move forth to if history truly repeats itself ? Abortion is only the beginning.

We have examined a moral and ethical scheme, we have also see philosophical arguments interjected. Now let us examine the basic rights scheme as presented by Shue. Henry Shue presents us with a theory of basic rights. It is explained that there are

certain kinds of rights which, if they are violated or not guarnteed make impossible the enjoyment of others rights. We can come to believe that there are some basic rights which are more basic than others, ex. the basic right of liberty which comes before the right to assembly, you are physically secure. We are also presented with subsistence rights. Rights which are going to say to a minimum that one has the right to exist, ex. the right to life. We can also consider the rights to food, shelter, air and medical treatment in the scheme of the " right to life. " All things which make us alive - ecological - economic are necessary to be considered under the entire scheme of the " right to life. " Shue states that this forming of subsistence rights is controversial because liberal society bourgeoise has challenged security rights as the right to exist. This can be explained in two parts:

1) there are security rights - subsistence rights - so far
2) as the core of the bourgeoise rights and liberties - some of these also have to be considered basic rights.

a. right to physical movement
b. right to participation

In chapter three, Shue presents us with his version of a " social contract. " Unless it does not make sense, the benevolent dictator is a violation of the basis of what a right is. A leader will secure your liberty and security butnnot your subsistence. Everyone who is a right bearer has to be guarnteed to participate in policies, politics which deal with his rights. (The fetus - child will do so given his allowed period of gestation of nine months.) If a rights is governed by an agent, an agent (duty) must preserve X's right so that he can enjoy the benefit of it. Shue is basically stating to us that it is the responsibility of every government to protect the rights of its people regardless of what society or government it is.

If one believes that basic rights are subsistence rights then we must begin considering problems which the world faces, ex. starvation. Shues goes on to explain that if you accept X, then you accept Y, but are you going or able to do something about rights.

In order to consider an issue such as the " right to life "

and abortion, we must look to definitions of a " moral right. " A moral right can be said to have three points:

1) a rational basis for a justified demand
2) the actual enjoyment of a substance (ex. right to assemble, speak)
3) social guarntee against standard threats (ex. there must be some agency, serson or institution that will guarntee that you can exercise your rights.)

When someone demands that his right be respected, ex. that the unborn be protected and not aborted - killed, one must be sure that he has a right which must be respected, (life guarnteed by the Creator - must be respected.) All human beings must approve on some form, ex. you need society, some form of government, church, to protect man from killing himself off. To have a right to argue is to be in a position to make commands to others.. If a right of yours is being violated then it means that you are weak and not in a position to enjoy that right, your right to be respected or your right to be restored. (In this case, the mother or bearer of the new life must defend life, the life within her.)

The notion of a moral right provides that we enjoy and have a right and that that right will be socially guarnteed. There must be some general principle that when you make a demad for your right and the rights of others, that they be preserved. A person who has a right has a special " compelling " reason why he can make a demand on others. A person can be a bearer of rights <u>without</u> having to explain them to others. Philosophy therefore expresses a set of reasons. Because a right is the basis of a justified demand people may and should speak up to insist that their rights and the rights of others, even those who can not speak, unborn, mentally handicapped etc., that they be preserved and if need be restored. A right therefore is the rational base for a justified demand.

Legal claim rights are indispensably valuable possessions. A world without claim rights, no matter how full of benevolence and devotion to duty, would suffer an immense moral impoverishment. Persons would no longer hope for decent treatment from others on the ground of desert or rightful claim. Indeed they would come to think of themselves as having no special claim of to kindness or consideration to other, so that when ever even mimimally decent treatment is forthcoming, they would think themselves lucky rather than inherently deserving, and their benefactors extraordinarily virtous and worthy of great gratitude. The harm to the individual

self esteem and character development would be incalcuable. 15

When we consider the " right to life issue and the act of abortion, we can also look to certain documents. Example, in the Universal Declaration of Human Rights, we can see violations to the right to life " in the following articles:

Article 2 - Everyone is entitled to all the rightssand freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3 - Everyone has the right to life, liberty and security of person. (Is not a fetus to be considered in the word " everyone? " It has already been stated that a fetus is not a thing.)

Article 5 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. (Is not the fetus through various forms of abortion subjected to torture, etc?)

We also see in the Declaration of Independence that :

We hold these truths to be self evident: that all men are created equal; that they are endowed with by their creator with inalienable rights; that among these are life, liberty and the pursuit of happiness. (Is not the fetus who is aborted denied his life, liberty and the pursuit of happiness ?)

Also in the United States Bill of Rights;

Nor shall any person....be deprived of life, liberty or property without due process of the law. (Once again we can ask if the unborns rights are not being violated.

We can continue to debate the " right to life " issue almost indefinately. Each of us has our own moral convictions. Surely it is time that we stopped to think that we are dealing with " Life " L-I-F-E, " human life ", and there is a great loss of it occurring. Abortion has become the most common of all operation - more common even that tonsillectomies. Worldwide, about fourty million abortions are performed every year, twenty five percent of all pregnancies. In the United States, more than three of every ten pregnancies end in abortion, total abortions exceeding 1.3 million. We can debate " rights " until we are blue in the face but simply, Where does the blood fall - on whom ? "

" What happens to a man who lets the blood of another man ? This is the real question, the tragic question. The question of bloodletting is not, from the point of view tragic vision, interesting at all. But the question of consequences, of psychic change, of the corruption of mans spirit, this is very nearly the only question worth asking.....

" What happens in the heads of those who accede to bloodletting as a social method ? What happens to the social managers, to the intellectuals, to the actionists, to the students when men turn toward death as a way of life "

No Bars to Manhood, By Dan Berrigan, 1970

" Acts of great evil come easily to human nature. All that man's malleable conscience demands is a heroically articulated excuse combined with the comradeship of other evil-doers. In other words, if the end is seen as both important and virtuous, then any means will often do. And the burden of solitary guilt need not be born if great numbers are also practicing the obscenity.

It is easier for a man to kill if those around him are killing, and it is easier for a man to kill if he has killed before. All fanatical tyrants have known this, from ancient oriental chieftans to Torquemada to Hitler to Mao. The moral instincts of humans are generally fragile, and if they are not constantly renewed by vigorous use, they wear away until they crumble completely. "

Edwin A. Roberts, National Observer, January 18, 1971

" She had a number tattooed on her arm when I examined her. The origin of the tattoo was obvious and familiar - Buchenwald. I asked her if she would like to have it removed by plastic surgery, but she declined. She said she would wear it to her grave, for it was her diploma from the school of life. " Doctor, I don't know where you learned what life is, but I know where I learned it. I don't even step on cockroaches now. "

James J..Diamond, M.D., America, July 19, 1969

You did not form my inward parts,
You did not knit me together in my mothers womb.
I Praise You, for You are fearful and wonderful.
Wonderful are Your workd !
You know me right well;
My frame was not hidden from You,
when I was being made in secret,
intricately wrought in the depths
of the earth.
Your eyes beheld my unformed substance;
In Your body were written, every
one of them, the days that were
formed for me, when as yet there
were none of them.

Psalm 139:13-16

Prepared by:
James W. Beck
Executive Director
" Shield of Roses "
66 Dixon Street
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Footnotes

[1]Dr. & Mrs. J.C. Willke, Handbook on Abortion (Ohio: 1979), pp. 2.

[2]Ibid., pp. 6.

[3]Ibid., pp. 15.

[4]Judith Jarvis Thomson, A Defense of Abortion

[5]Cf. Pius IX encyclical Qui Pluribus, Nov. 9, 1846; in PII IX P.M. Acta, I, pp. 9-10; St. Pius X ency. Singluari Quadem, Sept. 24, 1912; in AAS IV (1912), p. 658; Pius XI ency. Casti Connubii, Dec. 31, 1930; in AAS XXII (1930), pp. 579-581; Pius XII, allocution Magnificate Dominum to the episcopate of the Catholic world, Nov. 2, 1954; in AAS XLVI (1954), pp. 671-672; John XXIII, ency. Mater et Magistra, May 15, 1961; in AAS LIII (1961), p. 457.

[6]Cf. Matt. 28: 18-19.

[7]Cf. Matt. 7:21.

[8]Cf. 1 John 4:8.

[9]Cf. Eph. 3:15.

[10]Cf. Second Vatican Council, Pastoral constitution Gaudium et Spes, nos. 50,51.

[11]Cf. St. Thomas, Summa Theologica, I-II, q. 94, art. 2.

[12]Cf. Pius XI, ency. Casti Connubii, in AAS XXII (1930), p. 560; Pius XII, in AAS XLIII (1951), p. 843.

[13]Cf. John XXIII, ency. Mater et Magistra, in AAS LIII (1961), p. 447.

[14]Cf. Catechismus Romanus Concilii Tridentini, part II, Ch. VIII; Pius Xi, ency. Casti Connubii, in AAS XXII (1930), pp. 562-564; Pius XII, discorsi e Radiomessaggi, VI (1944), pp. 191-92; AAS XLIII (1951), pp. 842-843; pp. 857-859; John XXIII, ency. Pace, in Terris, Apr. 11, 1963, in LV (1963), pp. 259-260; Gaudium et Spes, no 51.

[15]Henry Shue, Basic Rights, p. 14.

file LISTS

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

ON COMPUTER

Pro-life leadership: meeting with President in Cabinet Room January 22, 1982

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MEMORANDUM

THE WHITE HOUSE

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

Coies to EHD
Red
Morton B
Diana
Wendy B
Virginia K

March 24, 1982

URGENT

TO: Elizabeth Dole
Edward Rollins
Kenneth Duberstein

FROM: Edwin L. Harper

SUBJECT: Next Steps on Hatch Constitutional Amendments

The attached materials propose that we send a letter to the various support groups interested in the abortion issue and that copies of it go to the key members of Congress most interested in this issue. The draft letter is attached. This would be done after Ken Duberstein clears the approach with Senator Baker.

Ed Meese would like to cover this issue quickly at tomorrow morning's Senior Staff Meeting.

Would you please read through these materials and be ready with your comments at that time.

Attachment

cc: Richard Darman
Craig Fuller

action

MEMORANDUM

OFFICE OF
POLICY DEVELOPMENT

THE WHITE HOUSE 1982 MAR 23 P 5:11

WASHINGTON

March 23, 1982

FOR: EDWIN L. HARPER

FROM: GARY L. BAUER

RE: Senate Survey on Hatch Constitutional Amendment on Abortion

The National Catholic Reporter, a non-church affiliated Catholic newsweekly, has just completed a Senate survey on the Hatch Constitutional Amendment on abortion showing that Hatch at this point can count only on 16 votes in favor of his approach. More significantly, 27 Senators were in outright opposition, 5 more leaning against and an additional 3, given their past views on the subject, are likely to vote "No." (34 "No" votes would kill the Amendment.)

52-58 will vote for Hatch

Some Senators, including Zorinsky, Eagleton, Randolph, McClure and others were withholding support because they felt the Amendment did not go far enough in protecting the unborn.

not when push comes to shove.

In short, if Hatch continues to push for a vote on his proposal by late April, it will be crushed on the Senate floor.

As per our earlier discussion I am receiving persistent reports from our friends in the anti-abortion movement that such a crushing defeat on one of the social issues will have negative implications for the Administration.

only by force of Hatch. Hatch like Goldwater

First, it will make it extremely difficult to mobilize anti-abortion grass root forces for the November elections.

Second, reports persist that some in the anti-abortion movement, most notably the National Conference of Catholic Bishops, may find it opportune to blame the President for the defeat and/or use the defeat to put the abortion issue on the shelf and devote full attention to the other items on their agenda e.g. El Salvador, opposition to budget cuts etc.

Given this possible scenario which is becoming more likely each day, we need to take some action comparable to the letter I suggested in my March 11 memo to you in order to get the President on record urging the movement to heal its differences. I have attached another copy.

Attachment

cc: Roger Porter
Mike Uhlmann

THE WHITE HOUSE

WASHINGTON

DRAFT

Dear_____:

It appears that the Congress is now ready to consider action on the abortion issue. I write simply to express my own hope that we will not miss this long delayed opportunity.

A few weeks back I said that "We must, with calmness and resolve, help the vast majority of our fellow Americans understand that the more than one and one-half million abortions performed in America in 1980 amount to a great moral evil and assault on the sacredness of life." Whether or not our fellow citizens will understand the duty we owe to future citizens depends largely on what action the Congress takes.

I know that on this issue as, sad to say, on many others of great importance, there are sharp differences of opinion as to which action is the best one. Naturally, I hope that these differences will be resolved in favor of the common goal.

But most important, it seems to me, is that the Congress consider one or more of the proposals without delay. And I want you to know that you have not only my best wishes but also my prayers for success.

Sincerely,

Ronald Reagan

THE WHITE HOUSE

WASHINGTON

March 15, 1982

MEMORANDUM TO EDWIN MEESE III

FROM: EDWIN L. HARPER

SUBJECT: Abortion Policy

With the most recent action in the Senate on abortion, I think it is appropriate that we fairly quickly have a strategy session on this very sensitive policy issue. Attached is a background memorandum by Gary Bauer and a proposed draft letter which the President might send to the interested parties.

While I feel that sending the letter may be the optimal strategy for us, I think it is worth a few minutes of your discussion time with me, Gary Bauer, and probably Ed Feulner.

Attachment

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 11, 1982

FOR: EDWIN L. HARPER

FROM: GARY L. BAUER

RE: Presidential Letter Re Abortion

As the likelihood increases that the Senate will debate and vote on one or more of the major anti-abortion measures now pending before it, we need to make certain the President's position is correctly perceived.

If the Senate votes on the Hatch Constitutional Amendment as now written, it is likely that it will fail to get the necessary two-thirds vote. The Helms Human Life Bill is a closer call, but the split in the anti-abortion movement may doom it also.

It would neither be appropriate nor wise for the Administration to support one legislative vehicle over another. However, we must make sure that any subsequent defeat of anti-abortion legislation on Capitol Hill is not placed on the door step of the White House.

With that thought in mind I recommend that the attached letter be sent from the President to Senators Hatch, Helms, Congressman Henry Hyde and the Congressional Right-to-Life Caucus.

Attachment

cc: Roger Porter
Mike Uhlmann

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 10, 1982

FOR: EDWIN L. HARPER

FROM: GARY L. BAUER

RE: Abortion Constitutional Amendment Passed by Senate Judiciary

Background: Since January of 1981 the anti-abortion forces have been seriously split over strategy. One faction supports S. 158, the Human Life Bill that declares the unborn child to be a "person" for purposes of the 14th Amendment. Helms is the chief sponsor and he has placed his bill, which needs only a majority vote for passage, on the Senate calendar.

The rest of the movement, including the National Conference of Catholic Bishops, supports S.J. Resolution 110, sponsored by Senator Hatch. It is a Constitutional Amendment that declares there is no right to abortion in the U.S. Constitution and it grants Congress and the States joint authority to regulate it.

Judiciary Votes Out Amendment: Today, March 10, the Senate Judiciary Committee voted out the Hatch Constitutional Amendment by a 10 to 7 vote. In spite of it passing out of the Committee, no one believes that it has the necessary two-thirds vote to pass the full Senate. There are several implications in this development from the standpoint of the President. They are:

1. The chances are now better that one if not both abortion proposals may make it to the Senate floor for a vote.

2. If the Hatch Constitutional Amendment is voted on, and is defeated, some groups, most notably the National Conference of Catholic Bishops, are likely to try to pin blame on the President for failing to actively work for it.

3. There are indications that some Senate liberals would like to vote for the Hatch Amendment, as long as they were sure it wouldn't pass, so that they could defuse the abortion issue in the 1982 election.

4. Pressure is now likely to increase on the President to endorse one of the options before the Senate.

cc: Mike Uhlmann

THE WHITE HOUSE

WASHINGTON

April 5, 1982

Dear Jesse:

In recent years, sentiment has increased in the Congress to enact legislation that would restore protection of the law to children before birth. It may be possible for the 97th Congress to take that important step. I write simply to express my own hope that we will not miss this long delayed opportunity.

A few weeks back I said that, "We must, with calmness and resolve, help the vast majority of our fellow Americans understand that the more than one-and-one-half million abortions performed in America in 1980 amount to a great moral evil and assault on the sacredness of life." Whether or not our fellow citizens will understand the duty we owe to future citizens depends largely on what action the Congress takes.

I know that on this issue, sad to say, as on many others of great importance, there are sharp differences of opinions as to which action is the best one. Naturally, I hope that these differences will be resolved in favor of the common goal.

But most important, it seems to me, is that the Congress consider one or more of the proposals in the near future. And I want you to know that you have not only my best wishes but also my prayers for success.

Sincerely,

Ronald Reagan

The Honorable Jesse A. Helms
United States Senate
Washington, D.C. 20510

Excerpts from Dr. James A. Wyngaarden's Confirmation Hearing Transcript

before the Senate Committee on Labor and Human Resourses
April 21, 1982
Members Present: Hatch (chairman), Qualye, Eagleton, Kennedy, Pell, Metzembaum, and East.

Page 3

Senator Hatch: "My belief is that Dr. Wyngaarden possesses the administrative skills required to manage... complex activities and business of the National Institute of Health and also provide the insight and leadership to continue the primary mission of N.I.H.... conducting research to prevent, cure, and treat disease. Dr. Wyngaarden I think you can tell, that I personally, am pleased with your nomination."

Page 6

Dr. Wyngaarden: "I would publically express my gratitude to Sec. Schweiker who has been most helpful to me with his wise counsel... I appreciate his support and encouragement."

Page 7

Dr. Wyngaarden: "... served as consultant to the White House Office of science and technical policy... I did not actively seek the post of N.I.H. Director."

Page 12

Senator Hatch: "As we prepared for these hearings..."

Page 20

Senator Hatch: "I will submit questions in writing..." (these questions were not available from the committee)

Page 33

Senator Kennedy: "On the issue of exchange of research information with other countries, there have been restrictions on that type of exchange of information. Do you have any reaction?"

Dr. Wyngaarden: "My personal reaction, at least as to the biomedical sciences, is that it would be ill advised."

Excerpts Continued...

Page 40:

Senator Hatch: "Without objection we will try to pull you out today and see if we can move your nomination ahead as quickly as possible."

The Committee was polled during April 21 and 22 on the nomination. No objections were raised to the favorable report of the nomination.

LIFE AMENDMENT POLITICAL ACTION COMMITTEE, INC.

LAPAC

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For immediate release
May 13, 1982

Contact: Paul A. Brown
(202) 546-2255
(703) 690-2510

LAPAC CALLS FOR FIRING OF WYNGAARDEN OF N.I.H.

Expressing shock and dismay, Paul A. Brown, director of the Life Amendment Political Action Committee (LAPAC) called on President Reagan to fire the new director of the National Institute of Health, Dr. James A. Wyngaarden. In calling for the removal of Wyngaarden, Brown compared him to the Surgeon General, C. Everett Koop. "Koop had to take a blood oath that he would not even mention abortion to get his job, but Wyngaarden just gets sworn in and he's using his post to advocate klling of preborn children."

"Apparently," Brown noted, "you can come out for abortion in the Reagan Administration, but if you are pro-life you have to keep your mouth shut." Wyngaarden stated that his post was "very much of an apolitical nature," yet Brown stated "he has used it to advance the abortion ethic in the medical and political arena. From his other comments, he is totally in favor of further development of 'search and destroy' techniques of fetal diagnosis. Apparently Dr. Wyngaarden thinks that cases like "Baby Doe" in Indiana several weeks ago never should have happened. In his view, "Baby Doe" never should have seen the light of God's beautiful day!"

continued...

"The pro-life movement is sick and tired of getting nice notes from the President on how pro-life he is and then seeing his action on the issue be the muzzling of men like Dr. Koop and giving a pulpit to others like Dr. Wyngaarden," Brown further noted. Mr. Brown called on pro-life members of the U.S. Senate and the House of Representatives to bring pressure to bear on the White House to remove Wyngaarden.

Mr. Brown also expressed dismay that during the Wyngaarden confirmation hearing before the Senate Labor and Human Relations Committee, he was never asked his views on abortion, in-vitro fertilization, and/or amnio-centesis. "Senator Hatch mentioned that he thought Wyngaarden could 'continue the primary mission of N.I.H.... to prevent, to cure, and to treat disease.' We ask Senator Hatch and Dr. Wyngaarden if the continued killing of 1.5 million preborn children a year and further 'refinement' of 'search and destroy' techniques like amniocentesis is a cure or actual treatment of a disease. No, its nothing more than wiping out the symptom!"

# # #

NATIONAL CONFERENCE OF CATHOLIC BISHOPS
BISHOPS' COMMITTEE FOR PRO-LIFE ACTIVITIES
1312 MASSACHUSETTS AVENUE, N.W. • WASHINGTON, D.C. 20005 • 202/659-6673

December 6, 1982

Morton C. Blackwell
Special Assistant to the
President
Office of Public Liaison
Old Executive Office Building
17th and Pennsylvania Avenue, N.W.
Washington, D.C. 20501

Dear Mr. Blackwell:

Enclosed is a statement submitted to the House Education and Labor Subcommittee on Select Education in support of legislation protecting handicapped infants from medical neglect. I hope you will find it useful as public debate continues on this important human rights issue.

In the wake of the "Infant Doe" case in Bloomington, Indiana, when the Department of Health and Human Services issued its directive on discrimination against handicapped children in federally funded hospitals, I publicly commended the Administration for its concern and its swift action. The Committee for Pro-Life Activities remains convinced, however, that federal legislation is necessary to insure effective action on this problem. As H.R. 6492 or similar legislation moves through the 98th Congress, I hope the Administration will consider its role in implementing the three suggestions outlined at the end of the enclosed statement.

With every best wish, may I remain,

Sincerely yours,

Edward M. Bryce

Reverend Edward M. Bryce
Director

EMB:tdm
Enclosure

STATEMENT

of

REVEREND EDWARD M. BRYCE

on behalf of the

COMMITTEE FOR PRO-LIFE ACTIVITIES

of the

NATIONAL CONFERENCE OF CATHOLIC BISHOPS

before the

SUBCOMMITTEE ON SELECT EDUCATION

of the

COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

Oversight Hearings Regarding

the Treatment of Infants Born

with Handicapping Conditions

October 1982

On behalf of the Committee for Pro-Life Activities of the National Conference of Catholic Bishops, I thank the Subcommittee for allowing us to submit this written statement on H. R. 6492, the Handicapped Infants Protection Act. In the event that further hearings are held on this legislation in the 98th Congress, I respectfully request that a representative of the bishops' conference be allowed to present additional testimony at that time.

As moral and religious leaders, the Catholic bishops of the United States have much to say about the values which H. R. 6492 attempts to express. Our interest in this legislation is all the stronger because of the special circumstances in which it has arisen. In testifying before Congress on three separate occasions on behalf of a Human Life Amendment, we have warned that the moral and legal reasoning of the U. S. Supreme Court's abortion rulings was eroding our society's respect for the lives of the handicapped and the elderly. Now, only a few months after our most recent testimony on this matter -- in which we warned that the fatal neglect of handicapped newborns was becoming more prominent and even routine in some intensive-care nurseries -- we find ourselves testifying on legislation addressing just this kind of gross neglect.[1] We support this legislation and commend those who have introduced it, yet we regret that this destructive national trend has continued until a particularly obvious case of judicially sanctioned infanticide brought the matter to national attention. The tragic death in Bloomington, Indiana, of the handicapped child known as "Infant Doe" is doubly tragic if it serves as a barometer for our true national attitude toward handicapped children. Some good may still come of that death

if we take its warning to heart and re-direct our nation toward respect for all defenseless human life.

Federal legislation dealing with children in general, and with handicapped children in particular, already contains many provisions worthy of praise. The Child Abuse Prevention and Treatment Act of 1978 recognized that child abuse and neglect are national problems warranting standardized prevention and treatment provisions. The Rehabilitation Act of 1973, and other legislation insuring services for handicapped Americans, indicates that we feel a public responsibility to give to every child, whatever his or her disability, the necessary means for survival and self-advancement.

We support the goals of such legislation. Indeed, we feel that further efforts are needed toward these goals, so that every child in the United States may be able to make the best use of his or her talents regardless of disability or family background. Yet such efforts are ultimately doomed to failure if they do not rest on an unconditional respect for the very lives of these children.

The principle behind all child abuse legislation -- that the State must protect defenseless children even when threatened by their own parents -- becomes empty if it does not extend to handicapped children, who are even more defenseless than their more fortunate brothers and sisters. Laudable attempts to provide education, employment, and other opportunities to the handicapped are without foundation, if we are unwilling to defend the handicapped infant's right to survive long enough to make use of such resources. The right to life, aptly described by some jurists as "the right to have rights," must be the firm basis for all other rights and opportunities.

The Catholic Church has witnessed to its convictions on this point in a number of statements on the rights of handicapped people. The American Bishops' Pastoral Statement on Handicapped People of 1978[2] observed that the first and most fundamental of human rights is the right to life, and that the defense of the right to life of handicapped persons is "a matter of particular urgency," because handicapping conditions are increasingly seen as a justification both for abortion and for the denial of "ordinary and usual medical procedures" after birth:

> All too often, abortion and postnatal neglect are promoted by arguing that the handicapped infant will survive only to suffer a life of pain and deprivation. We find this reasoning appalling. Society's frequent indifference to the plight of handicapped citizens is a problem that cries aloud for solutions based on justice and conscience, not violence. All people have a clear duty to do what lies in their power to improve living conditions for handicapped people, rather than ignoring them or attempting to eliminate them as a burden not worth dealing with.

This statement was echoed on March 12, 1981, when the Vatican published its Statement on the International Year of Disabled Persons.[3] The Holy See observed that "since the person suffering from handicaps is a subject with full rights, he or she must be helped to take his or her place in society in all aspects and at all levels as far as is compatible with his or her capabilities." This statement quoted secular documents to indicate the continuity between Church teaching and a common human commitment to the rights of human beings. For example, the United Nations' Declaration of the Rights of the Disabled states in section 3:

> Disabled persons have the right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities,

> have the same fundamental rights as their fellow citizens of the same age, which implies first and foremost the right to enjoy a decent life as normal and full as possible.

The Holy See's document went on to comment:

> One cannot but hope that such statements as those of the declaration cited will be given full recognition in the international and national communities, avoiding limiting interpretation and arbitrary exceptions and perhaps even unethical applications which end by emptying the statements of meaning and import.

One way in which such lofty declarations could indeed be emptied of meaning is by tolerating abortion for the handicapped child before birth and deliberate neglect after birth. Besides condemning the practice of eugenic abortion as an attack upon human dignity, the Holy See stated:

> The deliberate failure to provide assistance or any act which leads to the suppression of the newborn disabled person represents a breach not only of medical ethics but also of the fundamental and inalienable right to life.

The transcendent importance of defending this right with regard to severely handicapped persons was also highlighted:

> One cannot at whim dispose of human life by claiming an arbitrary power over it. Medicine loses the title of nobility when instead of attacking disease, it attacks life; in fact prevention should be against the illness, not against life. One can never claim that one wishes to bring comfort to a family by suppressing one of its members. The respect, the dedication, the time and means required for the care of handicapped persons, even those whose mental faculties are gravely affected, is the price that a society should generously pay in order to remain truly human.

Thus the Church does not see this as a debate over whether handicapped newborns are "fully human" or whether they have a sufficient "quality of life" to be accorded human rights and reasonable medical care. This is not a debatable matter. The

denial of rights to these newborns in accordance with a false "quality of life" ethic is incompatible not only with Judeo-Christian ethical principles but also with national and international declarations on human rights. The true question under debate is whether American society is sufficiently "human" to live up to its responsibilities in this area, which include protection of the right to life in the face of threatened medical neglect -- although our responsibilities do not cease with that protection but continue throughout the life of every handicapped person.

A genuine defense of the rights of handicapped persons, then, begins with their right not to be discriminated against with regard to nutrition and basic medical care. This principle, grounded in the conviction that all human beings have innate dignity, is entirely consistent with Catholic ethical teaching on euthanasia and the withdrawal of medical treatment. But since some have imagined that Catholic morality could justify the withdrawal of treatment and nutrition from handicapped newborns, it is appropriate to re-state briefly what the Catholic Church teaches with regard to life-prolonging treatment. The basic principles involved are as follows:

(1) Euthanasia is a violation of the fundamental right to life, and is absolutely forbidden. By "euthanasia" is meant "an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated."[4]

(2) A patient is morally obliged to seek "ordinary" treatment -- i.e., treatment which can be of real benefit and which is not

excessively burdensome. One is not morally obliged, but is certainly permitted, to accept treatment which is complex, burdensome, and of uncertain benefit. Physicians generally have an obligation to supply the treatment that a patient reasonably requests.

(3) In the case of a child or mentally incompetent patient who cannot choose for himself, those who make the decision should endeavor to choose as the patient himself would if he were able to do so. As a general rule one should look to the decisions made by others who are in similar situations, and assume that the patient would make decisions in his own best interests. In this regard, the Church has never accepted the claim that handicapped people would refuse treatment ordinarily chosen by others, or more generally that they have any less will to live. All the evidence, in fact, points to the opposite conclusion.[5]

The application of these principles to cases such as "Infant Doe" is fairly straightforward. If public accounts of the Indiana case are accurate, this was a clear case of both invidious discrimination and involuntary euthanasia, and fine distinctions concerning the use of "ordinary" and "extraordinary" means are not even appropriate.[6] Parents and physicians were faced with two clear courses of action. Expert medical testimony indicated that Infant Doe required a simple surgical procedure in order to take nourishment orally. The countervailing testimony -- to which the courts deferred -- argued not that the treatment was unusually dangerous or burdensome, but that the life which would almost surely be saved by treatment did not have the "minimal quality of life" that would make it worth living. In accordance with this second approach, the child was

deprived not only of surgery, but even of the intravenous feedings which would have kept him alive until surgery could be ordered.

Both sides in this court dispute, then, agreed that this was a clear choice between life and death for the child; the side that prevailed, however, considered insuring the child's death as one "medical option" among others, and therefore as a choice best left to the parents. Infant Doe's handicap was not itself life-endangering, and played no role in the infant's death except insofar as it decreased the willingness of parents and courts to care for him. The "treatment" of complete neglect did, in fact, have its clearly intended effect of causing the child's death by starvation. Although achieved by omission of the necessary means for survival, rather than by invasive action, this particular case seems best referred to simply as infanticide or as involuntary euthanasia.

Even if one were to present such cases in terms of "ordinary" and "extraordinary" treatment, the result in the Infant Doe case would be equally unacceptable. The treatment in question would obviously have been considered "usual and ordinary" for a child not affected by Down's Syndrome, and the existence of this disability did not make the treatment more difficult or less effective. It is thus precisely the sort of unjustified and invidious discrimination against the handicapped child that we rejected in our Pastoral Statement on Handicapped People of 1978.

Some forms of medical neglect addressed by H. R. 6492 might not clearly fall under the category of involuntary euthanasia, but would still constitute this kind of unwarranted discrimination against the handicapped in cases where treatment would have been ordered for other children in similar situations. This legislation

seems consistent with Catholic teaching in this area, as it seems to forbid only those forms of neglect which the Church rejects as fundamentally unjust.

A brief glance at American law on medical treatment for children and other dependent individuals reveals that the moral principles stated above are well represented in our country's legal traditions. The case could hardly be otherwise, since moral principles such as those stated above have guided Western jurisprudence for hundreds of years. So clear and strong is the tradition on these matters that congressional failure to clarify federal law along the lines now under consideration could only be interpreted as a step backward in our nation's defense of the helpless.

Parents' responsibility for the care and support of their children -- including all reasonable medical treatment -- has long been recognized in common law. As the 18th century jurist Blackstone remarked,

> The duty of parents to provide for the maintenance of their children, is a principle of natural law; an obligation...laid on them not only by nature herself, but by their own proper act, in bringing them into the world: for they would be in the highest manner injurious to their issue, if they only gave their children life that they might afterwards see them perish. By begetting them, therefore, they have entered into a voluntary obligation to endeavor, as far as in them lies, that the life which they have bestowed shall be supported and preserved. And thus the children will have the perfect right of receiving maintenance from their parents....The municipal laws of all well-regulated states have taken care to enforce this duty: though Providence has done it more effectively than any laws, by implanting in the breast of every parent ...that insuperable degree of affection, which not even the deformity of person or mind, not even the wickedness, ingratitude, and rebelling of children, can totally suppress or extinguish.[7]

Statutory provisions assuring such treatment to children date from at least the nineteenth century in both Britain and the United States. Since that time, state and federal courts in the U. S. have consistently reaffirmed that the State has power to order life-saving medical treatment for children whose parents are unwilling or unable to provide it.[8] The guiding attitude was aptly expressed by the New York Court of Appeals in 1903:

> Children, when born into the world are utterly helpless, having neither the power to care for, protect or maintain themselves. They are exposed to all the ills to which flesh is heir, and require careful nursing, and at times when danger is present, the help of an experienced physician. But the law of nature, as well as the common law, devolves upon the parents the duty of caring for their young in sickness and in health, and of doing whatever may be necessary for their care, maintenance, and preservation, including medical attendance, if necessary; and an omission to do this is a public wrong, which the state, under its police powers, may prevent.[9]

The chief principles laid down by our legal system in this area may be summarized as follows:

(1) The "parens patriae" power of the state extends without question to cases in which parents have failed to give proper medical care to their children. Even where parents may not be criminally liable, because of sincere good intentions or other reasons, this does not mean that the State is helpless to protect the children involved. Conversely, the fact that the State sees a need to take temporary custody of a child and provide certain care does not necessarily imply that parents are generally unfit or neglectful or that they must permanently lose custody of the child. This aspect of the issue at hand should receive particular emphasis. The intent of most legislation in this area, certainly including

H. R. 6492, is not to be punitive against parents but to help children when necessary.[10]

(2) The State's responsibility to provide proper care for children is universally recognized to extend to emergency medical treatment required to save a child's life, regardless of parents' opposition to such treatment. There is somewhat less unanimity on the ordering of treatment where neglect would constitute a threat to general well-being but not to the child's life; but even here, parents' refusal of treatment has often been overruled by courts for the sake of the child's best interests.[11] Medical testimony has been relevant to such cases as a means for determining whether the condition is indeed a serious danger to life or health, and whether the proposed treatment does indeed have a good possibility of curing the condition or reasonably prolonging life. There is no support in American legal history for allowing physicians in such cases to determine that certain lives are or are not "worth living."

(3) Public responsibility for protecting children from gross neglect overrides even our constitutional protections for the parents' freedom of conscience or religion. This question has most often been raised with regard to blood transfusions ordered for the children of Jehovah's Witnesses. The basic rule applicable here is that while freedom of belief or conscience is absolute, freedom of action based on belief is not, particularly where such action would result in death or serious injury to others. The U. S. Supreme Court's ruling in Prince v. Massachusetts has been quoted in dozens of rulings on medical treatment for children:

> The right to practice religion freely does not include liberty to expose the community or child to communicable disease or the latter to ill health or death...Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves.[12]

This principle was held in Prince to apply even where children might be exposed to ill health by participation in their parents' religious pamphleteering on public streets. Lower courts have rightly remarked that an a fortiori argument exists for the State's power to order life-prolonging treatment for children, even against their parents' sincere religious objections.

Since the Catholic Church has a strong interest in the defense of religious freedom, this aspect of the legal issue deserves a few additional observations to prevent misinterpretation:

(a) Although the principle of State interference with matters of religious worship is certainly open to abuse, its application in this case does not conflict with Catholic teaching on religious freedom. As stated in the Second Vatican Council's Declaration on Religious Liberty, the Church recognizes that religion is exercised in human society and therefore is subject to certain "regulatory norms" protecting the common good:

> In availing of any freedom men must respect the moral principle of personal and social responsibility: in exercising their rights individual men and groups are bound by the moral law to have regard for the rights of others, their own duties to others, and the common good of all. All men must be treated with justice and humanity.[13]

The situations contemplated by the legislation now under consideration clearly fall under the category of legitimate government interest in protecting the rights of the defenseless.

(b) It should also be emphasized that the courts which developed this line of argument had no intention of expressing a disrespect for or indifference toward religious values. On the contrary, they saw their responsibility to protect children from parents' neglect as being intensified by their recognition that these children's rights were God-given and hence inviolable. This was succinctly expressed in 1952 by the Kansas City Court of Appeals:

> Every human being is endowed by God with the inalienable right to live. The fact that the subject is the infant child of a parent who, arbitrarily, puts his own theological belief higher than his duty to preserve the life of the child cannot prevail...[14]

This viewpoint is not anti-religious, but is a defense of our common rights and responsibilities under God against abuses of religious freedom.

(c) We believe that these "religious freedom" cases are applicable to the tragic case of Infant Doe, although the connection might not be immediately apparent to some. The testimony to which the Indiana courts deferred, and which was used to justify the medical neglect of this child, was not "medical testimony" in any real sense. Rather, it was ideological testimony, given by a physician whose area of specialty was not even relevant to the determination of the infant's medical needs. The ideology in question urged approval of a "quality of life" ethic, in which a human being's possession of full human rights is made to depend on certain mental and physical perfections.[15] Such a viewpoint is no more "scientific", no less based on belief or value judgment, than any other religious or ethical conviction, and therefore should have no rights that are not given to other judgments of conscience.

Further, such a viewpoint is much more directly inimical to our nation's stated commitment to human rights than any religion involved in the medical treatment cases under discussion.[16] At the very least, therefore, an American court should have rejected this ideology as having no effect on the helpless child's need for medical attention or on the State's responsibility to order that treatment.

This brings us to the final aspect of American legal traditions on this issue.

(4) The State's responsibility to provide proper care and medical treatment for neglected children is valid for children of every age and condition, including the handicapped. This principle should be self-evident, for the drawing of an exception here in order to exclude handicapped children from the law's protection would be grossly unjust. Courts have recognized this and ordered treatment even in cases where legitimate medical disagreement existed over the benefits and burdens of treatment. In the famous Phillip Becker case, custody of a 14-year old boy with Down's Syndrome was given to a sympathetic couple referred to in the ruling as his "psychological parents," so that they could order difficult heart surgery which had been refused by the boy's biological parents; the latter had expressed unwillingness to order treatment which would insure the boy's survival after their own deaths, in part because of their concern over the "quality of life" he might expect in an institution.[17] The New York Appeals Court has ordered blood transfusions for a mentally retarded adult whom it considered as a mental child, overruling the objections of the man's mother and guardian despite claims that the treatment was somewhat burden-

some and of uncertain benefit.[18] Judges have even ordered medical treatment for unborn children over their parents' objections, and this trend has continued despite the virtually absolute legalization of abortion by the U. S. Supreme Court.[19] The straightforward situation addressed by H. R. 6492 -- that of life-saving treatment which is part of usual and ordinary medical practice -- is clearly not problematic in our legal system.

Court rulings which have allowed withdrawal of treatment from mentally incompetent patients do not, in our view, present any conflict with the legal trend we have discussed. Such rulings have generally been very narrowly drawn, dealing primarily with situations in which patients who are already terminally ill are confronted with treatment which is particularly burdensome or which holds doubtful chances of recovery or of a reasonable prolongation of life. These difficult or marginal cases are not directly addressed by H. R. 6492.

In short, Congress has strong precedent in prior court rulings for deciding that equitable medical treatment for handicapped infants is an important and legitimate concern of our public policy. Although state legislation already exists which touches on the issue of child abuse and neglect, the Indiana Supreme Court's actions -- as well as the less visible but very real practice of infanticide in intensive-care nurseries in other states -- indicate that the law requires clarification.[20] And since this is a matter touching upon the fundamental rights of the handicapped person, it requires federal involvement in order that certain basic principles of justice and uniformity be maintained. The existence of federal

legislation on the civil rights of the handicapped and on child abuse and neglect indicates that enactment of H. R. 6492 would be a helpful clarification of the existing legislative framework rather than a radical departure.

In conclusion, we suggest a three-pronged response by Congress to the plight of handicapped newborns whose lives are threatened by medical neglect.

First, we urge enactment of H.R. 6492 or comparable legislation as soon as possible. The final weeks of the 97th Congress offer an excellent opportunity for discussions as to technical improvements, so that this bill can be re-introduced and enacted during the 98th Congress in the best possible form.

Second, this defense of the lives of handicapped children should be backed up by continuing and increased concern for programs to help their parents assume the special burdens and responsibilities of caring for them. Federal policies should not only help each child to survive, but also assist in developing all his or her abilities to their full potential.

Third, we are convinced that the dignity and rights of handicapped people will not be secure in our society until the Supreme Court's abortion decisions of 1973 are overturned. Those decisions have woven into our judicial fabric phrases such as "meaningful life" and "not a person in the whole sense" which, used at first with regard to unborn children, have been extended by other courts to handicapped and terminally ill individuals.[21] The Supreme Court's legalization of abortion for virtually any reason throughout the term of pregnancy, and its invalidation of laws assuring life-saving treatment to children born alive during late-term abortions, have

had a devastating effect on parents' and physicians' attitudes toward children in general and handicapped children in particular.[22] Some state and federal courts, by accepting the concept of "wrongful life" and "wrongful birth," have already suggested that a handicapped child's very existence is a "wrong" for which monetary damages can be assessed; and these rulings have drawn much of their rationale from the Supreme Court's legitimation of the "right" of abortion.[23] Humane public policy with respect to handicapped children will not be complete until these grotesque decisions are extirpated, and our legal system can once again be directed toward the defense of all helpless human life, whatever its age or condition.

Thank you for your consideration.

NOTES

[1]See: Testimony of U. S. Catholic Conference before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, March 7, 1974; Testimony of U. S. Catholic Conference before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, March 24, 1976; Testimony of the National Conference of Catholic Bishops before the Subcommittee on the Constitution of the Senate Committee on the Judiciary, November 5, 1981. Texts are available from the Committee for Pro-Life Activities, National Conference of Catholic Bishops.

[2]See Origins (National Catholic Documentary Service), Vol. 8, No. 24 (November 30, 1978), pp. 372-7.

[3]Origins, Vol. 10, No. 47 (May 7, 1981), pp. 747-50.

[4]Vatican Congregation for the Doctrine of the Faith, "Declaration on Euthanasia." See Origins, Vol. 10, No. 10 (August 14, 1980), pp. 154-7.

[5]On the application of the Church's moral tradition to such situations, see: John R. Connery, S.J., "Prolonging Life: The Duty and its Limits", Catholic Mind, October 1980, pp. 42-57; idem, "An Analysis of the HHS Notice on Treating the Handicapped", Hospital Progress, July 1982, pp. 18-20; "The Woe of Infant Doe", Ethics and Medics (Publication of the Pope John XXIII Medical-Moral Research and Education Center, St. Louis, Missouri), June 1982. On the attitudes of handicapped people toward the quality of their own lives, see, for example, David Milne, "Urges MDs to Get Birth Defects Patients' Own Story", Medical Tribune, December 12, 1979, p. 6.

[6]For brief accounts of the "Infant Doe" case in Indiana, see Joseph W. Rebone, "'Minimal Quality of Life': Why Parents, Courts Chose Infant Doe's Death", Hospital Progress, June 1982, pp. 10-12; James Bopp, Jr., "Court Documents in Infant Doe Case Tell Revealing Story", National Right to Life News, July 8, 1982, pp. 1 and 14.

[7]1 W. Blackstone, Commentaries on the Laws of England *447.

[8]See: Wesley Sokolosky, "The Sick Child and the Reluctant Parent -- A Framework for Judicial Intervention," Journal of Family Law 20 (1981-2), pp. 69-104; Note, "Parent and Child -- State's Right to Take Custody of a Child in Need of Medical Care," De Paul Law Review 12 (1962-3), pp. 342-6; Neil L. Chayet, Legal Implications of Emergency Care (Appleton-Century-Crofts: New York 1969), pp. 101-13.

NOTES (continued)

[9]People v. Pierson, 68 NE 243 at 246-7 (1903); cited in Owens v. State, 116 P. 345 at 346-7 (1911).

[10]The distinction is clear in State v. Perricone, 181 A.2d 751 at 758 (1962) (with citations).

[11]See "Parent and Child", art. cit., p. 345; "The Sick Child", art. cit., pp. 79-81.

[12]Prince v. Massachusetts, 321 U.S. 158 at 166-7 and 170.

[13]Second Vatican Council, Dignitatis Humanae (Declaration on Religious Liberty), para. 7; text in Austin Flannery (ed.), Vatican Council II: The Conciliar and Post Conciliar Documents (Costello: New York 1975), p. 805.

[14]Morrison v. State, 252 SW 2d 97 at 101 (1952).

[15]See the sources cited in note 6.

[16]For the nature of the "quality of life" ethic and its implications for the care of handicapped newborns, see James T. Burtchaell, Rachel Weeping, and Other Essays on Abortion (Andrews and McMeel: Kansas City 1982), pp. 288-320. Also see "The Sick Child", art. cit., pp. 81-84.

[17]In re Becker, Calif. Super. Ct. Santa Clara Cty., 8/7/81 (Family Law Reporter, August 25, 1981, pp. 2647-8). See George Will, "A Trip Toward Death", Newsweek, August 31, 1981, p. 72.

[18]In re Storar, 420 NE 2d 64 (1981).

[19]See: Hoener v. Bertinato, 171 A. 26 140 (1961); "Unborn Child Custody Case in Georgia", Washington Post, January 25, 1981.

[20]On the incidence of infanticide in intensive-care nurseries, see: "Deformed Infants are Allowed to Die," Washington Post, October 28, 1973; "Practice of Neglecting Badly Deformed Babies Stirs Troubled Debate", Wall Street Journal, July 20, 1982. The repeated use by the news media of the word "deformed", at a time when disabled persons are fighting for greater respect in our society, is a particularly poignant indication of the attitudinal problem involved in this issue. On the need for legal clarification by statute, see John A. Robertson, "Involuntary Euthanasia of Defective Newborns: A Legal Analysis", Stanford Law Review 27 (1975), pp. 213-69.

NOTES (continued)

[21]See: In re Eichner, 73 A.D. 2d 431, 426 N.Y.S. 2d 517 at 543 (1980); George Will, "The Killing Will Not Stop," Washington Post, April 22, 1982; Peter J. Riga, "Phillip Becker: Another Milestone," America, July 12, 1980, pp. 8-9.

[22]For the radical nature of the Supreme Court's decisions, see the U. S. Senate Judiciary Committee's legislative report on S. J. Res. 110, the Human Life Federalism Amendment (Report No. 97-465), pp. 7-20. For the effect of these decisions on physicians' attitudes toward defenseless life in general, see ibid., p. 46.

[23]For example: Curlender v. Bio-Science Laboratories, 106 Cal. App. 3d 811, 165 Cal. Rptr. 477 (1980) (Child with Tay-Sachs disease should be able to sue her own parents for not having aborted her); Robak v. USA, 658 F. 2d 471 (1981) (Failure to provide information facilitating the decision to abort a handicapped child is malpractice and physician can be required to pay the lifetime costs of raising the child).