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3/23/92

Please file for Cam Findlay :

March 20th

SENSITIVE

Document No. 316 496

WHITE HOUSE STAFFING MEMORANDUM

CLOSE HOLD

DATE: 03/19/92 ACTION/CONCURRENCE/COMMENT DUE BY: 10:00 a.m. Friday
03/20SUBJECT: PRESIDENTIAL REMARKS: ANNOUNCING VETO MESSAGE OF TAX BILL, 03/20

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	HORNER	☐	☐
SKINNER	☐	☒	MCBRIDE	☐	☐
SCOWCROFT	☒	☐	MOORE	☒	☐
DARMAN	☒	☐	PETERSMEYER	☒	☐
BRADY	☐	☒	PORTER	☒	☐
BROMLEY	☐	☐	ROGICH	☐	☐
CALIO	☒	☐	ROLLINS	☒	☐
DEMAREST	☒	☐	SMITH	☒	☐
FITZWATER	☐	☒	YEUTTER	☐	☒
GRAY	☒	☐	GRADY	☐	☒
HOLIDAY	☒	☐	BOSKIN	☒	☐
			FINDLAY	☒	☒

REMARKS:

Please provide any comments directly to Bob Grady, Rm. 260, x4844 no later than 10:00 a.m., Friday, 03/20, with a copy to this office. Thanks.

RESPONSE:

CLOSE HOLD

SENSITIVE

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

02 MAR 19 P8:00

March 19, 1992

MEMORANDUM FOR THE PRESIDENT

FROM:

Robert E. Grady
Associate Director

RE: [Signature]

RE:

Remarks Announcing Veto Message of Tax Bill
The White House
March 20, 1992
3:00 p.m.

Attached are draft remarks announcing your signature of the veto message on the tax bill. As discussed, the speech announces your signature of the veto message, highlights the systemic problems plaguing Congress, announces certain steps you are taking on your own, and outlines five changes America must make to compete and win in the global economy.

The draft is about 60% of the length of that which we reviewed this morning. While it may appear longer at first, it should be noted that the draft we reviewed earlier was single-spaced.

Attachment: Draft remarks

(March 19, 1992)

PRESIDENTIAL REMARKS: ANNOUNCEMENT OF TAX BILL VETO
 THE WHITE HOUSE
 FRIDAY, MARCH 20, 1992

Good afternoon and welcome to the White House.

Fifty-two days ago, in my State of the Union Address, I asked Congress to act on my agenda for economic growth. I asked for immediate action, by March 20th, on a series of proposals to help rekindle the economic recovery.

I asked the Democratic leadership to put partisanship aside, pledging to do the same, in order to enact seven sensible steps to increase investment, strengthen the value of American homes, and create jobs.

Well, March 20th has arrived. Last night, the Congressional conferees finished work on the conference report on the tax bill. It would increase taxes, and harm the economy. So today, I want to do three things.

First, I am going to sign the veto message and stop the Democrat's tax increase. Second, I am taking several additional steps on my own to help the recovery, with or without Congress. And third, while the Democrats in Congress dither, I am proposing action on the real challenges facing America -- on my long-term plans to help America compete in the global economy of the future.

I am disappointed in Congress. In fairness, some Democrats didn't want to put a tax increase in the bill. But politics prevailed. A slim majority passed the bill in the face of a certain veto. But they aren't blocking my economic recovery plan

because they're afraid it won't work, they're blocking it because they're afraid it will work.

I don't take this step lightly. This is the first time a President has vetoed a tax bill since Harry Truman did it in 1948.

But I submitted an economic growth package to Congress for a reason -- to promote a recovery in which every American has an interest. The bill I proposed was carefully tailored. It was paid for -- without raising taxes. It was designed to encourage and strengthen the positive economic signs we are beginning to see -- home sales and housing starts up as interest rates stay down, retail sales improving, 164,000 new jobs just last month. In response, the Democratic Congress has returned to form. It has produced a bill which will not strengthen the economy -- it will weaken it. It has produced a bill which will not stimulate growth -- it will retard it. As if by reflex, the Democrats in Congress could not resist their natural impulse to raise taxes. But I assure you of this: I will not let them do it.

With this pen, I am now going to sign the veto message for the Democrats' tax increase -- because raising taxes will not help create jobs.

The bill is not yet here -- but the conference report tells me all I need to know. When the bill is sent down tonight, this signed message will be waiting for it -- and my veto will go to the Hill the minute the bill arrives here.

The message is clear: my veto pen, and a block of votes ready to sustain it, stands ready to stop any tax increase on the American people.

With that clear, I ask the Democratic leadership to put aside once and for all the idea of a tax increase. And I ask the Congress again: Pass the 7 common-sense measures I've proposed to help the economy now. Do so without raising taxes, and I will sign it. Then let's get on to the long-term agenda. But stop holding the American economy hostage in a partisan game.

Passing a tax increase is bad enough. But here's what really troubles me:

The irresponsibility of Congress on this plan is part of a pattern. It reflects a more serious problem -- a deeper systemic problem that is gnawing at the strength of our nation. It is no wonder that Americans are mad. Today, looking at the accumulated evidence of several years, it must be said: our Congressional system is broken.

We have a long tradition in this country of pulling together when national need demands that we do so. Over the years, many accomplishments, large and small, have been truly bipartisan.

But Congress today is different. It is more partisan. It is financed by special interests. It has grown out of control. It has lost the ability to police itself. And, perhaps most importantly, it is no longer accountable to individual American citizens and voters.

One party has controlled the House of Representatives for 37 years. Staff has become institutionalized. Twenty-five years ago, there were 2,000 Congressional staff. Today, there are more than 12,000 staff for Congress itself -- almost 40,000 if you include the entire legislative branch. The number of committees and subcommittees has grown from 38 fifty years ago to over 300 today.

And for this -- we get a Congress incapable of passing the simple plan I presented almost two months ago. Today, the Congress can't manage a one-teller bank.

In the 1990 elections, special interest political action committees -- "PACs" -- gave about 117 million dollars to incumbent Congressmen and Senators. Only 15 million dollars were donated to challengers. With this 8-to-1 spending advantage, obvious voter discontent was smothered in a wave of PAC-financed television advertising. So, nearly every incumbent won.

The time has come for change -- because when the system is broken, you do have to fix it. I have proposed to eliminate the PACs which are poisoning our system.

I propose also to increase accountability. I am directing the Secretary of Labor to implement promptly the Supreme Court's Beck decision. No worker should be forced to have money taken out of his paycheck to fund politicians he disagrees with.

We should apply to Congress the same laws -- from employment conditions to civil rights -- which it imposes on every other business and every other citizen in this country.

And I believe the time has come to limit the terms of Congressmen. The term of a President is limited. It is time for the terms of Congressmen to be limited.

The bottom line is that we all need a new Congress -- one that can work to do what is right.

In the meantime, I will take additional actions on my own, with every legal means at my disposal, to keep the economy moving up. I will do so in spite of the hopelessly tangled Congressional web of PACs, perks, privilege, partisanship and paralysis.

There is, of course, a serious limit on what a President can do without Congress. But I am determined to do all I can.

First, I want to underline a fundamental point: government is too big and spends too much.

I've already proposed to freeze domestic discretionary spending and federal employment next year. I've also proposed to cap the growth of "mandatory" programs (other than Social Security). These are programs that grow automatically -- without Congressional review, or even a chance for a Presidential veto. Their uncontrolled growth is fast becoming another Washington scandal.

Today I am sending to Capitol Hill the first of a package of additional measures to cut Federal spending now -- this year. These line-item rescissions, in total, will cancel about \$4 billion in unnecessary spending.

Funds for local parking garages. One hundred thousand dollars for "asparagus yield declines." Mink research. Prickly pear

research. The examples would be funny if the effect weren't so serious. This kind of wasteful spending destroys public confidence in the integrity of the government. Americans have every right to be outraged, and disgusted. It is their money.

I will work with the Republicans in the House to bring each of these items to a vote. That will bring us a step closer to the accountability and power that 43 Governors have -- the line-item veto.

Second, I have directed the Vice President to step up the assault on unnecessary regulation and paperwork. Let me give you a progress report. While Congress has spun its wheels for these past two months, we've already taken specific steps to remove the regulatory roadblocks to growth.

We've implemented plans to promote biotechnology, lower construction costs, help small business, ease the credit crunch, help clean up the air, reduce costs in transportation, and cut through the morass of regulation in agriculture. Today, we're launching a new public-private partnership to promote research and development by bringing the good ideas from our Federal labs into the marketplace.

Over the coming months, we will be announcing many more such steps to chop away at needless regulation and paperwork wherever we can. Too much regulation stifles innovation and makes America less competitive.

I realize that these are only modest steps. But they reflect a fundamental attitude.

If the Democrats who run the status quo Congress will not help us change America, we will have to change it without them. If the Democrats who run the status quo Congress will not help us reform government, we must reform it without them.

You see, change is nothing to fear. For more than two centuries, America has been a force for change. Our restlessness is legendary. Our energy boundless.

Because of this, today America is the most productive nation on earth, with the highest standard of living. We have only one-twentieth of the world's population. But we produce one-fourth of the world's output -- twice that of Japan, and four times that of Germany. Today, America's credibility and prestige in the world -- not to mention our strength -- have never been greater. But we didn't get where we are by standing still.

We got where we are by always striving to do better. That's why the current paralysis of the Congress is so troubling.

It has caused too many Americans, at the exact moment of triumph for American values around the world, to lose confidence.

Americans are understandably worried about their future. Not only about the economy right now, although that is a key problem, but about the economic competition of the future. About the central question that lies at the heart of the American dream: will our children have a better life than we do?

Make no mistake: we can compete and win in the global economy. In the last ten years, we've become more productive. Our exports have more than doubled. Manufacturing productivity has

increased. We are capturing markets around the world -- from Europe, to Africa, to Latin America.

But in order to keep succeeding in this global economic competition, we've got to change America in five key ways. We need a strategy that is confident, forward-looking, future-oriented -- and we need to be willing to change.

First, we must expand markets for American products. So I will continue to pursue open markets in the GATT. I will push for a North American Free Trade Agreement, to unlock the potential of markets in Mexico and Canada. And I will work for bilateral agreements to knock down barriers to American exports.

To win these markets, we must guarantee that America will lead the world in knowledge, in new ideas, and in making products of the highest quality. That requires specific investments -- today.

I've proposed to invest more in basic R&D, and in key technologies like high performance computing, new and advanced materials, and biotechnology. Congress should approve these investments.

And not only the government must invest more in the future. To maintain our edge by increasing private sector investment, Congress should pass the capital gains tax cut and make the R&D tax credit permanent.

Second, we must prepare our workforce to compete -- through better education and training. I've proposed a set of radical

reforms in education called America 2000, and a new approach to job training -- Job Training 2000.

The idea of America 2000 is simple -- to revolutionize American education. That means creating new kinds of schools with new technology and new ways of learning. It means measuring progress, and holding schools accountable for their performance. And it means giving all parents -- including and especially the poor -- choice in picking the schools that can do the job best for their kids.

We've put the resources behind our efforts. I've increased the Federal budget for education by 42 percent just since 1989. I've put in place a new program to train teachers in math and science, and increased funding for math and science education by over 69 percent. But more money alone won't do it -- we need reform.

Third, we must reform health care. America has provided the best quality health care in the world -- but we are plagued by two problems: too many Americans are not covered by health insurance, and health care costs too much.

I have proposed a plan to make health care more affordable, more available, and more sensible. Congress should pass it -- and that will help our competitiveness.

Fourth, we've got to fix our legal system. America is drowning in a sea of litigation. Too many lawsuits means higher prices for consumers, and reduced competitiveness for America.

In some cases, we should require the loser to pay the winner's legal fees. That will stop frivolous lawsuits.

When parents won't coach Little League teams, when obstetricians won't deliver babies, and when community pools are closed in the summertime -- all because of the fear of liability -- we know that something is wrong. Now is the time to fix it.

Fifth, we must tackle each of these challenges without higher taxes or more government spending. America doesn't need bigger government -- it needs better government.

On every one of these issues, the Democrats in Congress are standing in the way of reform. They have cut my budgets for R&D and investing in the future, and voted instead for pork. They have stripped choice and accountability out of the education bill. They are working on a government takeover as the solution to our health care problem, to be financed by a massive tax increase. And the special interests have made them afraid of legal reform.

It is time for Congress to either lead, follow, or get out of the way.

On every one of these challenges, there are two very different ways of looking at the world. One is reformist, the other protects the status quo.

That difference is driven by values. The special interests and the footdraggers do not believe in the kind of change we seek: change which respects markets more than government dictates; which recognizes fundamental American values and the difference between

right and wrong; which rewards excellence and punishes wrongdoing. They do not believe that actions should have consequences.

Well, one set of actions should have consequences. The failure of Congress to move on our program of change means only one thing: it is time for a new Congress.

Because it is precisely the strength of the values the naysayers reject that has made America the envy of the world and the engine of democracy.

Over the coming weeks, I will be speaking more about these challenges. I'll be laying out further specific plans I have for each. And I ask the American people to compare those plans to the response of the status quo Congress and the do-nothing caucus that has dominated the Democratic Party for too long.

Patrick Henry said: "I like the dreams of the future better than the history of the past."

Patrick Henry was right. Imagine the irony, as the world is beating a path to freedom's door, if we ourselves were to turn back now. If we carry the change forward, we can have a nation of productive workers and competitive companies, of healthy and secure communities, of schools that are the best in the world. America can remain a nation whose exuberant confidence and commitment to freedom are admired worldwide.

I'm ready to build such an America.

Because if we can change the world, we can change America.

Thank you and God bless you.

#

A different way to index cap gains.

Several proposals, pursuant to which capital gains indexation could be accomplished by regulatory action without securing new legislation, have been recently considered. One possibility that was carefully considered by the Treasury was to change the definition of the term "cost" under Section 1012 of the Code. While the redefinition of cost approach still has merit, arguably, it presents a number of legal risks and policy drawbacks. However, there appears to be another avenue for accomplishing the capital gains indexation task.

This avenue involves having the Treasury Department issue regulations pursuant to Section 446 of the Code, which provides as follows:

(b) EXCEPTIONS -- If no method of accounting has been regularly used by the taxpayer, or if the method used does not clearly reflect income, the computation of taxable income shall be made under such method as, in the opinion of the Secretary, does clearly reflect income.

Section 446(b) (emphasis added).

It could be argued that treatment as "income" of increases in value over a nominal purchase price of a capital asset, when such increases are the result of inflation and do not represent true economic gain, does not "clearly reflect income." Under this line of reasoning, the Treasury would be acting within its clear grant of authority under Section 446(b) in excluding "gain" attributable to inflation from taxation.

Of course, it should be noted that such "pure economics" arguments would suggest that indexing be applied in other areas (e.g., to debt instruments). However, the approach set forth above offers the advantage of a clear grant to the Treasury of statutory authority to fashion "legislative" regulations. It also avoids the historical baggage which could accompany an attempt to redefine "cost" as other than nominal cost. A preliminary examination has not revealed any adverse legal precedents, e.g., Revenue Rulings, Private Letter Rulings or court cases, or any legislative history which would constrain Treasury's ability to use Section 446(b) to index capital gains.

OFFICE OF THE VICE PRESIDENT
WASHINGTON, D.C.

3/17/92

NOTE TO CAM FINDLAY

FYI

William Kristol

Some possible 3/20 actions.

Congress

1. Term limits.
2. Submit legislation applying all laws (civil rights, OSHA, etc.) to Congress.
3. "Logging" executive order
4. Campaign finance reform.
5. Budget process reform.
6. Extend Independent Counsel statute to Congress and/or promise to veto its reauthorization.

Economy/budget

1. Resubmit economic growth package plus child credit.
2. Rescission package.
3. Threat to veto appropriations bills if have pork or over President's limit.
4. Require all "entitlements" to be appropriated yearly.
5. Indexing of capital gains (?).

Institutional Reform

1. Beck.
2. Education reform.
3. Legal reform.
4. Welfare reform.
5. Etc.

Some possible 3/20 actions.

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6. A \$ — billion budget cut bill.

Institutional Reform

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2. Education reform.
3. Legal reform.
4. Welfare reform.
5. Etc.

3/17
TO: CAM F.

THE WHITE HOUSE
WASHINGTON
March 11, 1992

DCF HAS SEEN

copies: R. Porter
S. Skinner
H. Moore
M. Fitzwater
D. Demarest
B. Teeter
F. Malek
J. Lake
C. Black
B. J. Cooper
S. Rollins

MEMORANDUM FOR CLAYTON YEUTTER

FROM: CHARLES E.M. KOLB *CEMK*
SUBJECT: Defining Our Future

The President's current difficulties, as reflected in recent polls, stem in part from an inescapable paradox: we are the party of incumbency but are simultaneously running for reelection as the party of change. (Recall that our "Election Night '88" motto was "We Are The Change.") The President must take credit for the good that he's accomplished while also campaigning as an outsider. This will not be easy.

Part of his message has to be negative without being whining. While there is much that he can point to domestically and internationally as evidence of success, there is also a considerable unfinished agenda that he has been unable to achieve -- because of the Democrats in Congress. Thus, to the extent that his March 20, 1992, response to Congress criticizes their inaction on our economic growth agenda, it has to be coupled with positive statements about the direction in which George Bush intends to lead the country.

Our three themes -- jobs, family, and peace -- are sound. They do, however, have one major difference from the Reagan approach. Reagan's emphasis on low taxes, less government, and more defense had an ideological cutting edge which our three themes lack. Some people actually favored more government, higher taxes, and less defense. Some still do. The last decade has proven their judgments profoundly wrong. One would be hard-pressed to find anyone who disagreed with the importance of jobs, family, and peace. The question is how you get there -- the roadmap -- and we might want to consider sharpening this message in ways that differentiate our roadmap from the Democrats'.

I am convinced that there are two key reasons why people are restless today, and they both relate to the roadmap. First, some people perceive government as ignoring them, being unresponsive, or being corrupt. The House banking and post office scandals are examples of these problems and are reminiscent of the bureaucratic arrogance that brought down the apparatchiks in the former Soviet Union. Second, there's a sense of confusion and uncertainty about the future -- a troublesome, nagging worry that past certainties (e.g., the "Evil Empire," safe streets and schools, rising living standards, job security) have changed and that the future will be dangerous and uncertain. Rapid technological change, with its corresponding impact on the labor force and the economy, only reinforces this fear. At the same time, the opportunities for leadership in such circumstances are substantial at home and abroad.

On the foreign front, questions are now raised about whether we will be a "reluctant superpower" that suffers from "compassion fatigue." Will we simply react to events (e.g., Germany's new leadership role in Central Europe) or will we lead in areas

of critical international concern (e.g., the viability of Russia's new democracy)? As David Gergen observes in the latest Foreign Affairs, "Unless the nation embarks upon a comprehensive program of domestic renewal, the United States within a few years could become so deeply mired in its own troubles that its politics will turn even more embittered, xenophobic and inward." (Vol. 71, No. 1 at 19). In short, we cannot anymore divorce our responsibilities abroad from our responsibilities at home. The Bush Administration must be one of seized -- not missed -- opportunities on both fronts.

Perhaps an emphasis on "domestic renewal" will help us define more vividly our differences with the Democrats. The President can begin this message by making the political point that our opponents do not want us to succeed. That's understandable; it's what partisan politics is partially about.

But it's something else altogether when political differences turn into government by gridlock in which institutional failure breeds personal discomfort or lost opportunities for millions of Americans. Then, the American people are the losers. Let's allow the American people to decide whose agenda for the future is better.

One of the themes I'd recommend that the President emphasize next week is the (truly pathetic) failure of the Congress to govern itself (check-kiting, cocaine sales, special exemptions from various laws, midnight pay raises, unpaid restaurant bills etc.). Most Americans don't live this way. Why should they be governed by people in Congress who do? Misuse a piece of Federal letterhead and you're nearly charged with a felony. Kite a few dozen checks as a Congressman and you can hide behind Tom Foley and the "ethics" committee. This message can be coupled with the further inability of the Congress to get its work done (pending judicial nominations, late appropriations bills, pointless and costly hearings) accompanied by an unending appetite to micromanage the Executive Branch's work (and thereby impede the latter's ability to function). It's time to end the double standard.

At this point the President can begin his litany of contrasts:

<u>I'm for</u>	<u>They're for</u>
1. education reform	1. more \$\$ for the status quo
2. childcare credits	2. government-run daycare
3. family values	3. tolerance, multiculturalism, PC
4. safe streets	4. endless due process
5. banking reform	5. a 1930s era system
6. capital gains cuts	6. taxing everything in sight
7. energy reform	7. command-and-control structures
8. legal reform	8. more lawsuits
9. welfare reform	9. welfare dependency

- | | |
|------------------------|--|
| 10. regulatory reform | 10. more regulations |
| 11. health care reform | 11. play or pay; socialism |
| 12. term limits | 12. sinecures that preserve incumbency |
| 13. PAC reform | 13. \$\$ for votes. |

In reciting this litany, the President needs to emphasize that (1) he understands the forces at work at home and around the world calling for reforms; (2) he has an agenda or plan for addressing and shaping these forces; and (3) he can present that agenda in a positive, convincing, action-oriented way. His vision is for a ("kinder, gentler") government that works for people and that promotes independence, self-sufficiency, and economic growth, and rewards achievement (economic, educational, entrepreneurial); for greater individual choice and participation (in child care, education, civil rights, health, housing); and for reforming and restructuring institutions (the Congress, the Executive Branch, welfare, the law, education) that are failing to do the job in today's world.

The results of these efforts will be more jobs, stronger families, and world peace.

Having articulated this, we have to do something to achieve our goals. A friend recently described to me our predicament as getting to the five-yard-line and then dropping the ball. We don't follow through, and this needs to change. Everything we announced in the January 28 State of the Union address should have an action plan. We should by now be recruiting coalitions to help us achieve good ideas like civil justice reform. Whenever the Democrats bury one of our ideas, they should pay a price. To do that, we need the active involvement of key constituents. And to get their involvement, we need to stand for something that is different from the Democrats.

The American public might find it interesting to hear from their President that since 1965 we've spent approximately \$2.7 trillion (in 1989 dollars) on antipoverty programs. Does anybody think they've worked? We have dangerous schools, a crumbling infrastructure, an entrenched underclass, and other serious shortcomings. We have excellent ideas for changing all this. The Democrats have but one failed idea: spend more.

After all, the party in charge of the Congress for almost a half century has been theirs, not ours. The Democrats are trying to saddle George Bush with the failure of their model for governing America. Bill Clinton understands this. (Tom Harkin didn't, by the way.) But until Clinton gets the nomination he can't totally forsake the typical left-leaning Democratic special interests (hence his leftward drift on school choice and welfare reform). Once nominated, however, Clinton's exclusive target will be George Bush. If we haven't captured the high ground of reform by then, our belated efforts will ring hollow and sound like "me too."

Disappointment rather
than anger

Draft three
(Grady)
3/17/92

① 7 pt plan
②

PRESIDENTIAL REMARKS AND PRESS CONFERENCE
NATIONAL NEWSPAPER ASSOCIATION
EAST ROOM
THE WHITE HOUSE
WASHINGTON, D.C.
MARCH 19, 1992

Good afternoon and welcome to the White House.

Fifty-one days ago, in my State of the Union Address, I asked Congress to act on my agenda for growth. I asked for immediate action, by March 20th, on a series of proposals to help rekindle the economic recovery. I asked the Democratic leadership to put partisanship aside just long enough to enact seven sensible steps to create jobs, to strengthen the value of American homes, and to spur investment in the future.

Well, every spring on this date, the swallows return to Capistrano. Nature goes through its cycle. And the Democratic Congress has returned to form. They have shown no serious interest in strengthening the economy. March 20th is here, and instead of measures to create growth, Congress is poised, once again, to try to increase taxes. But I assure you of this: I will not let them do it.

Ironically, there are many parts of a growth package on which some of the leading Democratic Presidential candidates and I agree. These could have been passed right away -- and still should be. But it seems that the Democrats in Congress aren't blocking my economic recovery plan because they're afraid it won't work, but because they're afraid it will.

The bill the Democrats put together, in a partisan caucus held largely behind closed doors, would take billions out of the pockets of American taxpayers. It would deny assistance to thousands of first-time homebuyers, and cut in half the job-creating investment that the growth plan I offered would have generated. On the short term plan, Congress has basically blown it.

That single act of irresponsibility on the March 20th package -- and passing a tax increase instead -- is bad enough.

But what is worse is that the irresponsibility of Congress on this plan is part of a pattern. It reflects a more serious problem -- a deeper systemic problem that is gnawing at the strength of our very nation. It is no wonder that Americans are mad. Today, looking at the accumulated evidence of several years, it must be said: our Congressional system is broken.

It is financed by special interests. It has grown out of control. It has lost the ability to police itself. And, perhaps most importantly, it is no longer accountable to the ~~average~~ American citizen and voter.

Congress might be excused for missing a deadline, or confusing a date. After all, I once thought that Pearl Harbor Day was September 7th.

But this Congress can't manage a one-teller bank.

And the banking scandal is only a recent symptom. The larger body of evidence is far more disturbing.

In the 1990 elections, special interest political action committees -- "PACs" -- gave about \$115 million to incumbent Congressmen and Senators. Only fifteen million dollars were donated to challengers. With this eight-to-one spending advantage, obvious voter discontent was muted -- smothered in a wave of PAC-financed television advertising. So, nearly every incumbent won.

That's not surprising. This is a Congress which spends almost 100 million dollars every year on free mailings. That raises funds year round in the hope, by some, that they may avoid a reelection challenge altogether.

Consider: 25 years ago, there were 2,000 Congressional staff. Today, there are more than 12,000. The number of committees and subcommittees has grown from 38 fifty years ago to over 300 today. Total spending just to staff and equip the legislative branch has now reached 3 billion dollars per year. This year, to cite just one more glaring example, 250 dollars per square foot was spent to put marble floors in Congressional elevators.

And for this -- we get a Congress incapable of passing the simple plan I presented almost two months ago. We get a House whose Democrats produced a bill that the party's own winner of the New Hampshire primary said he would veto. A Senate that spends 25 percent of its time calling the roll.

The time has come for change -- because when the system is broken, you do have to fix it. I propose to eliminate these PACs which are poisoning our system. And I believe the time has come to limit the terms of Congressmen. Because while Congress does not yet have a limit on terms, the American people have a limit on patience. We all need a new Congress -- one that can work with me to do what is right.

In the mean time, with the failure of Congress to act responsibly on my short term plan, I will act on my own, with

*Congress
should
adhere to
laws
everybody
else*

every legal means at my disposal, to get the economy moving -- and to keep it moving -- up.

That means taking executive actions, wherever possible, whenever the authority exists, to move this country forward -- in spite of the hopelessly tangled Congressional web of PACs, perks, privilege, partisanship and paralysis.

There is, of course, a serious limit on what a President can do without Congress. But I am determined to ~~meet my~~ ^{do} responsibility even if the Congress is not.

My first action is to prevent further damage: with this pen, I am now going to sign the veto message for the Democrats' anti-growth tax increase.

Lest there be any question -- the message is signed. Congress can save the expense of sending the bill. I trust this message is clear: the veto pen, and a block of votes ready to sustain it, stands ready to stop any tax increase on the American people.

Further, tomorrow I will send to Capitol Hill a package of measures to help tackle the other side of the perennial Congressional equation: Federal spending. These bills will ~~rescind~~ ^{cancel} effective immediately, \$4 billion in unnecessary spending in the current fiscal year.

Some of the cuts are in defense -- the happy result of ^{the} a world at peace. Over a billion dollars is on the domestic side. Hundreds of projects added by Congress, not requested by the people who run the agency programs, and not needed by the American public. ^{we have created.}

A million dollars in a housing bill for a parking garage in Ashland, Kentucky. One hundred thousand dollars for "asparagus yield declines." Mink research. Prickly pear research. The examples would be funny if the effect weren't so serious. This kind of wasteful spending destroys public confidence in the integrity of the government. Americans have every right to be outraged, and disgusted.

I have already proposed to eliminate this spending in my budget for next year. Today I am asking Congress not to wait -- ^{wrong word} rescind it immediately.

If the Democratic leadership remains timid, I will work with the Republicans in the House to bring each of these items forward for a vote. That will bring us a step closer to accountability, and to the power that 43 Governors have -- the line-item veto.

Working with the Vice President, I will step up the assault on unnecessary regulation and paperwork. While Congress has spun its wheels in a rut of its own making for these past two months, we've already begun to remove the regulatory roadblocks to growth.

The mountain of paperwork churned out by the Federal government seems pretty obscure. Some is for a good purpose -- to protect public health and safety, or to clarify laws of the land. But too much regulation kills jobs. It buries the small businessman who doesn't have the time or the staff to fill out Federal forms all day. It stifles innovation. Ultimately -- as anyone can tell you who's ever spent a long day at the DMV or in line at the post office -- too much government just breaks the spirit.

The regulatory review I announced in the State of the Union is headed in the opposite direction. It's designed to stimulate growth. To free up the entrepreneur. To help reward the innovator.

Let me give you a progress report. In just over a month, we've simplified standards to increase the use of clean-burning natural gas. That means cleaner air, cheaper energy, and more American jobs to produce it.

We've published plans to help remove old cars -- the biggest polluters and the biggest gas guzzlers -- from the road. ~~That means the tough standards of our Clean Air Act can be met at less cost -- and without sacrificing the jobs that come from healthy growth.~~

We've made it more straightforward for small businesses to raise money to finance their growth. Growing small companies are creating the most new jobs in America.

And we've trimmed the complex regulations on trucking, railroads, and shipping. Moving goods more cheaply means a stronger economy, and lower prices for American consumers.

And that's just the beginning. Tomorrow, the Administration will proceed with the following actions:

We will eliminate unilateral requirements facing U.S. exporters -- and the Justice Department will begin drafting guidelines to make it easier for companies to band together in joint ventures. That will make it easier for Americans to compete, to export -- and to create more secure jobs.

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To help train and retrain our workforce, and to broaden the opportunities for those whose work until now has been the defense of the United States, I am asking the Secretary of Education to proceed with a new idea: a lifetime line of credit for every American. It will be used for education, for job training, for helping people of all ages pick up the skills they need for the global economy of tomorrow.

And finally, the Secretary of Labor will [Beck decision].

I realize that these are only first steps -- and small ones at that. They are not a substitute for Congressional action on my agenda for growth. But they reflect a fundamental attitude.

If the status quo Congress will not help us change America, we will have to change it without them. If the status quo Congress will not help us reform government, we will reform it without them. And if the status quo Congress will not take the small steps needed to push the economy into forward, I will engage every gear at the President's disposal until America is off and running again.

It is on explaining why Congress is important

You see, for America's economy to grow, America itself must change. For the economy to modernize, we must invest. For the economy to conquer new markets, we must reach confidently, and in new ways, to the corners of the global village. For America to lead in the economic competition of the future, we must continue to inspire.

Change is nothing to fear. For more than two centuries, America has been a force for change. Our restlessness is legendary. Our energy boundless. Now, it is time to write the next chapter in the story that is America.

Just a lifetime ago, 59 years last week, President Roosevelt delivered his first "fireside chat". Prior to that, American Presidents never spoke directly into the living rooms and kitchens of America, let alone the world.

Since then, we've been part of a communications revolution that may be the most important feature of the twentieth century. Think of it. From Presidential debates, to live coverage of the collapse of the Berlin Wall. From fax machines in the basements of fledgling democratic movements everywhere, to CNN in the

Russian Parliament, helping Boris Yeltsin foil the coup in the former Soviet Union.

This communications revolution has been democracy's best friend. It's given people the power to be their best. It has helped spread the flames of freedom like a prairie fire. It has been an integral part of the triumph of values we hold dear -- American values like openness and free expression -- in the long, historic struggle between justice and tyranny.

And yet, at the exact moment of our triumph -- a time when the world is at peace, and America stands alone as the unrivalled economic and military power of the world -- the largest exporter, with the highest standard of living, and the most productive workers on earth -- we seem to have lost our confidence.

Americans are understandably worried about their future. About the economy.

That's natural when the economy's been in recession. When you've lost your job, or your neighbor has, or your brother has, it's hard to worry about the long, twilight struggle between good and evil. The more immediate worry is the next paycheck, this month's bills, the cost of making ends meet.

But even as the economy shows signs of turning toward recovery, today's worry goes beyond the immediate paycheck. It is different, and deeper. People want recovery. No doubt about that. But that alone is not enough. The real worry goes to the heart of not only the American dream, but the universal dream -- the desire of every parent to give to their child a better life than the one they have had. It's a dream called opportunity.

In that next chapter of the American story, people are rightly concerned about whether their children will get the education they deserve and need. They worry about schools where the environment of drugs and crime is so tough that students can't learn and teachers can't teach.

They worry about the decline of America's standards.

If America is to remain the land of opportunity in the lifetime of the next generation, we need to stem that decline. We need to grow in spirit as we grow economically.

On both fronts, America is at a crossroads. First, we need a strategy for competing in the world economy -- in the next decade, and in the next century. A strategy for raising productivity, and with it our standard of living.

But just as importantly, we need a return to the notion of responsibility, a resurgence of the values -- at the personal

level, and at the national level -- that have made this country a dynamic force for good.

It is only through this twin revival that we can succeed in the quest for a more secure future and a better life for our children.

On ^{all} both of these fundamental issues, there are two very different ways of looking at the world. On the question of competitiveness, the specific strategy I am pursuing reflects one approach: confident, forward-looking, future-oriented. It rests on four pillars.

In each, stress contrast more I want... They want
The first pillar is winning markets for American exports. That has been at the heart of my efforts to break down trade barriers through negotiating one-on-one with our trading partners, through the GATT, and through the special effort we've launched right here in North America.

You wouldn't know it from reading the daily dose of doom and gloom in the newspapers, but our record here is good and getting better.

America's manufactured exports have almost doubled just in the last five years -- their volume has grown twice as fast as the other industrialized countries of the world. But that's just the beginning. By the year 2000, the world's population will be six billion strong. In a world in which we are the cultural, intellectual, and economic leader, that's a market of mind-boggling potential.

Yet there are those who favor a different approach -- they would turn their backs on this market, and put up walls around America. The strategy of the protectionists is inward-looking, fearful, focused on the past and not the future. In the vain hope to preserve their vision of yesterday, the protectionists would deny us a better tomorrow.

The irony of this backward-looking strategy is that it risks igniting a trade war that will hurt precisely those industries that are leading us out of recession. The walls the protectionists propose to erect around America would be nothing but roadblocks in front of our fastest growing companies.

The second pillar is investing in the future. I've proposed to invest more in those key technologies we'll need to be more productive -- to win the global competition of tomorrow. That includes high performance computing, so that America can be the leader in the next generation of computers and communications. New and advanced materials, for use in everything from lighter aircraft to more efficient cars. Biotechnology, which could hold

the key to everything from producing more food to curing cancer and AIDS.

And I've proposed to invest more in basic research, the source of new knowledge. Unfortunately, the Democrats in Congress have cut my budgets for R&D in every year that I've been President. The money's been spent instead on parking garages and other monuments to special interests. There's no better example of the damage that pork barrel spending does to America's long term future.

And not only the government must invest more in the future. As a percent of GNP, American business spends only half as much on the new capital we need to maintain our edge as do the Japanese -- and only a third as much as the Germans. Our system is tilted toward the short-term.

So the third pillar is incentives for more investment by the private sector. That's the true purpose behind the capital gains tax cut -- to increase job creating investment. And that's why we need make the R&D tax credit permanent. So far Congress has blocked both measures -- but Congress should either lead, follow, or get out of the way.

The fourth pillar is preparing our workforce to compete -- through education. This requires change -- radical reform in the way we educate our kids, and in the pursuit of lifelong learning and training. We've proposed a set of reforms called America 2000, and another called Job Training 2000.

Job Training 2000 will help adults make the transition from one industry to another. It will simplify the current maze of Federal programs, and provide one stop shopping to gain the skills needed for a changing economy.

The goal of America 2000 is nothing less than to transform American education. We've proposed to "break the mold" with New American Schools; to measure progress; and to hold schools accountable for their performance; and most importantly, to give all parents greater choice in selecting the schools that can do the job best. And we've put the resources behind our efforts. I've increased the Federal budget for education by 42 percent just since 1989.

And I've put special emphasis on improving the technological literacy of our workforce -- by creating a new program to train teachers in math and science, and boosting funding for math and science education by over 69 percent.

Dem's
The entrenched special interests in education don't like accountability. They fear choice. And so the Congress has blocked my proposed reforms.

But I believe that if we're going to teach democracy in our classrooms, we should practice more of it in our school system. It's time that Congress allowed families to choose the best schools for their children, and became an engine for change instead of the brake-man on better schools.

For these four pillars to be strong enough to support a growing economy, we need to shed the weight of problems which are weakening the American system. That requires additional reforms.

We must cut the growth of government. I know that spending is the addiction of the Democratic party, but it's time for a little rehabilitation. So let the Congress be on notice. I'm committed to relieving the American taxpayer from the burden of too much spending and too many taxes -- and one way to spell relief is V-E-T-O.

I've proposed to freeze domestic discretionary spending and federal employment, and to cap the growth of so-called "mandatory" programs (other than Social Security). These are the programs that grow automatically without Congressional review -- or even a chance for a Presidential veto. And their uncontrolled growth is fast becoming another Washington scandal.

We must reform our monstrously expensive health care system. Health care costs too much -- and this explosion of costs is undermining our competitiveness.

Last month, I proposed a plan to make health care more affordable, more available, and more sensible.

What my plan will not do is dictate a hostile government takeover of our health system. By most estimates, that would require a tax increase of a half a trillion dollars. The cure would be worse than the disease -- and the result would be terminal for the American economy.

We must reform our approach to crime and drugs. For three years now, the crime bill I proposed has languished on Capitol Hill. The Democrats believe in a permissive society. They have blocked simple changes -- like modifying the exclusionary rule to make it easier for police to build the evidence against drug dealers and violent criminals. We need to stop the so-called "civil liberties" advocates from using loopholes in the law to allow known criminals to run free.

Crime takes an economic toll. It reduces the productivity of our workforce. It blocks the recovery of certain neighborhoods, because businesses who might locate there for economic reasons won't put their workers at risk. Make no mistake: crime is an economic issue.

Just
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[Note: insert on tort reform/civil justice reform]

On all of these issues, there are two starkly different approaches at work in our political system. One is reformist, confident in the ability of the people to make choices for themselves, and committed to giving them the opportunity to do so. The other is the product of the agents of the status quo -- fearful of the people, resistant to choice, comfortable with the idea that the government should dictate equality of result instead of ensuring equality of opportunity.

The dirty little secret of our opponents -- of the special interests which dominate the other party, of the footdraggers on the reforms we seek -- is that they do not believe in a merit-based society. On economic growth, on education, on crime -- on the central questions of how to expand opportunity in our society, the opponents of change do not believe that actions should have consequences. They do not believe there is a difference between right and wrong. They reject reforms which reward excellence. They shy away from punishment for those who violate the social contract. They fear the marketplace of ideas -- lest they not be "politically correct" -- and don't trust the market economy.

Yet it is precisely the strength of the values the naysayers reject that has made America the envy of the world and the engine of democracy.

Over the coming weeks, I will be speaking more about these challenges -- preparing to win in the global marketplace, educating our work force, controlling the size and reach of government, reforming our health care system, and combatting the destructive effects of crime. I'll be laying out further specific plans I have for each. And yes, where appropriate, I'll compare those plans to the response of the status quo Congress and the do-nothing-right caucus that has dominated the Democratic Party for too long.

Patrick Henry said: "I like the dreams of the future better than the history of the past."

And while we've accomplished much, America's work is not finished. In these past few years, we may have tamed inflation and slashed interest rates. We may have broken new ground with laws to create opportunity for the disabled, allow tenants to share in the dream of homeownership, and use market mechanisms to clean up the air. And we certainly have extended freedom's reach as never before.

But our change is incomplete. Imagine the irony, as the world is beating a path to freedom's door, if we ourselves were

to turn back now. If we carry the change forward, America can enter the next century unbound, unparalleled, and unafraid.

When I think of America in the year 2000, I see a nation of producers. Of productive workers, and tough competitors. I see schools where results matter.

When I think of America in the year 2000, I see a nation whose core values remain its greatest strength. Whose exuberant confidence and commitment to freedom are admired worldwide.

I'm ready to devote my next four years to building such an America. In the past half century, America has succeeded in making the world a better place.

Now, if we can change the world, we can change America. And I am ready to lead that change. I ask Congress to put aside its irresponsible habits, and join me in the battle for a better America. I know that those who will not join this battle will be rightly put aside by an outraged American public. I ask every American to remember our strengths, to fight for our values, and to hold fast to our dreams. (Because America's finest hour is yet to come.)

Thank you, God bless you, and God bless the United States of America.

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PRESIDENTIAL REMARKS AND PRESS CONFERENCE
EAST ROOM
THE WHITE HOUSE
WASHINGTON, D.C.
MARCH 20, 1992

Good afternoon and welcome to the White House.

Fifty-one days ago, in my State of the Union Address, I asked Congress to act on my agenda for growth. I asked for immediate action, by March 20th, on a series of proposals to help rekindle the economic recovery. I asked the Democratic leadership to put partisanship aside just long enough to enact seven sensible steps to create jobs, to strengthen the value of American homes, and to spur investment in the future.

I did this for a reason -- to promote a recovery that every American has an interest in. The bill I proposed was carefully tailored -- to help along the positive signs in real estate; where home sales and housing starts are beginning to come up as interest rates stay down, and to help create new jobs. Not through bigger government or higher taxes, but through more investment to fuel America's growth.

Well, every spring on this date, the swallows return to Capistrano. Nature goes through its cycle. And the Democratic Congress has returned to form. It has shown no serious interest in strengthening the economy. It has shown no serious interest in creating jobs through economic growth. March 20th is here, and all the Democratic Congress wants to do, once again, is to try to raise taxes. But I assure you of this: I will not let them do it.

I must say that I am disappointed in Congress. Ironically, there are many parts of a growth package on which some of the leading Democratic Presidential candidates and I agree. These could have been passed right away -- and still should be. But the Democrats in Congress aren't blocking my economic recovery plan because they're afraid it won't work, they're blocking it because they're afraid it will work.

The bill the Democrats put together, in a partisan caucus held largely behind closed doors, would take billions out of the pockets of American taxpayers. It would deny assistance to thousands of first-time homebuyers, and cut in half the job-creating investment that the growth plan I offered would have generated.

The key point is that the tax increase proposed Democrats will not help the economy. If anything, it will set the recovery back. I didn't ask much of Congress, but they blew it.

Passing a tax increase is bad enough.

But what is worse is that the irresponsibility of Congress on this plan is part of a pattern. It reflects a more serious problem -- a deeper systemic problem that is gnawing at the strength of our nation. It is no wonder that Americans are mad. Today, looking at the accumulated evidence of several years, it must be said: our Congressional system is broken.

We have a long tradition in this country of pulling together when national need demands that we do so. In the past half century, our accomplishments, large and small, are legendary -- and bipartisan. When freedom has been threatened, we have pulled together to preserve it. When our environment was in crisis, we enacted the world's best laws to protect it. When Social Security was at risk, we joined as one to put it back on stable footing.

But Congress today is different. It is more partisan. It is financed by special interests. It has grown out of control. It has lost the ability to police itself. And, perhaps most importantly, it is no longer accountable to the average American citizen and voter.

Congress might be excused for missing a deadline, or confusing a date. After all, I once thought that Pearl Harbor Day was September 7th.

But this Congress can't manage a one-teller bank.

And the banking scandal is only a recent symptom. The larger body of evidence is far more disturbing.

In the 1990 elections, special interest political action committees -- "PACs" -- gave about \$115 million to incumbent Congressmen and Senators. Only fifteen million dollars were donated to challengers. With this eight-to-one spending advantage, obvious voter discontent was muted -- smothered in a wave of PAC-financed television advertising. So, nearly every incumbent won.

That's not surprising. This is a Congress which spends almost 100 million taxpayer dollars every year on free mailings. That raises funds year round in the hope, by some, that they may avoid a reelection challenge altogether.

Consider: 25 years ago, there were 2,000 Congressional staff. Today, there are more than 12,000 staff for Congress itself -- almost 40,000 if you include the entire legislative branch. During this time, executive branch employment went down by 8,000. The number of committees and subcommittees has grown from 38 fifty years ago to over 300 today. Total spending just to staff and equip the legislative branch has now reached over 2.7 billion dollars per year.

And for this -- we get a Congress incapable of passing the simple plan I presented almost two months ago. We get a House whose Democrats produced a bill that even the winner of the New Hampshire Democratic primary said he would veto. A Senate that spends 25 percent of its time calling the roll.

The time has come for change -- because when the system is broken, you do have to fix it. I propose to eliminate the PACs which are financing candidates and poisoning our system. While we're at it, we can increase the accountability of funds spent on politics. I am directing the Secretary of Labor to implement the Supreme Court decision which guarantees American workers the right to control how their union dues are spent.

Congress should live by the same laws it imposes on others. So I believe it is time to apply to Congress the same requirements -- from employment conditions to civil rights laws -- that it imposes on every other business and every other citizen in this country.

And I believe the time has come to limit the terms of Congressmen. Because while Congress does not yet have a limit on terms, the American people have a limit on patience. We all need a new Congress -- one that can work with me to do what is right.

In the mean time, with the failure of Congress to act responsibly on my short term plan, I will act on my own, with every legal means at my disposal, to get the economy moving -- and to keep it moving -- up.

That means taking executive actions, wherever possible, whenever the authority exists, to move this country forward -- in spite of the hopelessly tangled Congressional web of PACs, perks, privilege, partisanship and paralysis.

There is, of course, a serious limit on what a President can do without Congress. But I am determined to meet my responsibility even if the Congress is not.

My first action is to prevent further damage: with this pen, I am now going to sign the veto message for the Democrats' tax increase -- because it will do more harm than good.

Lest there be any question -- the message is signed. Congress can save the expense of sending the bill. I trust this message is clear: the veto pen, and a block of votes ready to sustain it, stands ready to stop any tax increase on the American people.

Further, tomorrow I will send to Capitol Hill a package of measures to help tackle the other side of the problem: Federal spending. These bills will cancel, effective immediately, \$4 billion in unnecessary spending in the current fiscal year.

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Today, America's credibility and prestige in the world -- not to mention our strength -- have never been greater. With only one-twentieth of the world's population, we produce one-fourth of the world's output -- twice that of Japan, and four times that of Germany. Our workers are the most productive in the world.

And yet, at the exact moment of our triumph -- a time when the world is at peace, and America stands alone as the unrivalled economic and military power of the world -- the largest exporter, with the highest standard of living, and the most productive workers on earth -- we seem to have lost our confidence.

Americans are understandably worried about their future. About the economy.

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In that next chapter of the American story, people are rightly concerned about whether their children will get the education they deserve and need. They worry about schools where the environment of drugs and crime is so tough that students can't learn and teachers can't teach.

We can tackle these problems, if we aren't paralyzed by fear of change. Let me give you an example. For three years now, the crime bill I proposed has languished on Capitol Hill. The Democrats believe in a permissive society. They have blocked simple changes -- like modifying the exclusionary rule to make it easier for police to build the evidence against drug dealers and violent criminals. We need to stop the so-called "civil liberties" advocates from using loopholes in the law to allow known criminals to run free.

We can prevent the decline of America's standards -- but we must have the will.

If America is to remain the land of opportunity in the lifetime of the next generation, we need to stem that decline. We need to grow in spirit as we grow economically.

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Yet there are those who favor a different approach -- they would turn their backs on this market, and put up walls around America. The strategy of the protectionists is inward-looking, fearful, focused on the past and not the future. In the vain hope to preserve their vision of yesterday, the protectionists would deny us a better tomorrow.

The irony of this backward-looking strategy is that it risks igniting a trade war that will hurt precisely those industries that are leading us out of recession. The walls the protectionists propose to erect around America would be nothing but roadblocks in front of our fastest growing companies.

To meet this challenge successfully, we've got to guarantee that America will continue to lead the world in innovation and in making products of the highest quality. That requires specific investments -- today.

I've proposed to invest more in those key technologies we'll need to be more productive -- to win the global competition of tomorrow. That includes high performance computing, so that America can be the leader in the next generation of computers and communications. New and advanced materials, for use in everything from lighter aircraft to more efficient cars. Biotechnology, which could hold the key to everything from producing more food to curing cancer and AIDS.

And I've proposed to invest more in basic research, the source of new knowledge. Unfortunately, the Democrats in Congress have cut my budgets for R&D in every year that I've been President. The money's been spent instead on parking garages and other monuments to special interests. There's no better example of the damage that pork barrel spending does to America's long term future.

And not only the government must invest more in the future. As a percent of GNP, American business spends only half as much on the new capital we need to maintain our edge as do the Japanese -- and only a third as much as the Germans. Our system is tilted toward the short-term.

So we've got to change the system. That's the true purpose behind the capital gains tax cut -- to increase job creating investment. And that's why we need make the R&D tax credit permanent. So far Congress has blocked both measures -- but Congress should either lead, follow, or get out of the way.

The second challenge is preparing our workforce to compete - through education. This requires change -- radical reform in the way we educate our kids, and in the pursuit of lifelong learning and training. We've proposed a set of reforms called America 2000, and another called Job Training 2000.

Job Training 2000 will help adults make the transition from one industry to another. It will simplify the current maze of Federal programs, and provide one stop shopping to gain the skills needed for a changing economy.

The goal of America 2000 is nothing less than to transform American education. We've proposed to create a whole generation of New American Schools; to measure progress and reward merit; and to hold schools accountable for their performance; and most importantly, to give all parents greater choice in selecting the schools that can do the job best. And we've put the resources behind our efforts. I've increased the Federal budget for education by 42 percent just since 1989.

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teachers in math, science, and boosting funding for math and science education. Over 69 percent.

The entrenched special interests in education don't like accountability. They fear choice. And so the Congress has blocked my proposed reforms.

But I believe that if we're going to teach democracy in our classrooms, we should practice more of it in our school system. It's time that Congress allowed families to choose the best schools for their children, and became an engine for change instead of the brake-man on better schools.

A fourth challenge is to reform health care. America has provided the best quality health care in the world -- but our system is now plagued by two problems: too many Americans are not covered by health insurance, and health care costs too much.

These flaws undermine our competitiveness. Health care spending is driving up costs of American businesses. It is making our products more expensive. It is making it harder to create new jobs.

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What my plan will not do is dictate a hostile government takeover of our health system. By most estimates, that would require a tax increase of a half a trillion dollars. The cure would be worse than the disease -- and the result would be terminal for the American economy.

Another drag on America's competitiveness is our cumbersome legal system. So a fourth challenge is to save America from drowning in a sea of litigation. In the end, the result of too many lawsuits is higher prices and fewer services for consumers, and reduced competitiveness for America.

I believe we can lighten this load with a few simple steps. For example, in some cases, we should require the loser to pay the winning party's attorney's fees. That will stop some of the frivolous lawsuits that should never be filed in the first place.

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summertime -- all because of the fear of liability -- we know that something is wrong. Now is the time to fix it.

Fifth and finally, we must cut the growth of government. I know that spending is the addiction of the Democratic party, but it's time for a little rehabilitation. So let the Congress be on notice. I'm committed to relieving the American taxpayer from the burden of too much spending and too many taxes -- and one way to spell relief is V-E-T-O.

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When I think of America in the year 2000, I see a nation of producers. Of productive workers, and tough competitors. I see schools where results matter.

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Now, if we can change the world, we can change America. And I am ready to lead that change. I ask Congress to put aside its irresponsible habits, and join me in the battle for a better America. I know that those who will not join this battle will be rightly put aside by an outraged American public. I ask every American to remember our strengths, to fight for our values, and to hold fast to our dreams. Because America's finest hour is yet to come.

Thank you, God bless you, and God bless the United States of America.

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PRESIDENTIAL REMARKS AND PRESS CONFERENCE
EAST ROOM
THE WHITE HOUSE
WASHINGTON, D.C.
MARCH 20, 1992

Good afternoon and welcome to the White House.

the economy

Fifty-one days ago, in my State of the Union Address, I asked Congress to act on my agenda for growth. I asked for immediate action, by March 20th, on a series of proposals to help rekindle the economic recovery. I asked the Democratic leadership to put partisanship aside just long enough to enact seven sensible steps to create jobs, to strengthen the value of American homes, and to spur investment in the future.

get back on its feet.

I did this for a reason -- to promote a recovery that every American has an interest in. The bill I proposed was carefully tailored -- to help along the positive signs in real estate; where home sales and housing starts are beginning to come up as interest rates stay down, and to help create new jobs. Not through bigger government or higher taxes, but through more investment to fuel America's growth.

But the Democratic Congress made it a political football.

Well, every spring on this date, the swallows return to Capistrano. Nature goes through its cycle. And the Democratic Congress has returned to form. It has shown no serious interest in strengthening the economy. It has shown no serious interest in creating jobs through economic growth. March 20th is here, and all the Democratic Congress wants to do, once again, is to try to raise taxes. But I assure you of this: I will not let them do it.

My plan should not have been controversial.

I must say that I am disappointed in Congress. Ironically, there are many parts of a growth package on which some of the leading Democratic Presidential candidates and I agree. These could have been passed right away -- and still should be. But the Democrats in Congress aren't blocking my economic recovery plan because they're afraid it won't work, they're blocking it because they're afraid it will work.

with some of the major elements of my plan.

The bill the Democrats put together, in a partisan caucus held largely behind closed doors, would take billions out of the pockets of American taxpayers. It would deny assistance to thousands of first-time homebuyers, and cut in half the job-creating investment that the growth plan I offered would have generated.

The key point is that the tax increase proposed by the Democrats will not help the economy. If anything, it will set the recovery back. I didn't ask much of Congress, but they blew it.

Passing a tax increase is bad enough.

But what is worse is that the irresponsibility of Congress on this plan is part of a pattern. It reflects a more serious problem -- a deeper systemic problem that is gnawing at the strength of our nation. It is no wonder that Americans are mad. Today, looking at the accumulated evidence of several years, it must be said: our Congressional system is broken.

We have a long tradition in this country of pulling together when national need demands that we do so. In the past half century, our accomplishments, large and small, are legendary -- and bipartisan. When freedom has been threatened, we have pulled together to preserve it. When our environment was in crisis, we enacted the world's best laws to protect it. When Social Security was at risk, we joined as one to put it back on stable footing.

But Congress today is different. It is more partisan. It is financed by special interests. It has grown out of control. It has lost the ability to police itself. And, perhaps most importantly, it is no longer accountable to the average American citizen and voter.

Congress might be excused for missing a deadline, or confusing a date. After all, I once thought that Pearl Harbor Day was September 7th.

But this Congress can't manage a one-teller bank.

And the banking scandal is only a recent symptom. The larger body of evidence is far more disturbing.

In the 1990 elections, special interest political action committees -- "PACs" -- gave about \$115 million to incumbent Congressmen and Senators. Only fifteen million dollars were donated to challengers. With this eight-to-one spending advantage, obvious voter discontent was muted -- smothered in a wave of PAC-financed television advertising. So, nearly every incumbent won.

That's not surprising. This is a Congress which spends almost 100 million taxpayer dollars every year on free mailings. That raises funds year round in the hope, by some, that they may avoid a reelection challenge altogether.

Consider: 25 years ago, there were 2,000 Congressional staff. Today, there are more than 12,000 staff for Congress itself -- almost 40,000 if you include the entire legislative branch. During this time, executive branch employment went down by 8,000. The number of committees and subcommittees has grown from 38 fifty years ago to over 300 today. Total spending just to staff and equip the legislative branch has now reached over 2.7 billion dollars per year.

And for this -- we get a Congress incapable of passing the simple plan I presented almost two months ago. We get a House whose Democrats produced a bill that even the winner of the New Hampshire Democratic primary said he would veto. A Senate that spends 25 percent of its time calling the roll.

The time has come for change -- because when the system is broken, you do have to fix it. I propose to eliminate the PACs which are financing candidates and poisoning our system. While we're at it, we can increase the accountability of funds spent on politics. I am directing the Secretary of Labor to implement the Supreme Court decision which guarantees American workers the right to control how their union dues are spent.

Congress should live by the same laws it imposes on others. So I believe it is time to apply to Congress the same requirements -- from employment conditions to civil rights laws -- that it imposes on every other business and every other citizen in this country.

And I believe the time has come to limit the terms of Congressmen. Because while Congress does not yet have a limit on terms, the American people have a limit on patience. We all need a new Congress -- one that can work with me to do what is right.

In the mean time, with the failure of Congress to act responsibly on my short term plan, I will act on my own, with every legal means at my disposal, to get the economy moving -- and to keep it moving -- up.

That means taking executive actions, wherever possible, whenever the authority exists, to move this country forward -- in spite of the hopelessly tangled Congressional web of PACs, perks, privilege, partisanship and paralysis.

There is, of course, a serious limit on what a President can do without Congress. But I am determined to meet my responsibility even if the Congress is not.

My first action is to prevent further damage: with this pen, I am now going to sign the veto message for the Democrats' tax increase -- because it will do more harm than good.

Lest there be any question -- the message is signed. Congress can save the expense of sending the bill. I trust this message is clear: the veto pen, and a block of votes ready to sustain it, stands ready to stop any tax increase on the American people.

Further, tomorrow I will send to Capitol Hill a package of measures to help tackle the other side of the problem: Federal spending. These bills will cancel, effective immediately, \$4 billion in unnecessary spending in the current fiscal year.

Some of the cuts are in defense -- the happy result of a world at peace. Over a billion dollars is on the domestic side. Hundreds of projects added by Congress, not requested by the people who run the agency programs, and not needed by the American public.

A million dollars in a housing bill for a parking garage in Ashland, Kentucky. One hundred thousand dollars for "asparagus yield declines." Mink research. Prickly pear research. The examples would be funny if the effect weren't so serious. This kind of wasteful spending destroys public confidence in the integrity of the government. Americans have every right to be outraged, and disgusted. **It is their money.**

I have already proposed to eliminate this spending in my budget for next year. Today I am asking Congress not to wait -- rescind it immediately.

If the Democratic leadership remains timid, I will work with the Republicans in the House to bring each of these items forward for a vote. That will bring us a step closer to accountability, and to the power that 43 Governors have -- the line-item veto.

Working with the Vice President, I will step up the assault on unnecessary regulation and paperwork. While Congress has spun its wheels in a rut of its own making for these past two months, we've already begun to remove the regulatory roadblocks to growth.

The mountain of paperwork churned out by the Federal government seems pretty obscure. Some is for a good purpose -- to protect public health and safety, or to clarify laws of the land. But too much regulation kills jobs. It buries the small businessman who doesn't have the time or the staff to fill out Federal forms all day. It stifles innovation. Ultimately -- as anyone can tell you who's ever spent a long day at the DMV or in line at the post office -- too much government just breaks the spirit.

The regulatory review I announced in the State of the Union is headed in the opposite direction. It's designed to stimulate growth. To free up the entrepreneur. To help reward the innovator.

Let me give you a progress report. In just over a month, we've simplified standards to increase the use of clean-burning natural gas. That means cleaner air, cheaper energy, and more American jobs to produce it.

We've published plans to help remove old cars -- the biggest polluters and the biggest gas guzzlers -- from the road. That means the tough standards of our Clean Air Act can be met at less cost -- and without sacrificing the jobs that come from healthy growth.

We've made it more straightforward for small businesses to raise money to finance their growth. Growing small companies are creating the most new jobs in America.

And we've trimmed the complex regulations on trucking, railroads, and shipping. Moving goods more cheaply means a stronger economy, and lower prices for American consumers.

And that's just the beginning. Tomorrow, the Administration will proceed with the following actions:

We will eliminate unilateral requirements facing U.S. exporters -- and the Justice Department will begin drafting guidelines to make it easier for companies to band together in joint ventures. That will make it easier for Americans to compete, to export -- and to create more secure jobs.

To help small business, the source of so many new jobs, we will cut the burden of filing payroll taxes.

To encourage research and development, I am directing the Treasury Department to adopt administratively a tax change I've proposed to help increase U.S.-based research. And the Energy Department will advance a new public-private partnership to make sure that the good ideas that spring from research in our Federal labs are translated into successful products in the world marketplace.

To help train and retrain our workforce, and to broaden the opportunities for those whose work until now has been the defense of the United States, I am asking the Secretary of Education to proceed with a new idea: a lifetime line of credit for every American. It will be used for education, for job training, for helping people of all ages pick up the skills they need for the global economy of tomorrow.

I realize that these are only first steps -- and small ones at that. They are not a substitute for Congressional action on my agenda for economic growth. But they reflect a fundamental attitude.

If the status quo Congress will not help us change America, we will have to change it without them. If the status quo Congress will not help us reform government, we will reform it without them. And if the status quo Congress will not take the small steps needed to push the economy into forward, I will engage every gear at the President's disposal until America is off and running again.

You see, for America's economy to grow, America itself must change. For the economy to modernize, we must invest. For the economy to conquer new markets, we must reach confidently, and in new ways, to the corners of the global village. For America to lead in the economic competition of the future, we must continue to inspire.

Change is nothing to fear. For more than two centuries, America has been a force for change. Our restlessness is legendary. Our energy boundless. Now, it is time to write the next chapter in the story that is America.

Just a lifetime ago, 59 years last week, President Roosevelt delivered his first "fireside chat". Prior to that, American Presidents never spoke directly into the living rooms and kitchens of America, let alone the world.

Since then, we've been part of a communications revolution that may be the most important feature of the twentieth century. Think of it. From Presidential debates, to live coverage of the collapse of the Berlin Wall. From fax machines in the basements of fledgling democratic movements everywhere, to CNN in the Russian Parliament, helping Boris Yeltsin foil the coup in the former Soviet Union.

This communications revolution has been democracy's best friend. It's given people the power to be their best. It has helped spread the flames of freedom like a prairie fire. It has been an integral part of the triumph of values we hold dear -- American values like openness and free expression -- in the long, historic struggle between justice and tyranny.

Today, America's credibility and prestige in the world -- not to mention our strength -- have never been greater. With only one-twentieth of the world's population, we produce one-fourth of the world's output -- twice that of Japan, and four times that of Germany. Our workers are the most productive in the world.

And yet, at the exact moment of our triumph -- a time when the world is at peace, and America stands alone as the unrivalled economic and military power of the world -- the largest exporter, with the highest standard of living, and the most productive workers on earth -- we seem to have lost our confidence.

Americans are understandably worried about their future. About the economy.

That's natural when the economy's been in recession. When you've lost your job, or your neighbor has, or your brother has, it's hard to worry about the long, twilight struggle between good and evil. The more immediate worry is the next paycheck, this month's bills, the cost of making ends meet.

But even as the economy shows signs of turning toward recovery, today's worry goes beyond the immediate paycheck. It is different, and deeper. People want recovery. No doubt about that. But that alone is not enough. The real worry goes to the heart of not only the American dream, but the universal dream -- the desire of every parent to give to their child a better life than the one they have had. It's a dream called opportunity.

In that next chapter of the American story, people are rightly concerned about whether their children will get the education they deserve and need. They worry about schools where the environment of drugs and crime is so tough that students can't learn and teachers can't teach.

We can tackle these problems, if we aren't paralyzed by fear of change. Let me give you an example. For three years now, the crime bill I proposed has languished on Capitol Hill. The Democrats believe in a permissive society. They have blocked simple changes -- like modifying the exclusionary rule to make it easier for police to build the evidence against drug dealers and violent criminals. We need to stop the so-called "civil liberties" advocates from using loopholes in the law to allow known criminals to run free.

We can prevent the decline of America's standards -- but we must have the will.

If America is to remain the land of opportunity in the lifetime of the next generation, we need to stem that decline. We need to grow in spirit as we grow economically.

On both fronts, America is at a crossroads. First, we need a strategy for competing in the world economy -- in the next decade, and in the next century. A strategy for raising productivity, and with it our standard of living.

But just as importantly, we need a return to the notion of responsibility, a resurgence of the values -- at the personal level, and at the national level -- that have made this country a dynamic force for good.

It is only through this twin revival that we can succeed in the quest for a more secure future and a better life for our children.

On both of these fundamental issues, there are two very different ways of looking at the world. On the question of competitiveness, the specific strategy I am pursuing reflects one approach: confident, forward-looking, future-oriented. It rests on meeting five challenges.

The first challenge is expanding markets for American products. That has been at the heart of my efforts to break down trade barriers through negotiating one-on-one with our trading partners, through the GATT, and through the special effort we've launched right here in North America.

You wouldn't know it from reading the daily dose of doom and gloom in the newspapers, but our record here is good and getting better.

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February 6, 1992

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Washington, D.C. 20460

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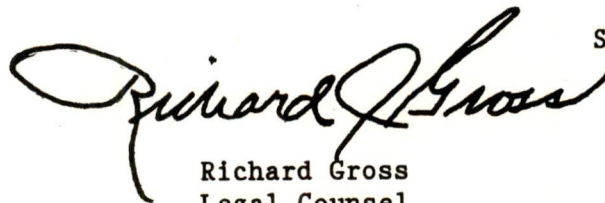
Dear Bill:

As state environmental commissioners charged with implementing the Clean Air Act, we are writing to urge you to issue the final operating permit regulations under Title V. The operating permit program is critical to the states' ability to implement the Act's ambitious goals. The statutory deadline of November 15, 1991 for issuing the rule to states is long past. Many of our legislatures are now in session and we are losing valuable time in developing and passing appropriate state legislation to implement the federal program. This delay will make it difficult or impossible for states to meet their own deadline of November 15, 1993 for having the permit rules in place.

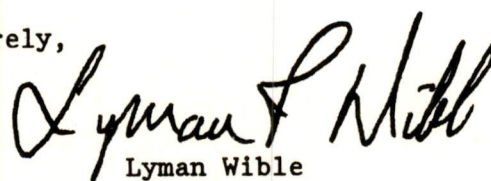
We also urge you to require sufficient time in the permit modification procedures to allow for state review and public participation in the process. In their comments on the proposed rule, at least fifteen states and local air pollution agencies made it clear that it would require at least 60 days to review permit modifications and provide for public participation. We agree with these comments and believe that between 45 and 60 days is the absolute minimum amount of time adequate for making a reasoned judgment on a permit modification and coordinating with U.S. EPA.

We also wish to draw your attention to the enclosed letter from Governors' Sinner and Bangerter, Chair and Vice Chair of the National Governors' Association Energy and Environment Committee. We urge you to again consider their concerns along with those expressed in this letter. Please contact us directly if you have any questions.

Sincerely,



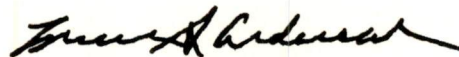
Richard Gross
Legal Counsel
Office of the Governor
State of North Dakota



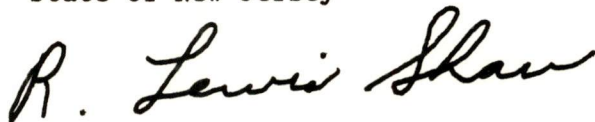
Lyman Wible
Administrator
Environmental Quality Division
Department of Natural Resources
State of Wisconsin



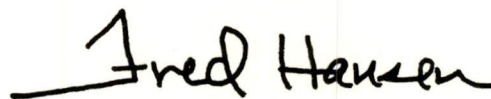
Scott Weiner
Commissioner
Department of Environmental Protection
and Energy
State of New Jersey



Dr. Bruce Anderson
Deputy Director
Environmental Protection
and Health Services
State of Hawaii



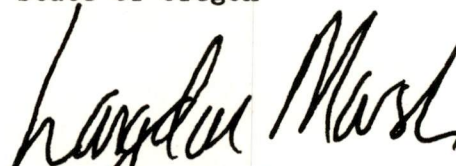
R. Lewis Shaw
Deputy Commissioner
Department of Health
and Environmental Control
State of South Carolina



Fred Hansen
Director
Department of Environmental Quality
State of Oregon



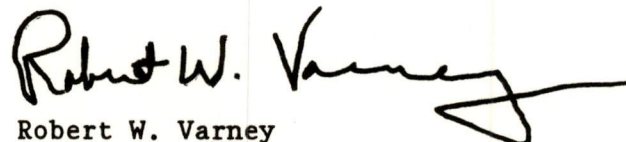
Thomas P. Looby
Director
Office of Environment
State of Colorado



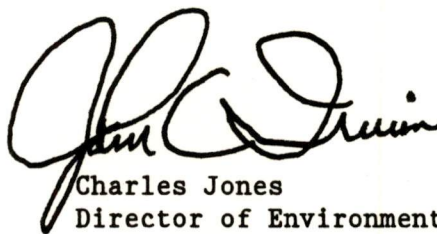
J. Langdon Marsh
Executive Deputy Commissioner
Department of Environmental Conservation
State of New York



Ron Kucera
Deputy Director
Department of Natural Resources
State of Missouri



Robert W. Varney
Commissioner
Department of Environmental Services
State of New Hampshire



for

Charles Jones
Director of Environment
Department of Health and Environment
State of Kansas

- c. ✓ Samuel Skinner, Executive Office of the President
C. Boyden Gray, Executive Office of the President
Michael Boskin, Executive Office of the President
William Kristol, Office of the Vice President

November 19, 1991

Mr. Richard Darman
Director
Office of Management and Budget
Old Executive Office Building -- Room 252
Washington, D.C. 20503

Dear Richard:

We would like to draw your attention to the Environmental Protection Agency's proposed final rule for state air operating permit programs now under review in your office. The October 14 draft is greatly improved over the rule proposed last spring (e.g., lengthened time to determine permit completeness and narrowed definition of the permit shield). These improvements, from a state perspective, are essential and we are grateful for this. However, the rule still unduly limits a state's ability to control air pollution from sources in the state. Overall, the rule preempts states from establishing their own rules and procedures (under certain key situations) that are consistent with the Clean Air Act. We ask that you urge EPA to modify the rule to protect state authority to regulate air pollution.

The ability of states to operate programs without overly specific federal standards or even minimums or to address areas not covered by federal standards is critical to air pollution control, provides the basis of NGA policy supporting the new Clean Air Act and, we believe, is the intent of the new law. We urge you to act expeditiously to ensure that the rule is modified so that states can proceed with developing their own programs under the tight schedule established in the Act.

The following issues are of special concern. Additional comments and recommendations by states are reflected in a separate memo to EPA (copy attached).

- Operational Flexibility. We believe that the operational flexibility requirements in the proposal preempt states from establishing their own procedures for reviewing modifications to sources of air pollution within a state. By limiting states' oversight to those modifications specified under the

Richard Darman
Page 2
November 19, 1991

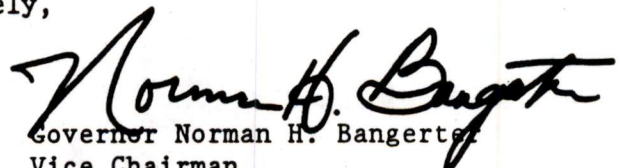
three options, certain changes at an air pollution source are exempted from state purview. In fact, many states would be forced to use the weakest of these options and this could present a serious enforcement dilemma by requiring those states to continually track all emission changes at the source. For example, Utah's efforts to reduce air pollution in nonattainment areas has required the state to carefully oversee all proposed source modifications that could affect air quality in the area. The current proposal would exempt certain modifications from state oversight that normally might provide opportunities for further air quality improvements. We firmly believe in the principle of operational flexibility and do not wish to impede the ability of industry to meet changing needs, but we must maintain the authority to review and oversee all modifications that occur at sources of air pollution.

- **Basis for Emission Fees.** The states strongly believe that allowable emissions should be the basis for determining the adequacy of the permit fee program. Requiring states to base fees on actual emissions, as proposed, would present an administrative nightmare to states and pollution sources. If fees are based on actual emissions, states may be forced to require all sources to use continuous emission monitoring to accurately track actual emissions. This would increase the burden for small businesses, would undermine the states' ability to use a simpler fee schedule, and would adversely affect budgets as fee revenues fluctuate during economic cycles.
- **Federal Enforceability.** We believe all permit requirements established through approved state permit programs should be federally enforceable. The states are strongly opposed to separating non-federally enforceable requirements in Title V permits. In addition to being time consuming, this requirement will undermine the states' ability to establish requirements beyond the federal minimums and could result in a dual permit program, one covering state rules and another covering federal ones.

We strongly urge you to ensure that the proposed rule reflects these concerns.

Sincerely,


Governor George A. Sinner
Chairman
Energy and Environment Committee
National Governors' Association


Governor Norman H. Bangert
Vice Chairman
Energy and Environment Committee
National Governors' Association

Attachment

c: President George Bush
EPA Administrator William Reilly
EPA Assistant Administrator William Rosenberg

**NATIONAL
GOVERNORS'
ASSOCIATION**

Hall Of The States
444 North Capitol Street
Suite 250
Washington, D.C. 20001-1572



Samuel Skinner
Chief of Staff
Executive Office of the President
1600 Pennsylvania Ave., N.W.
Washington, DC 20500

Rm G1 - NEW EOB

Document Originally
Attached to
Following Page

7/16/92

Please file for

Cam Findlay -

Abortion

THE WHITE HOUSE

Office of the Press Secretary
(New York, New York)

For Immediate Release

June 29, 1992

STATEMENT BY THE PRESIDENT

I am pleased with the Supreme Court's decision upholding most of Pennsylvania's reasonable restrictions on abortion, such as the requirement that a teenager seek her parent's consent before obtaining an abortion. The Pennsylvania law supports family values in what is perhaps the most difficult question a family can confront.

My own position on abortion is well known and remains unchanged. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake.

#

DRAFT

THE WHITE HOUSE

Office of the Press Secretary
(New York City, New York)

For Immediate Release

June 29, 1992

STATEMENT OF THE PRESIDENT

I am pleased that the Supreme Court has upheld most of the Pennsylvania abortion statute. I am particularly gratified that the Court upheld the requirement that teenagers seek parental consent before an abortion is performed.

My own position on abortion is well-known. I oppose abortion except in cases of rape or incest, or where the life of the mother is at stake. I continue to believe that Roe v. Wade was wrongly decided and should be overruled.

###

DRAFT

12:10 pm

6/29/92

276- 7/15

I am pleased that the Supreme Court has upheld most of the Pennsylvania abortion statute. I am particularly gratified that the Court upheld the requirement that teenagers seek their parents' consent before an abortion is performed.

My own position on abortion is well-known. I oppose abortion except in cases of rape or incest, or where the life of the mother is at stake.

and that
I continue to believe that Roe v. Wade was wrongly decided and should be overruled. ~~The Court's decision today continues the process of returning decisions on the difficult question of abortion to the people of the states and their elected representatives.~~

*should be
returned*

DRAFT
7:00 am
6/29/92

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

June 29, 1992

STATEMENT BY THE PRESIDENT

most of the I welcome the Supreme Court's decision upholding Pennsylvania's *statute* reasonable restrictions on abortion, *including* such as the requirement that a teenager seek her parent's consent before obtaining an abortion. The Pennsylvania law supports family values in what is perhaps the most difficult question a family can confront.

Today's decision makes clear that other states may now legislate on the subject of abortion. I recognize that abortion is an extremely emotional issue, and that many Americans feel strongly about their positions. That is why it is so important that abortion laws be left to the elected representatives of the people in the democratic process and not to unelected Federal judges.

My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. I support reasonable restrictions on the practice of abortion-on-demand.

###

Scala
Rehn
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Thomas

Throw
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O'Connor
Kennedy
Souter

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Stavens

Diese

essential
holding
should
be

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- not strict
scrutiny

- undue
burden



ISSUES/ANALYSIS OFFICE

(202) 336-7232

FAX (202) 336-7246

FACSIMILE TRANSMITTALDATE: 6-25-92

FOR:

CAM FINDLAY

COMPANY: _____

FAX #:

456-2883 - 456-1121

FROM:

TEREMY SHANE (per Jim Circoni)

NUMBER OF PAGES (including cover): _____

REMARKS:

URGENT - PLEASE DELIVER TO
CAM FINDLAY

202-887-4000

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MEMORANDUM

TO: Bob Tester
FROM: Jim Cicconi
SUBJECT: Suggested Revisions to Abortion Statement
DATE: June 26, 1992

Attached is my suggested revision to the abortion statement. My general point is this: we will have the chance to get only one message through the press uproar that will surround the Casey decision. Thus, it cannot be a complex message, nor can it be a two-parter because, if given a choice, the press will pick the part that's worse for us.

The current statement has two messages: (1) the Pennsylvania law is reasonable, and (2) we feel abortion should be ended, and that the states should act to prevent it. These are correct and appropriate messages, but the press, given a choice, will only carry message #2. In my view, given the importance of winning the debate on this issue, message #1 is the one we should prefer to get across since it is the one where pro-choicers are most vulnerable. The pro-choice movement has, in essence, tied themselves to the unpopular position that there can be no restrictions at all on the "fundamental right" to abortion. Seventy to eighty percent of the public disagrees with that stance, and we should take advantage of it, especially since the debate that follows this court decision will be on the Freedom of Choice Act.

In my view, we need not repeat the details of our longstanding position on abortion. That is perhaps the most understood fact about George Bush and can easily be covered without detracting from our desired message by stating that the President's views on abortion are well known.

Please let us know what you think.

DRAFT
7:00 am
6/29/92

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

June 29, 1992

STATEMENT BY THE PRESIDENT

I welcome the Supreme Court's decision upholding Pennsylvania's reasonable restrictions on abortion, such as the requirement that a teenager seek her parent's consent before obtaining an abortion. The Pennsylvania law supports family values in what is perhaps the most difficult question a family can confront.

Today's decision makes clear that other states may now legislate on the subject of abortion. I recognize that abortion is an extremely emotional issue, and that many Americans feel strongly about their positions. That is why it is so important that abortion laws be left to the elected representatives of the people in the democratic process and not to unelected Federal judges.

My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. I support reasonable restrictions on the practice of abortion-on-demand.

#

STATEMENT BY THE PRESIDENT

I welcome the Supreme Court's decision today upholding the reasonable requirements of Pennsylvania law regarding abortion, including the requirement that minors receive their parents' consent before an abortion can be performed.

Like a majority of Americans, I believe Pennsylvania's restrictions are appropriate. By encouraging parents to take an active role, and children to listen to their parents, for example, Pennsylvania law supports family values in what is perhaps the most difficult question a family can confront.

My own position on abortion is well known. By upholding Pennsylvania's law, the Supreme Court has affirmed that the people, through their elected representatives, may enact similar reasonable restrictions on the practice of abortion on demand if they so choose. This is, I believe, a move that most Americans can support.

FROM CAM FINDLAY
TO: RT

DRAFT

10:00 am

6/26/92

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June XX, 1992

STATEMENT BY THE PRESIDENT

I welcome the Supreme Court's decision upholding Pennsylvania's reasonable restrictions on abortion. The decision makes clear that states may enact similar restrictions on abortion-on-demand, such as the requirement that a teenage girl seek her parent's consent before obtaining an abortion.

I recognize that abortion is an extremely emotional issue, and that many Americans feel strongly about their positions. That is why it is so important that abortion laws be left to the elected representatives of the people in the democratic process and not to unelected Federal judges. Today's decision gives power back to the American people.

My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. Tragically, each year approximately 1.5 million abortions take place in this country. Now that the Court has made clear that reasonable restrictions on abortion are permitted, I support action at the state level that would reduce the number of abortions in this country.

#

DRAFT

10:00 a.m.

6/26/92

TALKING POINTS ON CASEY

- o I am pleased that the Supreme Court has upheld Pennsylvania's reasonable restrictions on abortion. The provisions of the Pennsylvania law -- such as the requirement that teenage girls seek permission from their parents before obtaining an abortion -- are supported by the vast majority of Americans.
- o The Court's decision does not make abortion illegal. It simply permits citizens of states, if they wish, to enact reasonable restrictions on abortion.
- o I recognize that abortion is an extremely emotional issue, and that people feel strongly about their positions. That is why it is critical that decisions about abortion be left to the elected representatives of the people and not to unelected Federal judges. This decision respects the democratic system established by our Constitution.
- o My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. Tragically, each year 1.5 million abortions take place in this country. I support reasonable restrictions that would reduce that number.
- o I continue to oppose the so-called Freedom of Choice Act. That bill would impose a National regime of abortion-on-demand on all 50 states. It would outlaw even the most modest and reasonable restrictions on abortions, such as parental notice requirements.

#

June 25, 1992

Memorandum to Jim Cicconi

From: Jim Pinkerton

Re: Draft statement by the President on Casey

Yesterday you circulated some draft language on the likely Casey outcome. Cong. Nancy Johnson had some thoughtful advice, which I think we should seriously consider for possible inclusion in the President's comments. I have reproduced your original language below for ease of reference as we consider possible changes:

I welcome the Supreme Court's decision issued today in the case of Casey v. Planned Parenthood of Southeastern Pennsylvania. This decision upholds the reasonable requirements of Pennsylvania's law regarding abortion, including that minors must receive their parents' consent before an abortion can be performed.

In upholding Pennsylvania's law, the Supreme Court is affirming that state legislatures can properly impose reasonable restrictions on the practice of abortion on demand. Like a substantial majority of the American people, I believe that the restrictions enacted by Pennsylvania are appropriate and within the legitimate powers of the state and its elected representatives.

I think this language is fine, but I'm not sure we are expressing our point of view as positively as we could. Note that the key words tend to be negative: e.g. "requirements" and "restrictions."

Cong. Johnson points out everyone knows that Casey imposes some sort of limitations, even if they aren't as severe as many think. So our base will certainly be pleased. However, Americans in the middle might react badly to Casey, especially if they are convinced that it poses a severe threat to their "freedom of choice."

I suggest weaving in some additional language:

The Supreme Court's decision does not overturn Roe v. Wade. ~~It does assure a balance -- a balance in favor of family values.~~ Pennsylvania's law is pro-family: it supports the goal of encouraging wives to communicate with husbands, of having children listen to their parents, in what is perhaps the most difficult question that a family can confront. The Pennsylvania law also supports the goal of providing families with as much information about their choices as

possible, encouraging them to address the issue of abortion together, in as informed and thoughtful manner as possible. The Supreme Court's decision affirms the right of states to move in the direction we all support -- toward personal responsibility and strong family values.

Language such as this -- possible as a middle paragraph in your draft -- would help provide a kinder, gentler pro-life context for what is certain to be a very controversial decision.

###

cc: Mosbacher, Teeter, Malek, Black, Matalin, Clarke

Document Originally
Attached to
Following Page

faxed to
Teeter

6/26/92

J.N.

DRAFT

10:00 a.m.

6/26/92

TALKING POINTS ON CASEY

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- o I recognize that abortion is an extremely emotional issue, and that people feel strongly about their positions. That is why it is critical that decisions about abortion be left to the elected representatives of the people and not to unelected Federal judges. This decision respects the democratic system established by our Constitution.
- o My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. Tragically, each year 1.5 million abortions take place in this country. I support reasonable restrictions that would reduce that number.
- o I continue to oppose the so-called Freedom of Choice Act. That bill would impose a National regime of abortion-on-demand on all 50 states. It would outlaw even the most modest and reasonable restrictions on abortions, such as parental notice requirements.

#

DRAFT

10:00 am

6/26/92

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

June XX, 1992

STATEMENT BY THE PRESIDENT

I welcome the Supreme Court's decision upholding Pennsylvania's reasonable restrictions on abortion. The decision makes clear that states may enact similar restrictions on abortion-on-demand, such as the requirement that a teenage girl seek her parent's consent before obtaining an abortion.

I recognize that abortion is an extremely emotional issue, and that many Americans feel strongly about their positions. That is why it is so important that abortion laws be left to the elected representatives of the people in the democratic process and not to unelected Federal judges. Today's decision gives power back to the American people.

My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. Tragically, each year approximately 1.5 million abortions take place in this country. Now that the Court has made clear that reasonable restrictions on abortion are permitted, I support action at the state level that would reduce the number of abortions in this country.

#

THE WHITE HOUSE

DRAFT

Office of the Press Secretary

For Immediate Release

June XX, 1992

STATEMENT BY THE PRESIDENT

I welcome the Supreme Court's decision upholding Pennsylvania's ~~modest~~ and reasonable restrictions on abortion. The decision makes clear that states may enact similar restrictions on abortion-on-demand, such as the requirement that a teenage girl seek her parent's consent before obtaining an abortion.

I recognize that abortion is an extremely emotional issue, and that many Americans feel strongly about their positions. That is why it is so important that abortion laws be left to the elected representatives of the people in the democratic process and not to unelected Federal judges. Today's decision gives power back to the American people.

My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. Tragically, each year approximately 1.5 million abortions take place in this country. Now that the Court has made clear that reasonable restrictions on abortion are permitted, I support action at the state level that would reduce the number of abortions in this country.

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TALKING POINTS ON CASEY

DRAFT

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- o I continue to oppose the so-called Freedom of Choice Act. That bill would impose a National regime of abortion-on-demand on all 50 states. It would outlaw even the most modest and reasonable restrictions on abortions, such as parental notice requirements.

#

THE WHITE HOUSE

WASHINGTON

June 25, 1992

MEMORANDUM FOR THE CHIEF OF STAFF
MARLIN FITZWATER
EDE HOLIDAY
BILL KRISTOL

FROM: JAY LEFKOWITZ 

SUBJECT: Abortion

Given the possibility that the Supreme Court may hand down its decision in Casey tomorrow, it may be useful to keep in mind the following facts about public opinion on the restrictions on abortion adopted by the Pennsylvania legislature, which are at issue in Casey.

Pennsylvania's restrictions on abortion are consistent with mainstream American values on the need to prevent unrestricted abortion on demand. Recent surveys confirm that a majority of Americans support each of the restrictions enacted by Pennsylvania's legislature:

- **Overall Support:** When told what the Pennsylvania restrictions entail, Americans oppose overturning the law by a 57%-38% majority. (NBC News/Wall Street Journal)
- **Waiting Periods:** At least seven of ten Americans support a requirement that women seeking an abortion observe a 24-hour waiting period to consider information provided by doctors on the risks of and alternatives to abortion.
- **Parental Consent of Minors:** Three surveys taken this year found that at least seven of ten Americans favor a requirement that women under 18 get the consent of at least one parent before having an abortion.
- **Spousal Notification:** Between 60% and 70% of Americans -- a clear majority -- favor a requirement that a woman notify her husband if she decides to have an abortion.

Additionally, 29 states have already passed restrictions on abortion similar to those at issue in Casey. Thirty-three states including Arkansas have some kind of requirement of parental consent or notification for minors seeking an abortion. Ten states have spousal notification or consent requirements for married women seeking an abortion.



ISSUES FAX TRANSMITTAL

DATE June 25, 1992 TIME 3:45 NO PAGES 3

FROM: Jim Cicconi

FAX NO: 202-336-7943 PHONE NO: 202-336-7232

TO: Cam Findlay

ORGANIZATION: Office of the Chief of Staff

FAX NO: ~~456-2833~~ 456-2883

PHONE NO: 456-6797

INFORMATION: _____

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June 23, 1992

MEMORANDUM

To: Senior Staff
From: Jim Cicconi
Re: Pending Supreme Court Decision on Abortion

Given the pendency of a Supreme Court decision on the Pennsylvania abortion case (Casey v. Planned Parenthood of Southeastern Pennsylvania) the following information might be useful.

Features of the Pennsylvania Law

- o The Pennsylvania law requires that before receiving an abortion, minors must receive their parents' consent, a woman must wait 24-hours after being notified of her medical options, and a woman's spouse must be notified that an abortion will be administered, (though the spouse's consent is not required.
- o The Supreme Court's Casey decision will resolve (1) whether a state can impose reasonable restrictions on abortion, and (2) what standards should govern a restriction's "reasonableness."

The Administration's Legal Brief

- o The United States argued in its brief that the Supreme Court should uphold restrictions on abortion by judging whether a regulation is reasonably designed to serve a legitimate state interest, a standard used by the Court's plurality decision in the Webster case two years ago.
- o The Administration argued that the Court should not use the so-called "undue burden" test -- whether a restriction poses an undue burden on a woman's ability to receive an abortion -- because it offers no meaningful guide in how to balance competing state and individual interests.

Public Opinion on the Pennsylvania Restrictions

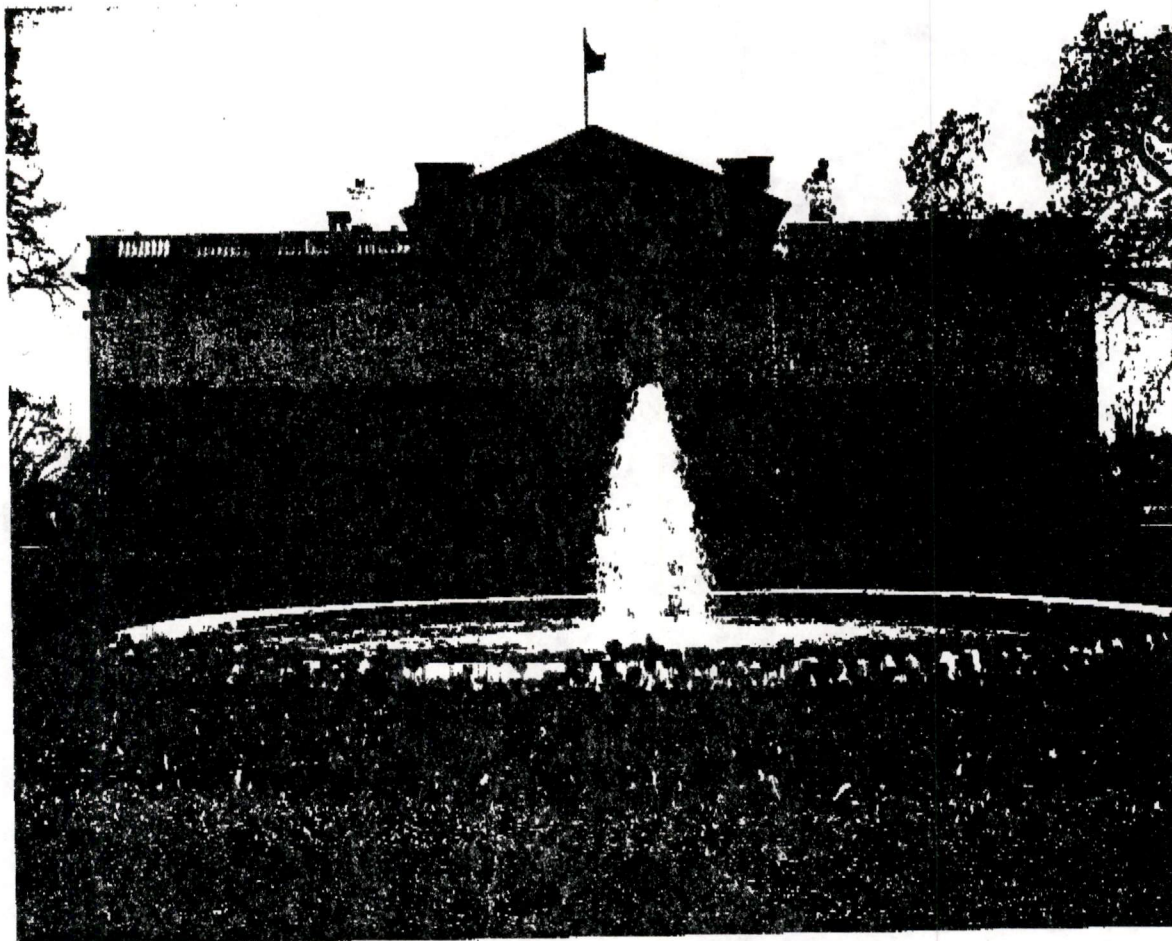
- o Pennsylvania's restrictions on abortion are consistent with mainstream American values on the need to prevent unrestricted abortion on demand. Recent surveys confirm that a majority of Americans support each of the restrictions enacted by Pennsylvania's legislature:
 - **Overall Support:** When told what the Pennsylvania restrictions entail, Americans oppose overturning the law by a 57%-38% majority. (NBC News/Wall Street Journal)
 - **Waiting Periods:** At least seven of ten Americans support a requirement that women seeking an abortion observe a 24-hour waiting period to consider information provided by doctors on the risks of and alternatives to abortion.
 - **Parental Consent for Minors:** Three surveys taken this year found that at least seven of ten Americans favor a requirement that women under 18 get the consent of at least one parent before having an abortion.
 - **Spousal Notification:** Between sixty and seventy percent of Americans -- a clear majority -- favor a requirement that a women notify her husband if she decides to have an abortion.
- o Twenty-nine States have already passed restrictions on abortion similar to those at issue in Casey. Thirty-three States including Arkansas have some restriction on parental consent or notification for minors seeking an abortion. Ten States have spousal notification or consent requirements for married women seeking an abortion.

Suggested Talking Points Prior to a Decision

In the flurry of press attention leading up to and following a Supreme Court decision, the following points can be stressed:

1. It is important to understand what this case is really about. Casey is not about whether abortion should be legal. It is about whether a state can impose reasonable restrictions on abortion.
2. A clear majority of Americans support reasonable restrictions on abortion such as parental approval and other measures contained in the Pennsylvania law. Most Americans oppose abortion on demand.
3. (If Roe is expressly overturned): This decision does not make abortion illegal. It simply returns the issue to the state level for decision by the people's elected representatives.

#

THE WHITE HOUSE
WASHINGTON

FACSIMILE TRANSMISSION COVER SHEET

TO:

Cam Findlay

FAX NUMBER:

1121

TELEPHONE NUMBER:

FROM:

Lee S. Liberman

TELEPHONE NUMBER:

456-6257

PAGES (INCLUDING COVER):

7

COMMENTS:

the new and improved "Freedom of
Choice Act"

Freedom
of choice
act

O:\BAI\BAI92.617

RLC

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for a substitute amendment.

IN THE SENATE OF THE UNITED STATES—102d Cong., 2d Sess.

S. 25

To protect the reproductive rights of women, and for other
purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. MITCHELL, (for himself, Mr.
CRANSTON, Mr. KENNEDY, Mr. METZENBAUM, Mr.
PACKWOOD, Ms. MIKULSKI, Mrs. KASSEBAUM, Mr.
HARKIN, Mr. COHEN, Mr. WIRTH, Mr. ADAMS, Mr.
AKAKA, Mr. BAUCUS, Mr. BORN, Mr. BRADLEY, Mr.
BRYAN, Mr. BURDICK, Mr. CHAFFE, Mr. DODD, Mr.
FOWLER, Mr. GLENN, Mr. INOUE, Mr. KERRY, Mr.
Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr.
LIEBERMAN, Mr. PELL, Mr. RIEGLE, Mr. ROSS, Mr.
ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SEY-
MOUR, Mr. SIMON, Mr. SPECTER, and Mr. WELLSTONE)

Mr. Jeffords

Mr. Kerry

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Via:

- 1 Strike out all after the enacting clause and insert in
- 2 lieu thereof the following:

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1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Freedom of Choice
3 Act of 1992".

4 SEC. 2. CONGRESSIONAL STATEMENT OF FINDINGS AND
5 PURPOSE.

6 (a) FINDINGS.—Congress finds the following:

7 (1) The 1973 Supreme Court decision in *Roe v.*
8 *Wade* established constitutionally based limits on the
9 power of States to restrict the right of a woman to
10 choose to terminate a pregnancy. Under the strict
11 scrutiny standard enunciated in *Roe v. Wade*, States
12 were required to demonstrate that laws restricting
13 the right of a woman to choose to terminate a preg-
14 nancy were the least restrictive means available to
15 achieve a compelling State interest. Since 1989, the
16 Supreme Court has no longer applied the strict scru-
17 tiny standard in reviewing challenges to the con-
18 stitutionality of State laws restricting such rights.

19 (2) As a result of the Supreme Court's recent
20 modification of the strict scrutiny standard enun-
21 ciated in *Roe v. Wade*, certain States have restricted
22 the right of women to choose to terminate a preg-
23 nancy or to utilize some forms of contraception, and
24 these restrictions operate cumulatively to—

25 (A)(i) increase the number of illegal or
26 medically less safe abortions, often resulting in

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1 physical impairment, loss of reproductive capac-
2 ity or death to the women involved;

3 (ii) burden interstate commerce by forcing
4 women to travel from States in which legal bar-
5 riers render contraception or abortion unavail-
6 able or unsafe to other States or foreign na-
7 tions;

8 (iii) interferes with freedom of travel be-
9 tween and among the various States;

10 (iv) burden the medical and economic re-
11 sources of States that continue to provide
12 women with access to safe and legal abortion;
13 and

14 (v) interfere with the ability of medical
15 professionals to provide health services;

16 (B) obstruct access to and use of contra-
17 ceptive and other medical techniques that are
18 part of interstate and international commerce;

19 (C) discriminate between women who are
20 able to afford interstate and international travel
21 and women who are not, a disproportionate
22 number of whom belong to racial or ethnic mi-
23 norities; and

24 (D) infringe upon women's ability to exer-
25 cise full enjoyment of rights secured to them by

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1 Federal and State law, both statutory and con-
2 stitutional.

3 (8) Although Congress may not by legislation
4 create constitutional rights, it may, where authorized
5 by its enumerated powers and not prohibited by a
6 constitutional provision, enact legislation to create
7 and secure statutory rights in areas of legitimate na-
8 tional concern.

9 (4) Congress has the affirmative power both
10 under section 8 of Article I of the Constitution of
11 the United States and under section 5 of the Four-
12 teenth Amendment of the Constitution to enact leg-
13 islation to prohibit State interference with interstate
14 commerce, liberty or equal protection of the laws.

15 (b) PURPOSE.—It is the purpose of this Act to estab-
16 lish, as a statutory matter, limitations upon the power of
17 States to restrict the freedom of a woman to terminate
18 a pregnancy in order to achieve the same limitations as
19 provided, as a constitutional matter, under the strict suru-
20 tiny standard of review enunciated in *Roe v. Wade* and
21 applied in subsequent cases from 1973 to 1988.

22 SEC. 2. FREEDOM TO CHOOSE.

23 (a) IN GENERAL.—A State—

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1 (1) may not restrict the freedom of a woman to
2 choose whether or not to terminate a pregnancy be-
3 fore fetal viability;

4 (2) may restrict the freedom of a woman to
5 choose whether or not to terminate a pregnancy
6 after fetal viability unless such a termination is nec-
7 essary to preserve the life or health of the woman;
8 and

9 (3) may impose requirements on the perform-
10 ance of abortion procedures if such requirements are
11 medically necessary to protect the health of women
12 undergoing such procedures.

13 (b) RULES OF CONSTRUCTION.—Nothing in this Act
14 shall be construed to—

15 (1) prevent a State from protecting unwilling
16 individuals from having to participate in the per-
17 formance of abortions to which they are con-
18 scientiously opposed;

19 (2) prevent a State from declining to pay for
20 the performance of abortions; or

21 (3) prevent a State from requiring a minor to
22 involve a parent, guardian, or other responsible
23 adult before terminating a pregnancy.

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1 SEC. 4. DEFINITION OF STATE.

- 2 As used in this Act, the term "State" includes the
3 District of Columbia, the Commonwealth of Puerto Rico,
4 and each other territory or possession of the United
5 States.



News Summary

OFFICE OF THE PRESS SECRETARY

WEDNESDAY, JULY 5, 1989 -- 6 a.m. EDT EDITION

TODAY'S HEADLINES

B/c of Nat'l
holiday no
news summary
was issued for
7/3-7/4

INTERNATIONAL NEWS

BUSH CONDEMNS TREATMENT OF ETHNIC TURKS IN BULGARIA -- President Bush has telephoned Prime Minister Turgut Ozal of Turkey to voice concern about the treatment of ethnic Turks in Bulgaria, the White House said Tuesday.

(Reuter)

U.S. AND ALLIES SHAPING NEW AID PROGRAM FOR POLAND AND HUNGARY -- The U.S., in concert with Western allies, is trying to devise an aid program for Poland and Hungary that would encourage further moves toward democracy and a free-market economy in the two communist nations.

(New York Times)

U.S., JAPAN HELP LAUNCH PHILIPPINE AID PROGRAM -- Secretary of State Baker and his Japanese counterpart Tuesday launched a new aid program for the Philippines, asserting that a substantial amount of fresh development assistance is required to shore up the democratic regime of President Aquino.

(Washington Post, Reuter)

MEXICAN RULING PARTY ADMITS IMPORTANT ELECTORAL DEFEAT -- Mexico's ruling party, the Institutional Revolutionary Party (PRI), has admitted defeat in Sunday's gubernatorial elections in Baja California Norte, the first time a state governorship will have been won by the opposition in 60 years.

(Reuter)

NETWORK NEWS (Tuesday evening)

ABORTION, FLAG -- The Fourth of July this year has been a day of protest against the decisions on flag-burning and abortion.

TERRORIST THREATS -- U.S. embassies around the world have been on alert this holiday weekend for a possible terrorist attack.

SECRETARY BAKER -- Secretary Baker is talking to Japanese leaders about raising money to put the Philippine economy back on its feet.

INTERNATIONAL NEWS...A-1

NATIONAL NEWS.....A-8

NETWORK NEWS.....B-1

INTERNATIONAL NEWS

SHEVARDNADZE SAYS BUSH CALL FOR POLAND PULL-OUT UNHELPFUL

PARIS -- Soviet Foreign Minister Shevardnadze Tuesday criticized President Bush's call for Soviet troops to be withdrawn from Poland as unhelpful and ill-conceived.

"The idea was not properly thought through. Neither was it original," Shevardnadze told reporters. "It does not help."

"Our position has long been that all foreign troops should withdraw, but why not (U.S. troops out of) the Philippines, why not South Korea and what about West Germany?" added the Soviet minister....

In Moscow, the official news agency accused Bush of using double standards. (Richard Wallis, Reuter)

SOLIDARITY TAKES SEATS IN POLAND

Jaruzelski's Status Still Not Clear After Dropping Candidacy

WARSAW -- More than 250 Solidarity members took their seats in the newly expanded Polish parliament Tuesday, the first time in more than 40 years that a genuine opposition party has entered an Eastern Bloc legislature....

To meet opposition objections, the oath of office was altered to delete a pledge to help "build socialism" in this country....

The communist party has refused to accept Gen. Jaruzelski's alternative candidate [for president], Interior Minister Gen. Czeslaw Kiszczak. The party continued Tuesday to urge Jaruzelski to reconsider his withdrawal [as candidate].

The result has been a political stalemate that is unlikely to be broken until after President Bush leaves Poland a week from today. Jaruzelski, who would remain first secretary of the party, is expected to greet Bush as chairman of the Council of State.

(A.D. Horne, Washington Post, A1)

U.S. AND ALLIES SHAPING NEW AID PROGRAM FOR POLAND AND HUNGARY

The U.S., in concert with Western allies, is trying to devise an aid program for Poland and Hungary that would encourage further moves toward democracy and a free-market economy in the two communist nations.

The effort comes as President Bush prepares to leave Sunday for Warsaw and Budapest on a tour that will also take him to the seven-nation economic summit meeting in Paris.

Secretary of State Baker said last week that the six big Western democracies and Japan would try, in Paris, to agree on "general principles" for a coordinated approach in assisting Hungary and Poland....

American officials said the challenge for the U.S. was to help Poland and Hungary without unduly raising their expectations and without offending Mikhail Gorbachev.

(Robert Pear, New York Times, A8)

BUSH CONDEMNS TREATMENT OF ETHNIC TURKS IN BULGARIA

KENNEBUNKPORT -- President Bush has telephoned Prime Minister Turgut Ozal of Turkey to voice concern about the treatment of ethnic Turks in Bulgaria, the White House said Tuesday....

The President wanted "to express his concern about the maltreatment and forced expulsion of the Turkish ethnic minorities from Bulgaria," the statement said.

White House officials said Bush apparently wanted to follow up on a formal statement in June protesting the situation.

(Laurence McQuillan, Reuter)

GORBACHEV SEEKS SUPPORT IN FRANCE

PARIS -- President Gorbachev opened a three-day visit to France Tuesday in continued pursuit of Western European backing for his campaign to restructure the strained Soviet system....

President Mitterrand, in an opening round of talks, expressed support for Gorbachev's efforts, according to the French leader's spokesman, Hubert Vedrine....

"I desire success for your perestroika," Mitterrand said in a toast at an Elysee dinner, "if it brings more liberty and well-being for Soviet citizens, if it reinforces peaceful cooperation between the Soviet Union and the rest of the world, as has already begun." ...

Mitterrand warned, however, that Soviet goals concerning "the common European house" should not aim at weakening the growing integration of the 12-member European Community.

(Edward Cody, Washington Post, A12)

Mitterrand Places Conditions On Gorbachev's European Vision

PARIS -- French President Mitterrand expressed reservations about Soviet leader Gorbachev's vision of a "common European home" on the first day of talks sealing business deals and tackling regional conflicts....

"Your idea of a common European home cannot be based on anything other than a community of free peoples, citizens protected against arbitrariness and intimidation for a European house," said Mitterrand.

(Ron Popeski, Reuter)

AFGHANISTAN WARNS OF REBEL OFFENSIVE AND ASKS U.N. FOR HELP

KABUL -- The Afghan government accused Pakistan and the U.S. Tuesday of pushing mujahideen rebels to launch an offensive later this month and asked the U.N. to help prevent it.

Foreign Minister Abdul Wakil, in a letter to U.N. Secretary-General Perez de Cuellar, said Pakistan and "overseas military specialists" were deeply involved in planning and encouraging attacks, which the government expected to be launched in mid-July....

Foreign Ministry spokesman Mohammed Nabi Amani said the armed forces had uncovered rebel plans for big attacks on several provinces and Kabul.

He said the government had received reports that "generals from the United States and Pakistan" were closely involved in the plans.

(Kathleen Callo, Reuter)

AFGHAN JET FIGHTERS CARRY OUT INTENSIVE STRIKES ON REBEL POSITIONS

KABUL -- Afghan jet fighters bombed guerrilla positions outside the capital Wednesday, a day after the government claimed the resistance was preparing to mount major assaults on Kabul and other cities.

Diplomatic sources and witnesses said the dawn air strikes were the most intensive in weeks, but there was no immediate report of casualties.
(Dilip Ganguly, AP)

STINGERS WERE KEY WEAPONS IN AFGHAN WAR, ARMY FINDS

A special Army report on the U.S.-made Stinger antiaircraft missile used by Afghan guerrillas against Soviet forces in the Afghanistan civil war has concluded it "changed the nature of combat" and was "the war's decisive weapon."

The report said the mujaheddin guerrillas downed 269 aircraft in 340 firings, scoring an average 79 percent hits, an extraordinarily high rate by U.S. standards....

"Before (the) Stinger, Soviet fixed and rotary wing aircraft always won the day. The conduct of battle changed dramatically after September 1986," a summary memorandum obtained by the Washington Post says....

Some Defense Department officials expressed skepticism that reliable figures could be obtained since the guerrilla gunners interviewed were likely to exaggerate their prowess. (David Ottaway, Washington Post, A2)

UNMANNED MiG CROSSES WEST EUROPE, CRASHES IN BELGIUM One Killed On The Ground; Soviet Pilot Ejects Over Poland; U.S. F-15s Tracked Flight

MOSCOW -- An unmanned Soviet MiG-23 fighter flew west through NATO air defenses Tuesday and crashed into a house in a Belgian village near the French border, killing a 19-year-old resident. The pilot had bailed out during a training mission over Poland.

Tass said the pilot, who is still alive, had to abandon the plane because of a "malfunction of the aircraft's technical system."

(David Remnick, Washington Post, A18)

Belgium Wants Moscow To Explain Jet's Ghost-Flight Over Europe

BRUSSELS -- Belgium will ask the Soviet Union Wednesday to explain a ghost-flight across three West European countries by a pilotless MiG-23 fighter before it crashed in a Belgian border village....

A spokesman for Belgium's Foreign Minister Mark Eyskens said he would summon Moscow's ambassador to Belgium on Wednesday morning and seek "further explanations" for the incident.

NATO, which sent up two American F-15 fighters from the U.S. airbase in Soesterberg in the Netherlands to intercept the intruder over West Germany, also announced it would possibly be in touch with the Russians.

(Knut Pries, Reuter)

CHINA DENIES U.S. CHARGES ON ATTACK

Beijing Says Troops Fired At Diplomatic Compound In Self-Defense

BEIJING -- Official Chinese sources Tuesday denied U.S. charges that Chinese troops launched a premeditated attack on a diplomatic compound housing Americans and other foreigners here last month.

The sources, quoted by the official New China News Agency, said the troops opened fire on the housing compound on June 7 when they were attacked by snipers firing at the troops from the complex as well as from a position opposite it....

"The martial law troops encountered an unexpected attack and suffered casualties," the news agency said. "Under such circumstances, they certainly have the right to fire in self-defense at the direction from which the sniper's shots came." (Daniel Southerland, Washington Post, A13)

CHINESE KEEP UP GUN EXPORTS TO U.S.

Firms Eager To Expand Firearms Trade Amid Assault-Rifle Ban

Two Chinese trading companies controlled by army leaders, including one headed by the son-in-law of Chinese leader Deng Xiaoping, are continuing to export weapons to U.S. gun shops while fighting the Bush administration ban on U.S. sale of Chinese-made assault rifles, according to Chinese and U.S. sources here and in Beijing.

Sale of Chinese ammunition, shotguns, pistols and other firearms in the U.S. was not affected by the ban imposed in March and would not be limited by a House bill passed last week to restrict China trade. The weapons flow has continued....

Chinese officials and army leaders, seeking hard currency to modernize their military forces, remain eager to sell goods to the U.S., the sources said, noting the administration's prohibitions against some U.S. sales to China would affect the Chinese far less than import restrictions.

(Jay Mathews, Washington Post, A13)

U.S., JAPAN HELP LAUNCH PHILIPPINE AID PROGRAM

TOKYO -- Secretary of State Baker and his Japanese counterpart Tuesday launched a new aid program for the Philippines, asserting that a substantial amount of fresh development assistance is required to shore up the democratic regime of President Aquino.

Baker gave a high-profile kickoff to the plan, which involves contributions to Manila from 18 nations, by appearing at a conference here during a brief stopover at the beginning of a lengthy foreign trip.

Baker pledged U.S. support for the plan, called the Multilateral Assistance Initiative (MAI), saying it "demonstrates a determination to fortify democracy's economic base" at a time when democratic institutions in the Philippines are "fragile and under attack" as a result of a communist insurgency.

But controversy has arisen over whether the corruption-plagued Philippines can make efficient use of huge aid sums.

(Paul Blustein, Washington Post, B1)

Baker Lauds Japan For Philippine Aid Package

TOKYO -- Secretary of State Baker lavished praise on Japan Tuesday for helping to bankroll a multinational aid package he said was vital to the economic future of the Philippines....

Addressing a conference of nations participating in the \$10 billion, five-year Multilateral Assistance Initiative (MAI) for the Philippines, Baker said: "Japan's extraordinary contributions to the MAI exemplify the kind of leadership befitting a global economic power."

(Christopher Hanson, Reuter)

TOP JAPANESE POLITICIAN LINKED TO SPENCE Considered LDP Choice For Premier

[The Liberal Democratic Party's Motoo Shiina], a Japanese politician considered an inside favorite to succeed Prime Minister Uno, has been embroiled in a highly questionable real estate deal with [Craig Spence], the Washington lobbyist linked to a Washington homosexual prostitution ring under investigation by U.S. authorities, The Washington Times has learned.

(Michael Hedges & Jerry Seper, Washington Times, A1)

U.S. SHIP SAVES 133 VIETNAMESE IN CHINA SEA

TOKYO -- A U.S. tanker picked up 133 Vietnamese boat people in the South China Sea off the Vietnam coast and is heading toward a Japanese port, a spokesman for Japan's coast guard said on Tuesday.

The Vietnamese were on a 46-foot boat without a motor. None appeared injured, the spokesman said.

(Reuter)

SOUTHERN COMMAND CHIEF SAYS PANAMA SITUATION DANGEROUS

PANAMA CITY -- A senior U.S. military officer Tuesday dismissed charges that American troops occupied a drinking water plant and urged a continuation of U.S. military presence in the country....

"The Dignity Battallions have been placed on alert after the takeover of the water plant by U.S. troops and are prepared for any developments that might occur in the next few hours," the Panamanian afternoon paper La Republica said....

Brig. Gen. Marc Cisneros, chief of the Southern Command, denied the charge, saying, "I believe they are referring to a maneuver we ordered at the Maddem (hydroelectric) plant, which is a military operations area. We have the right to send troops there." ...

Cisneros also dismissed charges that the maneuvers were a prelude to invasion....

Speaking of the Panamanian Defense Forces, Cisneros said: "An institution such as this, which is against the people, is dangerous. This is a danger that should worry us, and for which we should be prepared."

(Reuter)

MEXICAN RULING PARTY ADMITS IMPORTANT ELECTORAL DEFEAT

MEXICO CITY -- Mexico's ruling party, the Institutional Revolutionary Party (PRI), has admitted defeat in Sunday's gubernatorial elections in Baja California Norte, the first time a state governorship will have been won by the opposition in 60 years.

If the result is confirmed by the Federal Electoral Commission next Sunday, the new governor will be the candidate of the center-right National Action Party (PAN), Ernesto Ruffel Appel....

PRI President Luis Donaldio acknowledged the defeat in a press conference late Tuesday. (Reuter)

MEXICAN CANDIDATE CLAIMING VICTORY WARNS RULING PARTY AGAINST FRAUD

TIJUANA -- The gubernatorial candidate of the opposition National Action Party Tuesday accused Mexico's long-ruling political machine of churning out "impossible" vote totals in a potential effort to deny him an unprecedented victory.

Ernesto Ruffo Appel, the candidate of the conservative party known as PAN, warned the Institutional Revolutionary Party (PRI) not to alter the results of Sunday's elections for governor, mayors and a state legislature in this northwestern border state of Baja California Norte. He told a news conference that such an attempt would entail "serious consequences," but he declined to specify how the PAN would react.

(William Branigin, Washington Post, A13)

CUBAN PROSECUTOR ASKS DEATH PENALTY FOR 7 MILITARY OFFICERS

HAVANA -- The Cuban minister of justice asked for death by firing squad late Tuesday night for seven Cuban Army and intelligence officers who pleaded guilty before a military court to treason, drug trafficking and hostile acts against a foreign nation.

Justice Minister Juan Escalona, acting as prosecutor, asked for long prison sentences for seven other ex-officers, including a woman, tried on the same charges....

The three generals acting as judges have five days to decide the penalties under Cuban military law. (Reuter)

CUBAN OFFICIAL THOUGHT DRUG DEALS OK'D AT THE TOP

HAVANA -- One of 14 Cuban officials on trial for alleged drug trafficking told a military tribunal that he thought the operation had been authorized at the highest level....

When former Interior Ministry Captain Ruiz Poo tearfully asserted that he believed the operation had approval from the highest level, prosecutors tried to discredit that statement with evidence from other defendants. (Agence France-Presse, Washington Times, A7)

THIRD WORLD FINANCIAL SYSTEMS IN 'DISARRAY,' WORLD BANK SAYS

Just as the U.S. economy has been staggered by failing banks and S&Ls, Third World countries must face the reality that their financial systems "are today in disarray," according to Millard Long, principal author of the World Bank's 12th annual World Development Report, released Tuesday....

Meanwhile, assessing the global economic picture, the report said that last year was the best of the 1980s, with real economic growth at 4.2 percent in the richer nations, against 3.4 percent in 1987....

But the report hinted at growing uncertainties for 1990. Bank vice president and chief economist Stanley Fischer cited as a seriously adverse development the increase in real interest rates at the end of last year that poses a new problem for the indebted nations. If continued, he suggested, it will mean there is a need for additional resources for debt relief beyond those now contemplated through the Brady Plan.

(Hobart Rowen, Washington Post, B1)

SHAMIR FACES A FIGHT IN HIS PARTY OVER HIS PLAN FOR ARAB ELECTIONS

JERUSALEM -- Prime Minister Shamir is facing what is likely to be a brutal political battle that could endanger not only Israel's plan for Palestinian elections but also Shamir's standing as the nation's leader.

Even though the Cabinet and the Parliament have approved the election plan, Shamir's own political party, the Likud, is in open, angry revolt over the proposal.

Shamir's opponents...have convened a meeting of the Likud's 2,600-member central committee for Wednesday evening at which they will try to attach riders to the election initiative that most people here believe are designed to kill it....

Few people expect the committee members to vote strictly by bloc, and most of Shamir's aides are predicting a narrow victory....

[However], Avi Pazner, Shamir's press adviser, said Tuesday, "A showdown is divisive, and even if you win there can be bad blood."

(Joel Brinkley, New York Times, A1)

PLO SAYS IT WILL NOT TAKE UP ARMS IF ISRAEL REJECTS PEACE

TOLEDO, Spain -- The PLO will not take up arms again, even if Israel continues to reject its peace overtures, a top PLO official said Tuesday.

"If Israel does not want peace, we are not going to return to arms," Mahmoud Abbas, a member of the PLO executive committee, told journalists at a conference of Israeli intellectuals and PLO delegates. (Reuter)

NATIONAL NEWS

EDUCATION DEPARTMENT OPPOSES NEA RESOLUTION ON SCHOOL CHOICE

The NEA is drawing criticism from the Bush administration for its resolution opposing many plans that let parents choose which public schools their children will attend.

Such plans should not be mandated by the states or federal government, according to a resolution adopted Tuesday by the union. However, the group did not oppose the idea if it is adopted by local school authorities....

Education Undersecretary Ted Sanders said through spokesman Tom Lyon the vote was "very disappointing. All students deserve access to a quality education -- and choice will make that happen. But apparently the NEA doesn't even understand the concept." (Jill Lawrence, AP)

DOCTORS, LAWYERS SHOULD HALT DRUG USE BY COLLEAGUES, BENNETT SAYS

Doctors and lawyers may not be scoring crack in the ghettos, but some of them are using drugs illegally, and drug czar William Bennett says they'd better get control of their professions.

"These are people who make a lot of money, who exercise a lot of influence in society," Bennett said in an interview....

Bennett said he wants law firms and hospitals to conduct drug testing if management thinks an abuse problem might exist. He said he plans to include such a suggestion in his national drug strategy, due in early September. (Carolyn Skorneck, AP)

WHITE HOUSE LABORS TO BRING NUCLEAR POWER PLANTS BACK TO LIFE

The Bush administration is striving mightily to raise nuclear power from the dead.

Just as determined, however, are a number of environmental groups with nails ready to hammer down the coffin every time it gets pried open a bit.

But the administration is using environmental arguments to push nuclear energy, which puts environmentalists in the unusual position of defending smokestack industries.

"The Reagan administration was passive about nuclear power," said Loring Mills of the Edison Electric Institute. "It's only since (Energy Secretary) Watkins came aboard that the government made it evident that it believed nuclear power is an essential component of our energy future."

(Gil Klein, Scripps Howard, Washington Times, A5)

DIVISIVE ISSUES AT CENTER STAGE AS COURT TERM ENDS

The Supreme Court, with a strong conservative majority taking command, has ended one of the most tumultuous terms in its history, touching nearly every divisive issue in the nation -- from the flag to the death penalty to abortion....

"For one term, this court has produced a more dramatic change in the fighting issues of the day than in any other in the history of the court," said conservative court analyst Bruce Fein.

(Al Kamen, Washington Post, A1)

AS ABORTION-RIGHTS GROUPS RALLY SUPPORT,
FOES SET A LEGISLATIVE DRIVE IN 4 STATES

The day after a bitterly divided Supreme Court ruled that states may enact laws restricting abortion, antiabortion forces began mapping their legislative strategies, targeting four states where they said passage of limits on abortion is most likely.

Meanwhile, abortion-rights activists said the decision that gutted Roe v. Wade has had the effect of stirring angry men and women to join their ranks and donate more money to their cause....

All states promise ugly battles between abortion-rights and anti-abortion forces, said Burke Balch, state legislative director for the National Right to Life Committee, but four states should prove easier to capture quick wins for antiabortion laws: Pennsylvania, Louisiana, Wisconsin and Minnesota....

Meanwhile, abortion-rights activists said they will wage an "all-out war," first by targeting anti-abortion politicians who are running for office.
(Paula Yost, Washington Post, A10)

REAGAN INJURED WHILE RIDING HORSE

SIERRA VISTA, Ariz. -- Former President Reagan suffered minor injuries Tuesday when he was thrown from a horse while vacationing in Mexico, and he was treated at an Army hospital here, officials said.

Reagan suffered mostly bruises and some minor scrapes, said his spokesman, Mark Weinberg. "He said he feels fine," Weinberg said. (AP)

EDITOR'S NOTES: "White House: A Star Is Gone," by Tom Shales, appears in The Washington Post, page C1.

"Fission Over DOE's Nominee For Nuclear-Weapons Program," by Thomas Lippman, appears in The Washington Post, page A15.

(Tuesday Evening, July 4)

ABORTION

ABC'S BARRY SERAFIN: Across the country this Fourth of July has brought the usual star spangled celebration -- fireworks and parades and hot dogs. But in many places it has also been a day of protest against rulings by the Supreme Court on two emotional issues: allowing the burning of the flag and limiting the right to abortion. As Carole Simpson reports, the fact that today was a national holiday did nothing to cool the passions aroused by yesterday's abortion decision.

ABC'S CAROLE SIMPSON: This was the scene early this morning in Annapolis, Md., where an abortion rights rally at the state capitol was disrupted by anti-abortion activists. In cities across the nation those who favor abortion rights came out in force today. They also rallied in Indianapolis and Los Angeles and Seattle. Here in Washington there was no holiday at the National Abortion Rights Action League. There were calls from people wanting to join and contribute money. Volunteers were stuffing envelopes, compiling petitions and sending out press releases, and they were fielding calls about political candidates [saying whether they were pro-choice or pro-abortion]. NARAL executive director Kate Michelman says this is just the beginning of a concerted effort to prevent state legislatures from restricting abortions. Both sides are ready to pitch battle first in Illinois, Pennsylvania and Minnesota. All three states have scheduled special sessions of their legislatures to take up tax matters. But abortion is sure to come up. (ABC-Lead)

NBC'S JAMIE GANGEL reports that in San Francisco and at least three other cities, angry pro-choice crowds burned the American flag in protest. Activists on both sides say this is just the beginning and have vowed to make abortion a key issue in state and local elections. But anti-abortion groups clearly feel the tide has turned in their favor. (NBC-2)

CBS'S CONNIE CHUNG: Pro- and anti-abortion forces across the country used this day after the momentous Supreme Court decision to praise and protest. They took to the streets believing now, more than ever before, the issue is a political one to be fought at the ballot box. (CBS-Lead)

FLAG

NBC'S MARY ALICE WILLIAMS: On this Fourth of July, the day we celebrate ourselves -- how far we've come and what we may become -- we are deeply divided over two Supreme Court rulings that speak to our personal lives and to our flag. So the signpost of our liberty was also a signal of distress, a symbol of dissent.

NBC'S ROGER O'NEIL reports that almost everywhere today the flag flew proudly, held a little higher by those carrying it. For some it is a symbol of independence, for others a symbol of freedom -- even the freedom to protest. In Austin, Tx. and Little Rock, Ak. there were minor scuffles when protesters tried to burn American flags. But in Monticello, Va., the flag was honored by 77 new American citizens. (NBC-Lead, CBS-3)

-more-

SUPREME COURT

ABC'S TIM O'BRIEN says that the newest justice on the Supreme Court, Anthony Kennedy, has turned the court around. Having taken the place of swing-vote Justice Powell, Justice Kennedy has shown, as President Reagan's third court appointment, that Mr. Reagan may now be achieving in the court the conservative social agenda he never quite achieved while in the White House. (ABC-3)

TERRORIST THREATS

CHUNG reports that U.S. embassies around the world have been on alert this holiday weekend for a terrorist attack -- a possible follow-up to the bombing of Pan Am Flight 103 during last year's Christmas holidays. U.S. investigators are still working on that case, and David Martin tells us they report some progress.

CBS'S DAVID MARTIN reports that the search for the person who unwittingly brought a bomb aboard Pan Am 103 has eliminated all but a few suspects and has now concentrated on a 21-year-old Lebanese-American named Kalid Jhafar [phonetic].

(BILL BAKER, FBI: "We haven't eliminated him yet, and we've eliminated many other suspects.")

Investigators have determined the bomb was in a cargo hold on the left side of the aircraft. A Samsonite suitcase checked aboard in Frankfurt, West Germany, contained a Toshiba radio cassette player with plastic explosives molded into its frame. Kalid Jhafar died in the crash, so investigators are relying on scientific techniques in an effort to link him to either the Samsonite suitcase or the Toshiba boom box. Even if they solve the case, investigators admit it will be difficult to arrest a suspect who probably already has disappeared into the terrorist underground. All they can do, investigators say, is be patient and hope the suspect makes a mistake.

(CBS-8)

BAKER/UNO

SERAFIN: Secretary Baker arrived in Tokyo today right in the middle of another government scandal there. Baker is talking to Japanese leaders about raising money to put the Philippine economy back on its feet. But most of Japan is more interested in the [Uno] sex scandal that threatens to topple the government that took office just a month ago.

ABC'S JOHN MCWETHY reports that James Baker said he would studiously avoid getting involved in Japan's internal politics, but it's hard not to when the man at the center of this country's latest scandal is Prime Minister Uno. Shunned by many of Japan's own politicians, Uno made sure he did not miss this opportunity to be seen and well photographed while doing business of state with James Baker. Uno has spent most of his time the last week fighting off accusations of sexual misbehavior. While the visit of an American Secretary of State may provide Uno with some very temporary relief, most analysts expect the Prime Minister will be gone in a matter of weeks. (ABC-8)

WILLIAMS reports that in Tokyo today delegates from the United States and more than a dozen other nations met to discuss ways of improving the Philippine economy with aid totalling \$10 billion.

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NBC'S JOHN DANCY reports that Secretary Baker told an international conference the U.S. is pledging \$200 million of the aid next year. (SECRETARY BAKER: "It is to express in tangible ways our commitment to the success of democracy and our commitment to the success of freedom.") Ten-billion dollars. To a country starving for development it could prove to be salvation, or it could prove to be indigestible. A lot will depend on the reforms the Philippines government is willing to make in its antiquated bureaucracy. (NBC-9)

MiG

SERAFIN: A mystery in the skies over Europe this morning. NATO radar picked up a MiG-23 fighter as it crossed from East to West Germany. Two American F-15s were scrambled. They radioed back. There was something wrong.

(AMERICAN PILOT: "I'm flying alongside. There appears to be no pilot -- no pilot. The canopy is missing. The ejection seat is missing from the airplane.")

The plane then flew on, on its own, half way across Europe, across West Germany and the Netherlands before crashing into a house in Belgium. A 19-year-old man inside the house was killed. Later, the Soviets admitted the MiG was one of theirs. The pilot had bailed out over Poland where the plane developed mechanical problems. (ABC-5, NBC-6)

CBS'S PETER VAN SANT reports that NATO commanders are puzzled why the Soviets or East Germans didn't shoot down the pilotless plane, and they hope that next time the Soviets will at least warn them when one of their fighters takes an unscheduled flight West. (CBS-5)

POLAND PARLIAMENT

SERAFIN reports that not since before the second world war has there been an event like the one today in Poland -- the convening of a new parliament with a genuine opposition party seated alongside the communists. The opposition in this case, members of the once outlawed Solidarity labor movement.

ABC'S JERRY KING reports that today was dominated by parliamentary formalities. There were no fireworks. Solidarity acted cautiously, not wanting to rock any boats here or in Moscow. Some members of government watched from the gallery, but the chair reserved for the president remained empty. (ABC-7, NBC-4, CBS-6)

GORBACHEV/FRANCE

WILLIAMS says that another voice Solidarity waited to hear from spoke today. The Soviet Union said it could deal with the new government in Warsaw. Soviet Leader Gorbachev, whose policies helped make the Polish changes possible, was in Paris today. Gorbachev came to the French capital to meet with President Mitterrand and to help the French celebrate the bicentennial of their revolution. The two men agreed to a series of cooperative ventures, including a joint mission to Mars. (NBC-5, CBS-4)

CHINA

WILLIAMS reports that the government of China has announced new repressions banning books written by liberals and dissidents, and it continues to hunt down student leaders involved in the pro-democracy demonstrations that ended with the Tiananmen Square massacre one month ago today.

NBC'S MARTIN FLETCHER reports that two Chinese student activists who have escaped abroad released a tape. The two renounced violence and promised to keep the democracy fight alive. They want a worldwide campaign to pressure the Chinese government to grant freedom to the people. They called for tough economic sanctions against China. (NBC-8, CBS-7)

RONALD REAGAN

SERAFIN: Mr. Reagan is in a hospital tonight at an Army base near Tucson, Az. The former president was slightly hurt when he was thrown from a horse he was riding at a friend's ranch in Mexico. According to the doctors, Mr. Reagan is in excellent condition. He has some bruises on his arms, but no broken bones, and a source close to Mr. Reagan says he's raring to go. (ABC-4)

CBS'S BILL PLANTE reports that the former president was thrown from his horse in Mexico, but apparently suffered only minor injuries. This time he was visiting old friend William Wilson's ranch in Sonora, Mexico. His mount, according to staff members, began bucking wildly on a rocky slope and then stumbled. The former president was thrown, landing on his arms and back. President Bush was informed of the accident by the Secret Service.

[TV COVERAGE: President Bush talks on the phone in his boat.]

A staff member says the President is relieved to hear that Mr. Reagan is okay and plans to call him later. After his examination at the hospital, Mr. Reagan was reportedly feeling well enough to ask about resuming his ride. He joked that the fall was his own private rodeo, and sources tell us that the former president said that he wanted to get out and get back on that damn horse. (CBS-2, NBC-3)

-end of B-section-

Abortion Issue Quickly Segues Into the TV Spotlight

By THOMAS B. ROSENSTIEL, Times Staff Writer 10/1/27/19

WASHINGTON—Just after 10 a.m., two runners carrying documents broke from the front door of the Supreme Court, tore down the marble steps and raced over to the CNN and the NBC umbrellas.

The crowd surged toward the lights. The competing abortion rights and anti-abortion demonstrators, which had been staging a fierce battle of pep squads on the sidewalk, went silent. Even the man dressed as the Pope to protest the Roman Catholic Church's authority as an expert on sex stopped and watched.

The network correspondents, after nearly a month of rehearsals and false alarms, had three or four minutes to digest the 77-page court opinion before going on the air.

The machinery of modern democracy, inevitably connected now to the end of a microphone and linked by cables to the double-parked satellite microwave trucks, began to churn.

If James Madison imagined democracy as a kind of outdoor flea market of competing groups peddling their wares in a wearying, blurry cacophony, the steps of the U.S. Supreme Court Monday on the morning of the court's decision in Webster vs. Reproductive Health Services came close to realization of the metaphor.

Part of what the sellers at this flea market were selling was "spin"—the most advantageous interpretation on the decision from a particular point of view. For both sides, it seemed to be to make the decision as apocalyptic as possible.

Opposing Views Aired

Thus within moments of the decision, Planned Parenthood's Faye Wattleton was calling the court decision "an outrage" on NBC, while Dr. John Willke of the National Right to Life Committee was in front of 36 cameras on the other side of the court steps calling the decision the beginning of a new era.

But there was more going on than controlling the spin.

"I don't think it serves any political agenda to utter a few platitudes," said Roger Evans, litigation director for Planned Parenthood, which brought the Webster case to the court three years ago. Getting in front of the camera on network television, he said, helps the interest groups to raise their visibility and fund-raising.

So those from the American Collegians for Life to the National Organization for Women had their public relations staff circulating, looking to alert anyone wearing press passes of news conferences later in the day.

Among the competing interests vying to be heard, capitalism was not lost.

Spectator Spot Bought

Former used car dealer Randall Terry, director of Operation Rescue, the anti-abortion group, wanted to be in the courtroom's public gallery so much that he had one of his staff offer to buy the spot of anyone of the first 50 spectators waiting in line. No. 11, Patrick Baker was persuaded, went for \$100.

But Terry had visibility in mind, too. He made sure that he was one of the first down the steps to tell the cameras how the court had ruled, which guaranteed his group time at least on CNN's live broadcast from the scene. He was beaten to the press conference area, however, by Molly Yard, the president of the pro-abortion rights National Organization for Women.

But even in this marketplace there are rules.

Demonstrators carrying placards are not allowed on the court grounds, so they protested on the sidewalk.

It was here that a man calling himself Father John of the Face dressed in a Franciscan monk's robes led demonstrators in saying the Rosary. It was here that George Lucas, director of a small group calling itself the American Life League, attracted TV coverage by coming to the court to protest abortion with a swath of American flags and singing a version of "God Bless America" that ranged over several keys.

At times, demonstrators pro and con would take each other on in cheerleading battles that resembled a high school halftime show—"Life yes, abortion no," drowned by "Right to life, your name's a lie; you don't care if women die."

Occasionally, small debates would erupt and quickly evolve into Morton Downey Jr. nose-to-nose shouting fests.

Others came simply to be a part of history. Yale undergraduate Michael Carrier of New York had waited since 10:30 a.m. Sunday to be first in line for seats in the public gallery 23 hours later. Jim Paul of Beverly Hills, Calif., was second. "A decision of this importance, I had to be here," Carrier said.

But the biggest draw for tourists was not the court but the media. More than an hour after the decision was announced, at least 200 onlookers remained, staring in rapt attention as CBS' Rita Braver stood alone looking bored for about 10 minutes, part of the time with her eyes closed, waiting for her next live stand-up.

For nearly a month, all three networks had been on what CBS producer Tom Seem called a full "special events standby" status, meaning that they were ready to

break into regular programming on those days if the court had handed down this decision.

NBC had five correspondents, six producers, 10 crews, three microwave trucks and senators, congressmen and special interest group guests on standby 10 different mornings in anticipation of the decision, according to bureau chief Tim Russert.

In the marketplace of ideas, interests can change quickly. Rep. Robert K. Dornan (R-Garden Grove) showed up late—police at first shooed him away for illegally parking—and promptly got into an argument with a group of college women calling themselves Catholics for Choice.

But when the argument over theology and politics ended, one of the women asked him for tickets to the White House tour. Always quick to recognize a potential constituent, Dornan quickly consented.

"My office," he told her, "is fastest on the Hill with White House tickets."

Staff writer Michael J. Ybarra contributed to this story.

THE WHITE HOUSE
Office of the Press Secretary
(Kennebunkport, Maine)

PRESS BRIEFING
BY
CHIEF OF STAFF GOVERNOR JOHN SUNUNU

July 3, 1989

The Shawmut Inn
Kennebunkport, Maine

2:10 P.M. EDT

GOVERNOR SUNUNU: I have a statement here by the President on the Webster decision that came down this morning. The statement is as follows:

We welcome this decision. By upholding the Missouri statute, the Court appears to have begun to restore to the people the ability to protect the unborn. We continue to believe that Roe v. Wade was incorrectly decided and should now be reversed. Americans obviously differ over the difficult issues underlying this case -- the morality and appropriate legal status of abortion. Any decision in this area will stir strong feelings. Nevertheless, the President expressed his confidence that the American people will continue to express their deeply-held convictions on this subject within the bounds of civility and our legal institutions.

I'll answer any questions you have.

Q Does he still support the constitutional amendment to restore the --

GOVERNOR SUNUNU: The President is a strong supporter of a constitutional amendment and has indicated in the past and continues to believe that the best long-term guarantee of the rights of the unborn is a constitutional amendment.

Q Will he begin to push for one -- actively push for one?

GOVERNOR SUNUNU: Well, he has in the past and will continue to do so.

Q Will he actually produce one? Will he sponsor one?

GOVERNOR SUNUNU: The leadership on a constitutional amendment is best within the framers of the language within Congress, and he has supported in the past, I believe, the Hyde Amendment and he will continue to support the amendment process. 20

Q Well, last week he called for one on the American flag. Will he now call for one and actively push for one on --

GOVERNOR SUNUNU: Last week he supported the amendment as put together by Congressman Michel, Congressman Montgomery, Senator Dole and Senator Dixon. They brought forth the language and he endorsed it. That is probably the most effective way to get unified language coming out of Congress so that there's no divided -- there's no division of support amongst various versions.

Q Governor, to the extent that -- with the welcome of this decision withstanding, why isn't the President not expressing

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disappointment that they had the opportunity to overturn Roe and didn't?

GOVERNOR SUNUNU: This issue that came down, as you probably have noted, was a complex decision and the President, first of all, was pleased at the direction of the decision. He is awaiting the legal experts at both Justice and his own Office of Legal Counsel to examine the nuances of that decision. There was some language in there that the judges indicated that they were looking to a case in the future to deal with some of the additional complexities of the issue. He's not going to criticize the judges for dealing with what was presented to them within the Missouri case.

The judges, I believe, have indicated that we would be hearing two additional cases next year -- one the Ohio case, and one, the Illinois case -- which deal with different pieces of that complex question, and I guess the Court feels it has to deal with it a piece at a time.

Q You said, if I may follow, that he's pleased at the direction. How would you define the direction of what the Court said?

GOVERNOR SUNUNU: Well, this decision made it clear that the states have some rights in limiting the easy access to abortion and made it clear that those rights within the states were well-framed within the Missouri law.

There are other ways of dealing with this issue, both at the state level and the federal level. Some of the aspects of that will be in the Ohio case and the Illinois case to be examined next year. But as I noted earlier, the President still supports a human life amendment.

Q Governor, the administration now supports three constitutional amendments. It's a rather unusual --

GOVERNOR SUNUNU: Four.

Q Four? What's the fourth? I'm sorry.

GOVERNOR SUNUNU: You tell me your three and I'll tell you the four.

Q Okay. The budget deficit -- and what's the other?

GOVERNOR SUNUNU: The budget deficit, the line-item veto, the flag and the human life amendment. And I wouldn't want your question to be incomplete.

Q Where are your priorities? You can't go, after all, for any sort of a broad barrel. It seems to me you have to set priorities -- one, two, three, four. Where do they stand?

GOVERNOR SUNUNU: Well, certainly the flag issue, which had a clarity in terms of broad support in Congress. It looks like it's going to get quick support in Congress. The difficulty on these issues is not priorities, but in gathering together coalitions and consensus. Obviously, in terms of long-range impact on citizens of the country, the human life amendment is a very critical one and it is the one the President probably has one of the strongest emotional commitments to.

The other two amendments, the balanced budget amendment and the line-item veto, are two amendments that deal with the disciplining of the legislative process. And so if they cannot be moved forward quickly, you will probably see the President supporting interim measures in those areas, such as the legislation supporting enhanced rescission. But certainly, the flag and the human life amendment are the two in which he's got the strongest emotional

commitment. The others deal with the revision of process for legislation.

Q Governor, will the President do anything, take any action, to get states to pass laws now restricting abortion? Does he plan to campaign in that direction?

GOVERNOR SUNUNU: I think there's certainly been, and will continue to be, activity on both sides at the state level, and I think there will be intense battles. They are not the kind of battles where the President, coming in one way or the other, would really be able to move it. Having been involved in state capitals, I can tell you that governors and state legislators are very parochial in terms of the lobbying that takes place. So I don't think the President would want to hurt the prospect for success by meddling in an area where it may not be welcome. 7

Q I have another question. It's a separate question, but does the President include the action -- the rescue organizations among those who should continue to speak out within the bounds of civility?

GOVERNOR SUNUNU: Well, I think the President noted in his statement that he is concerned that parties on both sides recognize that it is the tradition within this country to deal with issues, even if they are emotional, within the bounds of civility and within the structures of the legal institutions. If your question is an indirect question as to whether or not he supports illegal activity, I don't think the President does support it. I know the President does not support illegal activity.

Q Does he see that as appropriate or legal activity -- that blocking the access and actually trying to rescue people, as they put it, as appropriate?

GOVERNOR SUNUNU: Well, there are different levels of activity, different levels of intensity and, in fact, in different jurisdictions different rules and laws that have to be dealt with. In some communities they have passed laws restricting the access you can have in terms of distance, I believe. In other communities, they've done it in different ways. The President just hopes that everybody will understand that the laws are the laws, whether they are local laws, state laws or federal laws.

Q Governor, you said -- you spoke of the President's strong emotional commitment on this issue. And yet on the flag issue he said he felt so visceral about it that he came out and discussed it himself. Today he is out playing golf. Is there a reason why he didn't come and talk about this himself? Does he feel less visceral about this issue than the flag-burning?

GOVERNOR SUNUNU: No. What has happened in the conversations we've had -- and I've spoken to him two or three times today; Boyden Gray has been on the phone with him. He has been talking to folks, trying to interpret the legal nuances in this decision. It is a complex decision and, therefore, he wanted to get a statement out indicating his position. It's nice that he had faith in those of us who work for him to make sure that the statement he put together got out exactly the way he wanted it.

But, beyond that, this is something that will probably be reviewed by legal authorities within the administration over the next few months and I suspect this is not the last time he will have an opportunity to speak and to speak very strongly on this issue.

Q Governor, two questions about the President's position. One, at the state level, if the Supreme Court has essentially allowed states to impose these restrictions, does he have some feelings about penalties and enforcement -- the issue that came up last summer? Who should bear the penalties?

And secondly, you say he's for a human life amendment. Does he support one with the exceptions that he's previously stated -- rape, incest and life of the mother -- or does he support one that's clean, without any exceptions?

GOVERNOR SUNUNU: On the first issue, the President made it clear, I believe, last summer and continues to feel that this is not an effort to penalize the woman who has become pregnant. There are, in the words that we used last summer, two victims involved -- both the mother and the unborn child. And the idea is not to get sanctions against either of those two victims, but if laws are written, he would hope that they would focus on those that perform the abortions.

Secondly, the issue of the human life amendment, he has supported, and would continue to support a human life amendment that is broad enough to deal with the exceptions that he has.

Q Governor, there was apparently an explosion of some kind in an abortion clinic in Concord, in your home state. What's your feeling about that sort of protest?

GOVERNOR SUNUNU: Yes. Violent protest is against the law, and anybody who is involved in that ought to be apprehended and punished, no matter what side of any issue that they happen to be on.

Q With the exception of Justice Scalia, some of the justices indicated that this was not really -- they're not being asked to determine Roe v. Wade. Does the President favor a state enacting a law that would be in direct conflict with Roe v. Wade in order to test the 1973 decision?

GOVERNOR SUNUNU: I'm sorry. Say it again, please?

Q Does the President favor a state enacting a law in direct conflict with Roe v. Wade just as a test case, as Justice Scalia sort of hinted at?

GOVERNOR SUNUNU: Well, I think the strongest hint came from three of the other judges, but I believe that the Ohio and the Illinois case that are already agreed on would begin to test that, and I would suspect that, as states test the breadth of authority that has been given to them by the Supreme Court, that a whole series of legislation will occur at the state level. And I suspect that in all of those cases where there is a major change in the level of involvement of the states and the issue, those will be brought to the court.

And I think that the President's position is, is that whether it's done incrementally or whether it is done one fell swoop with a constitutional amendment, the basic thrust of the Roe v. Wade decision ought to be reversed, and he is pleased at any step, including this one, that moves in the right direction.

Q May I follow up? If a state, say, for instance, Texas, decided to ban abortions all together in one fell swoop, does the President support that and encourage other states to do similar measures, even though that goes against Roe v. Wade?

GOVERNOR SUNUNU: The President's support for something that was so broad and sweeping as that is probably best focused on his support of an amendment to the federal Constitution, one of the human life amendments. And if states are allowed to approach that by decisions of the Supreme Court, the President certainly supports whatever approach they take within the limits as defined, and he hopes they will continue to be defined appropriately by the Supreme Court.

Q Governor, given that the President supports now four

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constitutional amendments, how does he feel about a constitutional convention?

GOVERNOR SUNUNU: I think that if one reviews the -- and it is somewhat divided, but there are strong opinions that the constitutional convention process has not had its parameters, its framework yet defined by Congress. One of the big gaps is that, in the 210-plus years we've had since the adoption of the Constitution, there have not yet been the rules, regulations, the laws defining how a convention should be operated by Congress -- whether or not its agenda can be limited, whether or not it can focus on just one issue or four issues. And until that question is answered, I suspect that the President would not want an open, carte blanche convention to come forward.

Q Can I ask you one more thing?

GOVERNOR SUNUNU: Yes. But I must say we have not discussed whether or not he is for an open convention or not, and so I am giving you an interpretation rather than a direct quote.

Q The President, over the weekend, took some criticism from both the far right and the far left over the flag --

GOVERNOR SUNUNU: Yes.

Q -- the support for the constitutional amendment on the flag. I wonder if you've talked to him about that criticism and if you can give us any presidential reaction.

GOVERNOR SUNUNU: I suspect that the President's personal commitment is so strong that tangential reaction wouldn't impact him one way or the other, although he might find solace in the 71-24 polling data that strongly favors a constitutional amendment to deal with the flag.

Q When they talk about a flag amendment, do they talk about an actual flag, or is the idea of burning a flag -- if a child painted stars and stripes, or if a flag had 49 or 51 stars -- is that still --

GOVERNOR SUNUNU: As you will recall, the wording of the amendment that the President supports says that Congress and the states may make laws to prevent the desecration of the flag. And so the nuances that you have raised will be dealt with by both -- after an amendment is enacted, it would certainly be dealt with by Congress and the states as they made their laws.

Q The President helped draft that constitutional amendment last week. Is he now ready to help Congress draft another one on human rights?

GOVERNOR SUNUNU: Well, there is a human life -- there are a number of human life amendments within Congress, and the President has supported the principle of a human life amendment that comes forward. If he had to pick language right now, I believe he probably would select the Hyde Amendment, but that doesn't mean that it is limited to that.

Q Governor, President Reagan was unable to get a human life amendment from Congress in two terms. Give us your blunt political assessment of your chances of getting such an amendment -- and what will Mr. Bush be doing to try to get one?

GOVERNOR SUNUNU: Well, perhaps now that the Court has moved incrementally in this direction, it may encourage those in Congress who have been on the cusp, so to speak, on this issue to move and support a human life amendment, and we would hope that it would make chances better.

Q Some polling suggests that Republicans of whom -- in big states of whom the party must depend to win presidential elections are not very happy with this kind of -- would not be happy with a constitutional amendment. Do you have any --

GOVERNOR SUNUNU: What states, what Republicans, and --

Q California, Illinois -- places like that.

GOVERNOR SUNUNU: Give me some names so I have a sense

Q The L.A. Times polling shows that it's a real -- it holds real problems for Republicans. What is the -- do you have any political misgivings about your position and the administration's position on abortion?

GOVERNOR SUNUNU: No. I think this is not an issue that you just wet your finger and take a decision on the basis of which way the political wind is blowing. It is a position the President feels personally very strongly about, and I know that when it is an issue of that kind, he is not going to move one way or the other just on the politics.

Q As the President begins to speak out more on this and states are considering what to do, is he prepared to speak out as strongly on the consequences of a lot more births or the consequences -- and what do you do, and how do you aid women who are having the children that cannot afford them?

GOVERNOR SUNUNU: I think the President has set for himself over the years the level at which he wants to support efforts and the level at which he wants to lead efforts on this. And I think that this is the kind of an issue that he is strongly supportive of, but he understands, now that it moves out into the states, there will probably be 50 different coalitions supporting this in each of the state capitals, and it is not really up to the President to try and lead each of those 50 coalitions.

Q Is the President comfortable with the current level of adoptive services, contraceptive education? Does he think that it is sufficient to deal with a constitutional amendment that would ban abortion?

GOVERNOR SUNUNU: I think the President, in his position on adoption, for example, has made it clear that he wants to increase the incentives. In the budget he sent up, I think there was a doubling or tripling of the benefits that come to those who proceed with adoptions. And he has talked frequently about the fact that the adoptive process is one that has to be nurtured. And I would suspect that as he continues to expand and build on what he has started in this budget, there will be a continued expansion of that.

Q And sex education? Contraception?

GOVERNOR SUNUNU: I think the President has supported funding for family planning and will continue to do so.

Q If I could just follow up on how the public feels about the issue -- you said the President could take solace in terms of the flag-burning amendment, 71-29. But most of the polls I've seen do indicate that this is not a popular issue, that's to say human life amendments are not popular with the general public. I'm not saying the President would be moved by that, but what is your realistic reading of whether it's a popular or unpopular movement?

GOVERNOR SUNUNU: It depends -- it is probably something that would be reflected state by state. The data that I have seen indicates that probably at least a majority of the states will enact antiabortion legislation one way or the other. That's not a

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prediction, that's just based on some of the data that I've seen. I don't know how strong those feelings are. I don't know how long that viewpoint will last in those particular states as lobbying takes place one way or the other. But I meant to indicate that this is the kind of an issue that the President is not going to make a decision on the basis polling data.

Q In terms of -- let's look ahead his running for a second term. Is this a wash in terms of --

GOVERNOR SUNUNU: And then when he supports the fifth amendment to allow three terms, he may run for a third term.

Q But do you regard it as a wash in terms of the national federal -- in terms of federal votes?

GOVERNOR SUNUNU: I do not have a way of evaluating that, particularly as this is an issue that is going to be debated rather intensely, probably, over the next couple of years. Whatever statistics and sense you have now will probably change. But it is not the kind of an issue that the President feels he's going to adjust his position on for a political race.

Q A minute ago you indicated that this would perhaps give support to the human rights amendment by showing lukewarm legislators that here was the option -- they could go ahead on this. Doesn't this also have the potential of costing you support by having legislatures who are antiabortion yet don't want to tamper with the Constitution saying, ah, the courts are going to take care of this?

GOVERNOR SUNUNU: In an expression of a commitment to diversity of views, I suppose you could -- let me say, I suppose you could draw that conclusion. I don't know -- I'm not -- you know, there's many ways to look at this and this decision is complex. And everybody is going to read it and identify nuances within it that support different viewpoints. And I can't draw any more specific a conclusion than the one I gave you before.

Q Aside from encouraging Congress to adopt a human life amendment, you mentioned that you don't think Bush is going to go lead each coalition in each state as they take this issue up over the coming years. So does that mean that you would not envision him going to the states to campaign when the state is dealing with this issue? He doesn't feel that strongly about it -- that he would go and urge -- make speeches about it --

GOVERNOR SUNUNU: No, he feels strongly enough about it, but he would probably continue to speak on it as a national issue rather than carrying the issue into individual state capitals. But he will certainly continue to reiterate his commitment to the antiabortion position and his commitment for a human life amendment and his encouragement of actions both at the Supreme Court level and at the state legislature level that protect the unborn.

Q I'd like a clarification on the overall amendment question. Is the President opposed to the school prayer amendment?

GOVERNOR SUNUNU: Maybe we have five. I honestly don't have the latest count. Thank you for correcting Cochran.

Q I mean, he's still on board on that one, huh?

Q Who?

Q Cochran.

GOVERNOR SUNUNU: Cochran -- no R. Jeez, get me out of here, Marlin -- I'm blowing it. (Laughter.)

MR. FITZWATER: Associated Press says four and they're

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my ultimate authority on everything. I go with the AP.

Q Does he still support it --

GOVERNOR SUNUNU: As one who skis at Waterville Valley, it should have been Corcoran. (Laughter.)

Q Marlin, I prefer Roman.

Q Does he still support the idea of a school prayer amendment? Is that you're saying?

GOVERNOR SUNUNU: I don't know if there's -- whether the President has stated publicly whether he supports the school prayer amendment or not, Frank. You may know better than I. I just don't recall. I'll find out though.

Q He's never stated opposite.

GOVERNOR SUNUNU: Okay, I don't want to give you a wrong answer and I just can't give you an answer on that off the top of my head, but I'll find out for you.

Q Is there any concern with wanting a 20 percent increase in the number of amendments to the Constitution? (Laughter.)

MR. FITZWATER: Surely, that's the last question.

Q Is there an answer?

Q That's a good question.

GOVERNOR SUNUNU: I have my own amendments that I support, which is -- but we won't go into that.

Q But it's a lot of changes. I mean, five amendments. Is there concern about seeking so many -- so much tinkering -- so many changes?

GOVERNOR SUNUNU: Well, we once had 10 in one fell swoop.

Q Pardon?

GOVERNOR SUNUNU: We once had 10 in one fell swoop.

MR. FITZWATER: One more.

Q On the President's view on Soviet troop withdrawal in Poland, Governor. is there any kind of a time frame? When does he want them to pull out? Is it a 100-percent thing? Where does this fit in with the NATO proposal?

GOVERNOR SUNUNU: Yes, I think what the President has been doing, both in the issues associated with the NATO relationship to the Soviet Union and the Warsaw Bloc countries really consists of two pieces. Number one, he put the CFE proposal down with NATO -- got NATO support on that, and number two, in terms of the specific countries in Eastern Europe, his policy has been one of differentiation, recognizing when reforms take place and applauding steps that move in the right direction.

Troop withdrawals would probably fall in that category. The CFE proposals have to do with U.S. and Soviet. Now we have to see whether or not the individual Pact countries begin to display any initiative of their own, whether they make proposals that might be reciprocated and so on.

I just don't think that at this point it is an effort to

MORE

try and get a drastic change beyond -- in terms of troops beyond the proposals that were put forward as part of the CFE.

Q Governor, excuse me, but in this interview with the Polish journalists, he asked for the withdrawal of Soviet troops from Poland. That was not part of --

GOVERNOR SUNUNU: Those were Soviet. She -- I thought she asked about Polish troop reductions.

Q No, Soviet.

GOVERNOR SUNUNU: Oh, I'm sorry. I misunderstood the question.

Q That is quite a sizable --

GOVERNOR SUNUNU: Yes, the CFE proposal does deal with Soviet troops that are between the Iron Curtain and the Urals. Withdrawal from Poland is certainly part of what we hoped would come down as part of that proposal. And the President's proposal had a six-to-twelve-month time frame in it, hoping that we could come to agreement with the Soviets. He has continued to be hopeful, although there are some that suggest it may take a little longer than that. He continues to be hopeful that that time frame can be kept.

I'm sorry. I misunderstood your question.

MR. FITZWATER: Let me make one administrative announcement. We have a typo in the statement on the spelling of Roe and it will be corrected and new copies distributed immediately. My crack staff is on this with -- on bended knee at this very moment running them off.

Q -- across the Potomac.

Q The Gromyko statement, Marlin?

MR. FITZWATER: Gromyko statement should be handed out right now. You should have it.

Q Marlin, can you answer something?

Q Marlin, can you give us any guidance on what he's going to do tomorrow?

MR. FITZWATER: I don't have any more guidance than what we've been giving you about his activities. He continues to look at briefing books for the trip. He is reviewing speeches. I think you can probably also assume he's going to go boating. He is going to jog a little later in the morning than he did this morning and probably on the compound. So we probably won't have a jogging pool in the morning. But otherwise, it will be pretty much like today.

Q Soviet troops in Poland is addressed in the CFE talks. Is Mr. Bush willing to -- asking for a new --

MR. FITZWATER: The President's comments in the Polish interview were made in terms of his philosophy that there is no need for Soviet troops to be there. But, as he said in the interview, he did not anticipate an invasion from the West. Neither did the Soviets need to anticipate invasion, and therefore there was no need to have Soviet troops in Poland.

There was no timetable associated with it in terms of that interview.

Q You were talking about, I think, what he was doing tomorrow. What is he doing this afternoon after golfing?

MR. FITZWATER: This afternoon after golfing he is getting ready to greet some 200 of his closest friends, family and others who will be gathering for a barbecue and to watch the fireworks.

Q So no more --

Q Will the pool go on the boat tonight?

MR. FITZWATER: If there is any more activities, you'll all get it on your beeper.

Q Statement on Gromyko?

MR. FITZWATER: Statement on Gromyko. Where is it, crack staff? Let's go. Let's go.

All right. Thank you very much.

Q Marlin, one other thing. Did the interview with the Polish journalists somehow come out prematurely? Did they break some embargo or some promise that you're aware of? Were you expecting them to publish it today?

MR. FITZWATER: Yes, yes. I think it was supposed to be published today. There wasn't any breach that I'm aware of.

THE PRESS: Thank you.

END

2:40 P.M. EDT

Dislike Abortion Ruling? We Voted for It

By MARTIN SCHRAM

10/12/7

THE MIAMI HERALD

Sorry to say, the Supreme Court's whittling of abortion rights is the ultimate pro-choice decision.

Pro-choice—as in our choice. We made our choice in 1980, again in 1984, and for good measure we reaffirmed it in 1988. We made it even though we knew we would someday regret it.

We made our choice when we elected and reelected Ronald Reagan, despite his repeated warnings to us that he intended to pack the Supreme Court (in fact, all our courts) with judges who would abort the precedent-setting decisions that affirmed a woman's right to have a safe abortion.

It's perverse but true: We pick our Presidents these days even though we may disagree with them on fundamental issues. We chose Reagan, for example, even though we disagreed with him on most issues—the deficit, defense spending, the environment and, especially, abortion.

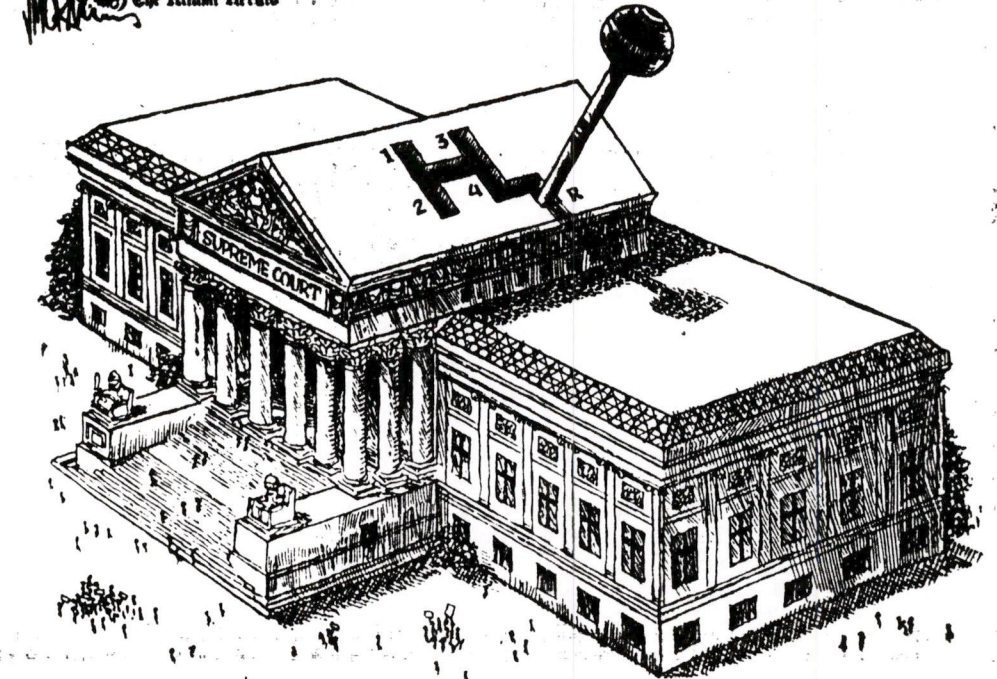
Polls show that we have for years believed women have both the right to have an abortion and the right to make for themselves this very personal decision that affects their bodies. A recent Gallup Poll showed that 58% of Americans did not want the court to roll back its 1973 *Roe vs. Wade* decision, which (as the pollster phrased it for those interviewed) "ruled that states cannot place restrictions on a woman's right to an abortion during the first three months of pregnancy." Just 37% wanted the ruling overturned and 5% were undecided.

Also, in another Gallup survey last October, a whopping 66% of us opposed the Reagan Administration's decision to withhold government funds from clinics providing abortion counseling. Only 26% of us backed the Reagan decision.

Yet here we are, stuck with a carefully stacked court that has given us just what we don't want. The Rehnquist court has dropped on us a neutron bomb ruling: It left standing the shell of *Roe vs. Wade* but wiped out the vitals that were inside.

Abortions are not illegal—yet. But by upholding a Missouri law that bars public employees and public funds from being used in abortions unless the life of the mother is endangered, and by inviting each state to set its own laws, the Supreme Court has struck hardest at those who can least afford it.

This will be the result: America will become a land of safe abortions for the



well-to-do. Poor women will be left to their own devices—and those of quacks. Safe abortions will still be available for women who can afford to pay private physicians and hospitals or who can afford to shop from state to state until they find one that will permit a safe publicly assisted abortion.

As our TV weathermen say, there is no relief in sight; in fact, it just figures to get worse. Three of the four dissenting justices in the latest abortion decision are the court's only octogenarians. Justice William J. Brennan Jr., an Eisenhower appointee who turned out to be a court moderate, is 83; Justice Thurgood Marshall, a Johnson appointee who is the court's only liberal vote, is 81; Justice Harry A. Blackmun, a Nixon appointee who proved to be a court moderate and the author of the original *Roe vs. Wade* ruling, is 80.

Actuarial tables tell us it's possible President Bush could wind up naming replacements for all three. Also, Justice Byron R. White, a Kennedy appointee who has turned out to be one of the court's most conservative justices, is 72 and has talked of retirement. If Bush winds up picking successors to Marshall and White, we will have a Supreme Court comprised of justices chosen entirely by Republican Presidents.

The true legacy of the Reagan years is

that he bequeathed to us a Supreme Court that will rule our lives and those of our children and grandchildren in ways that are not to our liking. For this, we have only ourselves to blame—that is, ourselves and Walter Mondale and Michael Dukakis, who never could focus public perceptions on the danger we faced from an all-conservative court.

Just this past week, the news reminded us of all there was to know about the Reagan presidency and why we wind up with government policies we oppose. There was the sentencing of Ollie North and the scandals of HUD—reminders of all our Presidents never cared to know. There was the Supreme Court's abortion ruling—a reminder of all we never cared to know about what his decisions could do to us.

But then there was that news report about Reagan himself—a reminder of why he'd captured our spirit and our votes in the first place. Ever-heroic, he was riding the range at age 78 when the horse bucked and landed him first on the ground and briefly in a hospital. "My own private rodeo," Reagan reportedly quipped.

What a guy. That's what we like in our Presidents.

Martin Schram is a syndicated columnist in Washington.

The Next Battleground On Abortion Rights

Groups Focus on State Constitutions, Courts

By Ruth Marcus

Washington Post Staff Writer

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With the U.S. Supreme Court signaling an imminent narrowing of its interpretation of the federal constitutional right to an abortion, abortion-rights advocates are looking to state constitutions and state courts for possible protection of the right.

In its decision in *Webster v. Reproductive Health Services* last week, the high court stopped short of overruling *Roe v. Wade*, its 1973 decision finding that women have a constitutionally protected right to abortion. But it gave states new power to impose restrictions on abortion.

How much leeway the decision gives states is unclear. As a result, there are likely to be legal battles centering on laws that are certain to be enacted by state legislatures in response to the *Webster* ruling. After that there will be tests of the constitutionality of those laws under *Roe* and the later cases.

But if the court takes the final step of explicitly overruling *Roe* or if *Webster*, as most advocates on both sides believe, represents a substantial evisceration of abortion rights, state courts and constitutions are likely to be the next legal battleground.

"They're an extremely important source to develop," said Dawn Johnson of the National Abortion Rights Action League.

Marcia Greenberger of the National Women's Law Center said that until now "there hasn't been the same strong impetus to look at individual state constitutions because of the federal guarantees that have always been in place."

However, she said, "I don't think there's any question but that state constitutions do provide guarantees that are applicable to abortion."

Bruce Fein, a conservative legal scholar, called state constitutions "sort of an insurance policy" for abortion-rights advocates if they lose battles in state legislatures and federal courts.

"The pro-choice groups have the option of going through the state constitutions that the anti-abortion groups do not have," he said. Anti-abortion groups, he said, "don't have a plausible claim that a state constitution requires that there be restrictive abortion measures, whereas there are plausible claims under state constitutional privacy provisions."

States operate under their own constitutions, many modeled on the federal Constitution and containing similar guarantees of due process of law and equal protection. Some state constitutions also have explicit guarantees of the right to privacy—the unspecified federal constitutional right used by the court in *Roe*—or state equal rights amendments.

As the Supreme Court has grown increasingly conservative over the last decade or so, legal scholars have pointed to state constitutions as a possible source of more expansive protections. State courts are not bound by the Supreme Court in

interpreting their own constitutions, and are free to give a broader reading even to identically worded guarantees.

In recent years, state courts have used their own constitutions to go beyond the Supreme Court in offering protections in such areas as searches and seizures, free speech, education rights, and housing discrimination.

Because until recently the Supreme Court has generally been hostile to most restrictions on abortion, the involvement of state courts has largely been limited to cases involving public funding, following Supreme Court decisions

*How much leeway
the decision gives
states is unclear.*

upholding the denial of such funding even for medically necessary abortions.

The New Jersey Supreme Court, for example, in 1982 found that the cutoff of state Medicaid funds for medically necessary abortions violated the state constitution's equal protection clause. "Given the high priority accorded in this state to the rights of privacy and health, it is not neutral to fund services medically necessary for childbirth while refusing to fund medically necessary abortions," the court said.

The Supreme Judicial Court of Massachusetts in 1981 reached a similar conclusion under the state's due process guarantee, as did the California Supreme Court the same year, citing the state constitution's privacy clause.

In a 1986 case challenging an Illinois state agency's refusal to divulge records involving the use of public funds for abortions, the Illinois Supreme Court ruled that the state constitutional right of privacy protected the decision to have an abortion but permitted the release of the names of doctors performing them.

Lower courts in several other states, including Connecticut and Vermont, also cited state constitutions in abortion funding cases.

In a pending case involving a new Florida law governing minors' access to abortions, abortion-rights advocates are citing the state constitution's right to privacy provision as grounds for invalidating the law requiring parental or judicial approval.

State constitutional law, said Rachel Pine of the American Civil Liberties Union's Reproductive Freedom Project, is "in some ways unexplored territory" in the abortion context. "I think there will be carefully chosen and strategic attempts to test those waters."

But Pine cautioned that "it would be a mistake for the pro-choice movement to view state supreme courts as the salvation which the federal courts once were," she said. "To put forth the idea of a swift [state] judicial victory as the vaccine for *Webster et. al.* would make

the mistake that perhaps was made in the past, and I think we've learned a lesson, that no one will view the courts as the only place that the battle has to be waged."

Greenberger noted also that state constitutions, offer at best, only spotty protections that by definition will not apply nationwide. "If there is no strong constitutional protection then we are left as a country with the need to put a patchwork of protections in place that try to approximate as closely as we can a national constitutional right," she said. "That means an effort that looks at state constitutional protections when they apply, federal minimum standards [in possible congressional legislation], and state legislative solutions."

In addition, some state constitutions cut the other way. The Rhode Island Constitution specifically excludes finding a state constitutional right to abortion, and the Colorado Constitution prohibits the use of state funds for abortion.

Furthermore, some state courts, such as the Pennsylvania Supreme Court, have also found no state constitutional violations in the denial of public funding.

James Bopp, general counsel of the National Right to Life Committee, dismissed the idea that state constitutions could validly be interpreted to find a right to abortion, but he acknowledged that lawsuits making such claims are inevitable.

"It's really far-fetched to think that state constitutions really intended on creating an abortion right when every state in the United States restricted abortion much more than *Roe v. Wade* has," he said. "There will be court challenges in some of these states but they just don't have merit, except to the extent that they have pro-abortion judges who are willing to impose their own ideology on the state."

But Fein said that particularly in states that have explicit privacy provisions in their constitutions, "I think it's clear the state courts will feel much greater leeway to interpret [privacy provisions] in a way that would apply to abortion that the due process clause of the U.S. Constitution would not."

In any case, state courts are not likely to be instantly deluged by abortion cases.

"I don't see it to be a burgeoning area in the next six months or a year in quite the way it may be for the year after that," Pine said. "*Roe* has not quite gone over the brink yet and in reality neither [Justice Sandra Day] O'Connor nor [Chief Justice William H. Rehnquist] told us what the law's going to look like in the future. The answer to that question will determine exactly to what extent it becomes necessary to turn to state courts."

After a setback, the pro-life cause is gaining ground

A year ago, in the wake of a Supreme Court decision that induced mass outrage in the pro-abortion movement, politicians who had previously voted to restrict abortion were saying, "Hey, folks, I was only kidding."

Candidates for office abandoned old positions quicker than Eastern European Communists. Congress shifted perceptibly toward a more permissive attitude about abortion. Faced with the danger of a sharp reversal in public attitudes, the impulse among politicians was to retreat first and explain later.

But the predicted public reversal never came. The Supreme Court's Webster decision, which only modestly altered the legal status quo, had even less

Stephen Chapman

effect on popular opinion. And some of the members of Congress who ran for cover when storm clouds gathered have begun venturing outside again.

Groups favoring abortion on demand insist they represent the "pro-choice majority." In fact, Americans, who have always been somewhere between ambivalent and confused about abortion, are mostly in the muddled middle.

The latest Time/CNN poll found that 55 percent of those asked believe abortion should be banned in all circumstances or allowed only in such cases as rape, incest and danger to the mother's health. At the same time, 71 percent say the decision should be up to the pregnant woman and her doctor. You figure it out. And the results are essentially identical to those before the Webster verdict.

This sort of evidence isn't enough to make sunshine patriots into heroes, but it may reassure some wavering allies of the pro-life cause that they can vote against abortion without excessive risk. That's a good thing, because there are plenty of legislative battles to be fought.

The pro-life movement won an important one recently when the House refused to give family planning money to two organizations that promote abortion abroad, the International Planned Parenthood Federation and the United Nations Fund for Population Activities.

The circumstances should have helped the pro-choicers: The \$1.5 million wouldn't have gone for abortions, and the aid was designated for Romania, where contraception was banned along with abortion under the Ceausescu dictatorship.

But most House members understood that the bill was more dangerous than it looked. It was the first round of a fight over two pro-life policies established by President Reagan, upheld by Congress and reaffirmed by President Bush.

The first was providing foreign aid for family planning only through organizations that don't provide or promote abortion—excluding Planned Parenthood. The second was refusing to underwrite the UN agency as long as it supports the coercive population control activities of the Chinese government, which include forced abortions, sterilizations and even infanticide.

Americans who oppose abortion have had to tolerate its legal availability. But thanks to the Hyde Amendment, which bars federal Medicaid funds for abortion, they at least haven't had to help finance it in their own country. The issue behind the Romania vote was whether they ought to be forced to finance it in other countries.

Bush, who threatened a veto of this bill, takes the position that financing groups which provide and promote abortion is only slightly better than financing abortion itself. To make sure it doesn't subsidize the destruction of unborn children, the U.S. channels its family planning aid through groups that agree not to engage in such activities.

Planned Parenthood has refused to accept any constraints on its endangerment of fetuses. It apparently thinks the people of the Third World, if they can't have abortion, shouldn't have contraception either.

The United Nations Fund for Population Activities is worse still. It plays a substantial role in China's population control program, which the agency describes as "totally voluntary"—even though a Chinese woman's right to choose abortion doesn't always mean the right not to choose it. Try to imagine the House of Representatives considering funds for UNFPA if it were helping the South African government force abortions on black women.

Fortunately, the House refused to strike a blow for such policies. The National Right to Life Committee reports that 52 members who voted in favor of funding UNFPA last year voted against it this year, suggesting that abortion advocates are losing ground.

This is one skirmish in a war that could last for years or decades. But it's proof that the pro-life cause is more formidable than its enemies had hoped.

'Abortion Hype' Afflicted Media After Webster Case

L.A. TIMES: 07-04-90

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By DAVID SHAW
TIMES STAFF WRITER

101/191

Last summer, when the U.S. Supreme Court issued its controversial Webster abortion decision, the media responded with a barrage of apocalyptic stories predicting political and legislative revolution.

Even before the court ruling—

ABORTION AND THE MEDIA
Summary of four articles about how the press covers this emotional issue.

which ultimately gave states greater latitude in regulating abortion—the Boston Globe said in a Page 1 story that “a majority of states” would be expected to “ban abortion in all but extreme circumstances” if the court made such a ruling.

“No more than five states would retain the liberal guidelines” existing before the Webster decision, the Globe said.

The Globe was not alone in what Colleen O'Connor, director of public education for the American Civil Liberties Union, calls the media “hysteria” that accompanied the Webster decision.

Newsweek listed 19 states that were “likely to restrict abortion.” Columnist Charles Krauthammer said an “avalanche of state legislation will soon be coming” to the Supreme Court for review. Peter Jennings, on ABC’s “World News Tonight,” said, “There is no political campaign in the country this year in which abortion does not play a role.”

Media coverage of the political impact of abortion was so massive in the immediate aftermath of Webster that a suburban Washington firm created “The Abortion Report,” a daily, 10-page compendium of excerpts from news media reports on abortion and politics nationwide. Journalists and activists on both sides subscribed to the report.

Abortion has indeed been big news on the political front in the year since Webster. But the actual political impact of the decision has not been nearly as great as predicted.

Only one state—Pennsylvania—has enacted a new abortion law. One other—Louisiana—has passed an even stricter law, but the governor has threatened to veto it because it contains no exceptions for victims of rape or incest. Two other states have made far less sweeping modifications. Dozens of political campaigns have been conducted with abortion playing no role whatsoever.

“The media blew it,” O'Connor says. Abortion-rights activists cried “wolf,” and the media blew the house down.

Why?

Why was there a nationwide epidemic of what U.S. News & World Report has labeled “abortion hype” and “hyperbolic news coverage” after Webster?

One explanation is that most journalists support abortion rights,

according to Times interviews and two major studies, and they shared and parroted that movement’s fears that a “cataclysmic” disaster was at hand, as O'Connor puts it.

But most journalists deny this, and U.S. News had a different explanation: “Reporters and advocates . . . share a professional interest in spreading alarmist predictions. . . .”

In other words, the threat of sudden, drastic change on an emotionally volatile issue always makes a good story. It gets reporter adrenaline flowing. It gets television ratings. It sells newspapers and magazines.

That may help explain why abortion clinic blockades by Operation Rescue and shrill pronouncements by leaders on both sides are given heavier coverage than, say, new medical developments.

“Operation Rescue is a live news story,” says Martin Nolan, editor of the editorial page of the Boston Globe. “It beats hell out of what’s going on in some laboratory.”

But critics say the basic nature and limitations of the media and their sometimes sensational, often alarmist approach to abortion coverage has made certain shortcomings in abortion coverage inevitable.

Despite recent improvements, abortion coverage has generally been “very shallow . . . superficial,” says Frances Kissling, executive director of Catholics for a Free Choice. “There’s been very little investigative reporting . . . very little looking behind some of the statements . . . of either side . . . no attempt to give people the kind of information they need to make intelligent decisions.”

Karen Tumulty, who covered abortion for the Los Angeles Times for most of 1989, says the “real value that we have to add as the media is to give people the information they need to make up their own minds.”

Have the media done that on abortion?

“No.”

Perhaps the most obvious flaw in the media’s coverage of abortion has been the tendency to turn abortion into an almost exclusively political story, often to the virtual exclusion of its personal, moral, ethical, medical and even legal ramifications.

“We’ve gotten bogged down in reporting the political ups and downs of the sides, like we’ve gotten away from reporting the issues,” says Barbara Brotman, who has written extensively about abortion for the Chicago Tribune.

“With rare exceptions,” Brotman says, “we haven’t gone beyond the surface.”

Before the Webster decision, news organizations used medical, science and lifestyle writers to cover the different aspects of abortion. The medical and science writers in particular generally provided “more factual, better, more substantive coverage” than the political writers who have written and broadcast most of the abortion stories since Webster, says Kathy Bonk, co-director of the Communications Consortium, a Washington company that helps abortion-rights advocates plan media strategies.

“Political reporters . . . by and large don’t know how or don’t do a good job covering issues,” Bonk says. “They cover horse races . . . campaigns.”

The horse race and sports analogies are valid. Covering politics is like covering sports in that there’s always a final score, a winner and a loser, clear resolutions that are much easier to write about than such murky, unsettled questions as “When does life begin?” or “Whose rights shall prevail—the woman’s or the fetus’s?”

Besides, political coverage has traditionally been a top priority for most news organizations—a subject that the men who still run most of these organizations are comfortable with and interested in.

In fact, at many news organizations, abortion was long regarded as a “soft story—a women’s story,” and male editors routinely assigned it to women reporters, especially before the Webster decision.

Several high-ranking male news executives said in interviews for this story that abortion is still not an issue that greatly interests them. Paul Friedman, executive producer of ABC’s “World News Tonight,” said he was “stunned the way this intensely personal issue has taken over the public debate. . . .”

“I’m profoundly tired of the story,” Friedman said. “As a citizen, I just resent the fact that it is taking so much time and attention away from other issues that are so critical.”

Friedman insists that his “entirely personal” attitude “doesn’t affect how much we cover” abortion, though, and he says politics has dominated media coverage of abortion since Webster not because journalists are biased or sensationalist but because that’s “the basic new part of the argument.”

Many other media executives agree.

“The ethical debate, while intense, seems to me kind of frozen; most people have heard it,” says Joseph Lelyveld, managing editor of the New York Times.

That’s the unique challenge of covering abortion.

“It’s a more frustrating story than many others because it’s one to which it is very difficult to bring new ideas,” says Henry Muller, managing editor of Time magazine.

Because the abortion debate consists largely of two polarized, constantly repeated points of views, “I don’t find a whole lot in the media that’s very enlightening on this issue,” Muller says.

Time has tried to "find things that add to the discussion," Muller says, especially in a story by Garry Wills last year on Operation Rescue. Newsweek has done two cover stories on abortion, and network television has also tried a few long-form treatments of the subject—"48 Hours" on CBS, several "Nightline" programs on ABC and a panel discussion after a movie based on the Roe vs. Wade case on NBC.

But space and time limitations intrinsic to those media have largely prevented them from doing thoughtful stories on abortion with any regularity. Television, in particular, "tends to be superficial because of time constraints," says Douglas Johnson, legislative director for the National Right to Life Committee.

TV reporters are essentially "quote-shopping" when they do an interview, Johnson says.

Newspapers have often been guilty of superficiality, sensationalism and bias, too, but a few major papers gave individual reporters primary responsibility for abortion coverage last year in an effort to explore the broader issues involved in the abortion controversy.

David Shribman of the Wall Street Journal has spent about 40%

of his time as a political reporter doing abortion stories since the Webster decision, and he has managed to expand the relatively narrow confines of abortion and politics. He has written about the diversity within the anti-abortion movement; about grass-roots organizing efforts on both sides, and about the impact of the abortion controversy on the Catholic Church and the Republican and Democratic parties.

Shribman says it took him "at least a month and at least a hundred phone calls" to find the 17-year-old Massachusetts girl he used as the focal point for a story in November on parental consent.

"From a reporter's point of view, this [abortion] is a great issue to cover," he says. "Both sides are willing to talk endlessly . . . to be

quoted . . . to help a reporter . . . to be open."

Covering abortion forces a political reporter to speak with "people who are not professional politicians . . . normal people, not like the kind of people that you sit beside on the Bush White House plane," Shribman says.

"In a way, it's very refreshing," he says, because it's easier to avoid the "pack mentality" than on a campaign, when reporters, politicians and consultants all "stay in the same hotel, eat the same food, breathe the same air and pretty soon, you contaminate each other."

In trying to provide such refreshing coverage, to broaden and deepen coverage beyond the political arena, several other newspapers have made abortion, temporarily, a full-time beat, much as some papers did with AIDS a few years ago.

•At the Chicago Tribune, Barbara Brotman covered abortion from August, 1989, until mid-April this

year, determined to write about "the fundamental differences between the two sides that go beyond whether they believe life begins at conception. I felt there were fundamental differences in how they looked at the world that had to do with how they saw woman's role in the world, how they saw the role of God in their lives."

Brotman wrote an overview of "abortion in America," and also wrote about a home for unwed mothers; about feminists opposed to abortion; about post-abortion trauma; about women who have multiple abortions, and about individual women who "wrestled privately with the philosophical questions that inform the public debate" before having an abortion.

•At the Los Angeles Times, Karen Tumulty spent about half

her time covering abortion during the first six months of 1989, then spent full-time on the issue for the rest of the year.

Tumulty wrote about abortions in the later stages of pregnancy, about the ambivalence most Americans feel toward abortion and about the shortage of doctors willing to work in abortion clinics; she also profiled both Randall Terry, the head of Operation Rescue, and Kate Michelman, executive director of the National Abortion Rights Action League.

Tumulty didn't write as many major abortion stories as did reporters on the abortion beat at other papers, but other Times staffers have also written a number of such stories, among them one on the impact that criminalizing abortion would have on the adoption system and another on women who later regretted their abortions.

•At the Boston Globe, two reporters took on "Abortion: An American Divide" as a special project

for all of 1989, starting even before the Webster decision. Ethan Bronner, who covers the Supreme Court for the Globe, wrote about the developing legal story, and Eileen McNamara wrote about the personal and moral side.

McNamara went to Michigan to write about a 15-year-old rape victim and to Vermont to write about a company that was barring fertile women from skilled jobs involving high lead exposure; she wrote about a longtime abortionist and an early abortion crusader, about a family active in the fight against abortion and about why opposition to abortion is so strong in Louisiana.

McNamara says she tried to do "non-obvious" stories and stories away from the fringes, where too much of the abortion debate is being waged.

Abortion opponents argue, for example, that the current law "permits baby-killing right up to the moment of birth." But only one one-hundredth of 1% of all abortions—about 100 of the 1.6 million abortions done annually in the United States—occur after 24 weeks of pregnancy, according to the Alan Guttmacher Institute, a special affiliate of Planned Parenthood that does research on abortion and family planning.

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Similarly, much has been written and said about abortion advocates' charges that making abortion illegal again would mean a return to the time when "thousands" of women died every year from back-alley abortions. But the Centers for Disease Control says 39 women, not thousands, died from illegal abortions in 1972, the year before the U.S. Supreme Court legalized abortion with its Roe vs. Wade decision.

Because abortion was illegal, many deaths surely went unreported. No one knows how many.

The media pay a great deal of attention to such charges made by various advocacy groups on both sides, but "Neither NOW (the National Organization for Women) nor Operation Rescue reflect the feelings of the American public about abortion, in my opinion," McNamara says.

Thus, when she wrote about Operation Rescue, she focused on an ordinary family in the organization, rather than on Randall Terry, its founder.

Like the Globe, the Washington Post has largely divided its abortion coverage between two reporters, both of whom spent about half their time on abortion over the last year.

Dan Balz, a longtime political writer at the Post, covered the political impact of abortion until shifting to the White House beat this month, and—along with the Wall Street Journal's Shribman—he was widely praised by activists on both sides for his work on the abortion/politics beat. Balz will continue to write on abortion occasionally.

Cynthia Gorney, whose beat at the Post is called "family and society," has a special interest in the history of abortion in the United States, something most of the media ignore. Gorney, who is working on a book about abortion, has written about clergymen who formed an underground network to help women get abortions when they were illegal; about a woman who developed a "menstrual extraction" abortion kit in 1971; about the origins of the Webster case and the key figures in it, and about the controversy surrounding parental consent.

Even abortion opponents, who generally complain that the media are biased against them and superficial in their abortion coverage, think most of the work done by the various abortion specialists on these papers has been both fair and comprehensive.

Susan Carpenter-McMillan, media spokeswoman for the Right to Life League of Southern California, for example, calls Tumulty's Los Angeles Times Magazine story on abortions in the later stages of pregnancy "the most unbiased thing I've ever seen, the best thing the Los Angeles Times has ever done [on abortion]."

Nancy Myers, communications director for the National Right to Life Committee, offered similar, if somewhat less hyperbolic, praise for Gorney's Washington Post Magazine profile in April on John Willke, president of the National Right to Life Committee.

Reporters who frequently cover abortion come to know more about the subtleties and complexities of the subject and the sincerity of the people involved, which means "fairer coverage," Myers says.

Making abortion a special beat doesn't guarantee "fairer coverage," of course. Nor does everyone agree on what constitutes "fair" coverage. Ramona Ripston, executive director of the American Civil Liberties Union of Southern California, did not think Tumulty's story was fair, for example, because relatively few abortions are actually done in the later stages of pregnancy (a point the story makes clear).

But abortion is so broad a topic that no one or two reporters can cover the whole field, and even the best papers, with the best of intentions, have been criticized for bias, superficiality and sensationalism—charges that most editors and reporters deny. But a few papers also win wide praise for specific stories, even without special beat assignments.

The Miami Herald published a Sunday magazine story last fall on substandard conditions at many of the state's abortion clinics; the story led to a statewide investigation and the closure, at least temporarily, of four clinics.

The Milwaukee Journal published the entire, 21-page typewritten text of Archbishop Rembert Weakland's statement criticizing the tactics of many in the pro-life movement, then printed more than a half-page of letters on the statement; Editor Sig Gissler says some priests in Milwaukee publicly urged their parishioners to buy the Journal to read the archbishop's statement.

The Philadelphia Inquirer has given its readers some of the most aggressive and provocative abortion coverage in the country since the issue became a major controversy in Pennsylvania in the mid-1970s.

Abortion opponents in Pennsylvania have vigorously criticized the Inquirer, accusing it of bias, imbalance and "prejudicial" language. One anti-abortion activist—Ted Meehan, a member of the media committee for the Pennsylvania Pro-Life Coalition—sent the paper a 23-page critique of its coverage.

James Naughton, deputy managing editor of the paper, responded last week with a 15-page rebuttal. Half a dozen top editors previously met with anti-abortion representatives to discuss their charges.

Naughton concedes there is some validity to the criticism, "here and there," but both he and Executive Editor Eugene Roberts insist that the paper's coverage has been fair and balanced overall and that most of the criticism stems from the anti-abortionists' own subjective views and from their failure to understand the news-gathering process.

As far back as 1981, the Inquirer published a powerful account of the "hundreds of times a year in the United States [when] an aborted fetus emerges from the womb kicking and alive." The Inquirer has also published major stories on late-term abortions; on a municipal judge who "helped operate a network of abortion clinics in three states;" on the beliefs and motivations of various abortion protesters; on teen-agers involved in both sides of the abortion campaign; on the economic pressures put on companies by activists in the abortion debate, and on a doctor who performs abortions and who invited angry protesters to come into his office to counsel women seeking abortions.

The New York Times has also provided interesting, insightful abortion coverage at times, especially in recent months, without assigning a reporter to cover abortion full-time.

The New York Times has written major stories about doctors refusing to do abortions; about abortion protesters jailed in Vermont; about abortion and the Catholic Church; about abortion and politics in Iowa, Pennsylvania, Louisiana and Connecticut; about Operation Rescue, and about several abortion controversies in New York.

Twice in the past year, the New York Times has published Page 1 stories on centers established by abortion opponents to provide unwed mothers with baby clothes, career counseling, legal assistance and housing—"the pretty side of the right-to-life movement," as the director of one such center said in the paper's May 13 story.

Activists on both sides say media coverage has generally improved of late, but they still think critical issues go largely uncovered. Many reporters agree. The moral implications of the abortion debate, in particular, are generally ignored or treated superficially in newspapers.

Perhaps that's why the most thoughtful stories on the moral dilemma of abortion have generally been done by magazines, most notably by Jason DeParle last year in the Washington Monthly and by Mary Gordon last spring in The Atlantic.

Abortion opponents cite the possible economic impact of abortion as another area that the media—newspapers, magazines and television alike—have generally ignored. What would the state of the U.S. economy be today, they ask, if many of the more than 20 million fetuses aborted since the Supreme Court's 1973 Roe vs. Wade decision were now alive?

Michael Novak of the American Enterprise Institute in Washington says the media should write about the effect all these potential consumers and workers might ultimately have on the "looming labor shortage," the closure of some schools and the future of the Social Security system.

Because poor people have a disproportionately large number of abortions, one could also ask what the effect of legalization might be on the tax base, welfare rolls and various other social programs.

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And what, for that matter, is the psychological effect of legalized abortion on our society? Because liberals often argue that capital punishment contributes to a climate of violence and a cheapening of human life, conservatives would like to see the media examine whether abortion has had the same effect. After all, the United States—which has one of the highest abortion rates in the Western world—also has one of the highest murder rates in the Western world. Is there a connection?

The analogy may not be valid, the connection non-existent, but few in the media have even raised the question.

Nor have the media written much about the ramifications of new medical developments related to abortion and contraception, say Janny Scott and Robert Steinbrook, medical writers at the Los Angeles Times.

Although some abortion opponents argue that greater availability of contraception leads to more sexual activity, more unintended pregnancies and more abortions, studies strongly suggest just the opposite—that more effective, more accessible means of contraception would mean fewer unintended pregnancies and fewer abortions. Either way, contraception is—or should be—part of the abortion story.

But Scott says the problems of reproduction and contraception are "felt far more profoundly by women than men," and she wonders if this explains why such issues may be "given short shrift in papers where . . . the editors are primarily men."

Scott and Steinbrook are especially critical of their own paper in this regard, and they cite several

examples, among them coverage in February of a report issued by the National Research Council and the Institute of Medicine. That report said the United States now lags far behind many other countries in developing new methods of birth control, a lag resulting in many unwanted pregnancies and unnecessary abortions.

The New York Times and Washington Post put the story on Page

Peter Johnson of The Times' editorial library assisted with the research for this article.

1. The Los Angeles Times put it on Page 24.

Times editors deny that gender bias or insensitivity influenced the placement of this (or any) story. Norman C. Miller, national editor of The Times, says the story wound up on Page 24, in part because there were "other strong stories that day" and in part because international news generally precedes national news on the inside pages of the paper. (After Page 5, where a story appears in the main news section of The Times generally has less to do with the story's importance than with the configuration of available space on the pages.)

But international news also precedes national news in the New York Times, and both the New York Times and the Washington Post had "other strong stories that day," and both still put the contraception story on Page 1.

The basic problems of abortion coverage in the media go beyond one issue or one story or one newspaper, though. Despite recent improvements and a conscientious effort by most journalists, critics say coverage often remains biased and superficial, as previous stories in this series have documented.

Television "rakes off the emotional energy" on abortion, providing "the passions . . . lots of demonstrations, people yelling, very colorful sound bites," and the print media provide the political and legal arguments on both sides, says Robert Lichter, co-director of the Center for Media and Public Affairs in Washington, but "no one gives you context."

Critics often say much the same thing about media coverage of other important issues, just as they often accuse the media of bias on other issues. But abortion is an especially sensitive, complex and volatile issue, and just as some journalists do seem to have more trouble keeping their personal feelings from unfairly influencing their stories on abortion than on other issues, so coverage of abortion does seem more superficial and lacking in perspective than does coverage of other issues.

Perhaps that's inevitable.

"At base, abortion isn't about politics, and it isn't about the law," says reporter Eileen McNamara of the Boston Globe. "It's about philosophy and it's about morality and it's about your world view, and newspapers are ill-equipped to deal with those issues."

'Rally for Life' Coverage Sparks an Editor's Anger

L.A. TIMES: 07-03-90

By DAVID SHAW
TIMES STAFF WRITER

The Washington Post is "institutionally 'pro-choice,'" the Post's ombudsman, Richard Harwood, wrote in March. "Any reader of the paper's editorials and home-grown columnists is aware of that."

But "close textual analysis probably would reveal that, all things considered, our news coverage has favored the 'pro-choice' side," too, Harwood conceded.

Leonard Downie, managing editor of the Post, denies this. The Post, he says, has been "unusually conscious of trying to present both sides all the time" on abortion, and it has generally succeeded.

But a month after Harwood's column was published, the Post provided its many anti-abortion critics with a classic case study of

just what Harwood was talking about—a case so striking that no "close textual analysis" was needed, a case that made Downie himself angrily question his staff and wonder aloud "if we have our antennae raised as high" for the

ABORTION AND THE MEDIA

Third of four articles about how the press covers this emotional issue.

anti-abortion side of the argument as for the abortion-rights side.

The event that triggered Downie's anger was the Post's coverage of a massive "Rally for Life" April 28 at the Washington Monument. The rally, sponsored by the National Right to Life Committee, was intended as both a demonstration of the strength of

the anti-abortion movement and as a response to the enormously successful pro-abortion-rights rally in Washington in April, 1989.

Abortion protesters insisted that the Post (and other media) greatly understated the turnout for the rally, but such charges are common when the media cover virtually any political demonstration. Far more important, critics complained—and the Post conceded—the paper vastly underplayed the rally, "trivialized" it, as Harwood later wrote.

The rally was the lead story on the ABC, CBS and NBC evenings news programs that day, and it was at the top of Page 1 in the New York Times, Los Angeles Times, Boston Globe and several other major papers. The New York Times published three separate stories on the rally.

But the Post consigned the rally to its Metro section and covered it with just one, relatively short story—less than half the length of the primary New York Times story.

Rally sponsors were outraged. They have long accused the Post of being biased against their cause, and they seized on this coverage as proof they were right. After all, when abortion-rights forces rallied in Washington a year earlier, the Post gave it extraordinary coverage, beginning with five stories in the five days leading up to the event, including a 6,550-word cover story in the paper's magazine on the abortion battle the day of the event. The Post even published a map, showing the march route, road closings, parking, subway, lost and found and first-aid information.

The day after the abortion-rights march, the Post published five more stories covering the march, including one—accompanied by three pictures—that dominated Page 1. The march stories that day alone totaled more than 7,000 words and filled the equivalent of three full pages, including most of the front page of the paper's Style section.

There is no question that the 1989 abortion-rights march was a more newsworthy event than the 1990 "Rally for Life." The abortion-rights march was the first sizable demonstration of that movement's strength after years of dormancy and, more important, it took place less than three weeks before the U.S. Supreme Court was scheduled to begin consideration of the landmark Webster case. The Bush Administration was using that case to try to overturn *Roe vs. Wade*, the 1973 case in which the court legalized abortion. Against that backdrop, it was no surprise that the Post (and other major media) gave the march extensive coverage. (The court ultimately, one year ago today, narrowed *Roe* by granting individual states more latitude in regulating abortion.)

But no one gave the abortion-rights march as much coverage as did the Post, and when the Post gave this year's "Rally for Life" only a tiny fraction of that coverage—and not even a map beforehand—the fury of the anti-abortion movement was understandable.

At least one man at the Post shared the anti-abortionists' anger: Managing Editor Downie.

"I really took them [the paper's metropolitan editors] to the woodshed," he says.

Although political demonstra-

tions in Washington are routinely covered in the Post's Metro section, the editors should have realized that an event this big deserved more prominent play, Downie said. When he saw the story on the Saturday rally in the Sunday paper, he says, he was so upset he called the paper's Metro desk from home "to see what we could do to recoup."

Two reporters put together a story for the next day's paper on the political implications of the huge rally.

When Downie called in again, later that Sunday, and was told that story was not scheduled for Page 1 either, he insisted the page be redrawn to include it.

"We were embarrassed [by the first story] on Sunday," Downie says. "If some people see that [the second story] as a correction, so be it."

The next day, Monday, during a regularly scheduled meeting with 30 top editors at the paper, Downie inquired further about how the Post had erred in its original rally coverage.

"I said that when the abortion-rights people had their rally last April, we all got quite energized," he says. "We heard about it from our friends and colleagues."

But Post reporters and editors—like most journalists in other big-city news organizations—don't seem to have many friends or colleagues who oppose abortion. So they weren't aware of the magnitude of the "Rally for Life," even though various low-level people on the Metro desk had been alerted to it three times in the course of the week by Dan Balz, a national political reporter who spent about half his time in the past year writing about abortion and politics before transferring to the White House last month.

Downie says the event was never mentioned in any of three planning meetings that week, though, and Fred Barbash, deputy metropolitan editor in charge of coverage the day of the rally, says there were "a lot of other major local stories coming together . . . and I just didn't devote the appropriate amount of time to the . . . [rally] story."

Downie "questioned the people on Metro," and says he's convinced that personal feelings about abortion didn't influence their decisions on rally coverage.

"They were just tired of demonstrations," he says.

But a week earlier, the Post had mustered sufficient energy and resources to provide prodigious coverage of another demonstration—"Earth Day 1990"—starting

with a story and photo that filled more than a third of Page 1 and including four more stories, 11 more photos and an "Earth Day" concert review, all of which filled one full page and parts of five others, among them the top of the first page of the widely read Style section.

Six weeks later, the Post devoted 50% more space to an animal-rights march than it had to the "Rally for Life."

The Post's treatment of the "Rally for Life" was "embarrassing," the paper's ombudsman subsequently wrote, and Downie himself says, "I am concerned about whether we are paying enough attention to the other side of the [abortion] argument."

Downie includes himself in that criticism.

"People as high as me should have been aware of what was happening," he says.

The Post wasn't the only publication to give substantially less prominence to the "Rally for Life" than it had given to the abortion-rights march a year earlier, however.

The Chicago Tribune, which covered the abortion-rights rally on Page 1 (and followed up with a lengthy, well-displayed feature story several days later), published

only one short story, on Page 3, about the "Rally for Life."

"We made a mistake," says Jack Fuller, editor of the Tribune. "We underplayed the story."

Several smaller publications that gave prominent display to the 1989 abortion-rights march also played down the "Rally for Life."

Other newspapers, from Fresno to Bergen County, N.J., have demonstrated a comparable imbalance on other anti-abortion rallies in recent years, but editors at all these papers insist that it was not bias but inattention or poor news judgment under deadline pressure that explains their coverage.

When readers of the Bergen Record complained about inadequate coverage of an earlier "March for Life," Editor David Hall published an editor's note conceding, "Your complaints are justified." He went on to explain how the Record had determined its coverage of the event and insisted, "We strive for fairness and balance."

Editors say the same thing about their coverage of abortion and the political process, but abortion opponents have been even more critical of this coverage than of coverage of their demonstrations—and some journalists and abortion-rights supporters say their criticism is not without foundation.

"In a political context, the ground has shifted toward pro-choice," says Dan Balz of the Post, but both he and Hal Bruno, political director for ABC News, say that there is some justification for the complaint that the media have given more credit to abortion-rights victories at the polls than to anti-abortion victories.

Reporters try hard to be fair—and to keep their organization's overall coverage fair—Balz says, but, "There have been times when I have felt that pro-choice organizations have easier access, that their . . . spin gets somewhat greater credibility than the spin from the pro-life community and that it sometimes does affect the sensibilities of coverage."

Despite recent improvements in abortion coverage, Douglas Bailey says much the same thing.

"When pro-choice candidates win, it is perhaps more easily accepted than it should be that their pro-choice position was the reason, and when pro-life candidates win, perhaps it is more easily accepted [than it should be] that that was really irrelevant to the race," says Bailey, an abortion-rights supporter who publishes the nonpartisan "Abortion Report," a daily compendium of news on abortion and politics.

Bailey says it's "probably easier for the pro-choice side to get . . . press attention to specific elections . . . where pro-choice candidates have won" than it is for anti-abortion candidates.

The greater sophistication of many pro-choice organizations in their dealings with the press may help explain that, Bailey says. But he and others suggest that a subconscious bias—an unwitting double standard—may also be at play.

When attempts to enact laws regulating abortion failed to get out of committee in the Florida Legislature last October, for example, the media covered the story heavily. ABC and NBC made it the lead story on their evening news programs. The New York Times made it the lead story on Page 1. The Los

Angeles Times and Washington Post also put the story on Page 1. The Chicago Tribune put it on Page 2. Many other newspapers and the networks' morning news programs also gave the story big play.

But two weeks later, when the Pennsylvania Legislature enacted the strictest abortion law in the country, media attention was considerably more muted.

Both the New York Times and Los Angeles Times put it on Page 1—albeit less prominently than the Florida story—but the Washington Post relegated it to Page 7 (with a story less than half as long as its Florida story), the Chicago Tribune put it on Page 12 (with a story less than half as long as its Florida story), and many other newspapers gave it even less attention.

But the Florida/Pennsylvania disparity was most noticeable on television. NBC didn't cover it at all until the next day, when it was mentioned in a single sentence during a story on the failure of the U.S. House of Representatives to override President Bush's veto of Medicaid funding for abortion.

Tom Brokaw, anchor for the "NBC Nightly News," says Florida received so much attention because it was the first state to try to enact abortion laws after the Webster decision. There was doubt about whether any laws would be passed, and the media—having played up that suspense—"had to deal with the outcome," Brokaw says.

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In Pennsylvania, there was no doubt the law would pass, and the media said so in covering the story a week before the vote. That made the vote itself less newsworthy.

Still, Pennsylvania was a victory in a major urban state for opponents of abortion, and they think the disparity between the coverage they received and that given to their defeat in Florida was unfair.

ABC's Bruno agrees.

Pennsylvania provided a second political battleground for abortion last month, and abortion opponents thought media coverage of that was unfair too.

Pennsylvania Gov. Robert Casey, who signed the state's new abortion law, won the Democratic nomination; state Auditor Barbara Hafer, an advocate of abortion rights, won the Republican nomination. Both ran against candidates who opposed their views—Casey against Philip Berg, Hafer against Margeurite (Peg) Lusek.

"Both Berg and Lusek were running underfunded, single-issue, protest campaigns," says Nancy Myers, director of communications for the National Right to Life Committee. "Berg, the pro-abortion candidate, got only 23% of the vote. Peg, the pro-life candidate, got 46%. But most of the major media basically ignored Peg and how well we did."

Myers is right.

Casey, as the incumbent, was expected to win easily but not necessarily overwhelmingly. The Chicago Tribune said two days before the election that Casey's margin of victory "may be narrow," and the Philadelphia Inquirer said estimates that Berg would receive "only 25%" of the vote "may underestimate the number of Democrats who favor abortion rights."

But when Casey won his smashing victory, no major paper except the Inquirer, for which it was big local news, put the story on Page 1; it was on Page 14 of the Los

Angeles Times and Page 25 of the New York Times. Only the Washington Post noted the "significant embarrassment" Hafer suffered and said abortion-rights advocates "lost badly" in the election.

Nor did the national press pay much attention to the victory of several abortion opponents in the state's legislative races, not even that of Stephen Freind, author of Pennsylvania's new abortion law and one of nine politicians in the nation specially targeted for defeat by the National Abortion Rights Action League (NARAL).

What infuriates abortion opponents about this coverage is that, since the Webster decision, the national media have covered heavily several elections in which candidates supporting abortion rights won, among them James J. Florio in the gubernatorial race in New Jersey; Don Avenson in the Democratic gubernatorial primary in Iowa; Rosemary Mulligan in the House of Representatives in Illinois, and, in California, Lucy Killea in the state Senate and Tricia Hunter in the state Assembly.

All these candidates defeated anti-abortion opponents, and in all cases, the media said abortion played a major role, generally the dominant role in the race.

The media said much the same thing when L. Douglas Wilder won the governorship of Virginia in November, although abortion opponents, who backed loser J. Marshall Coleman, insist that if Coleman, a white, had beaten Wilder, a black, the victory would have been attributed to race, not abortion.

Many journalists scoff at this charge, but that's exactly what happened 10 weeks earlier in a congressional race in Florida between Republican Ileana Ros-Lehtinen, an opponent of abortion, and Democrat Gerald Richman, an abortion-rights supporter.

Nine days before the election, the Miami Herald said in an editorial that the single issue of abortion could "swing the election." The day before the election, Tom Fiedler, the Herald's political editor, said the race "provides one of the first tests of the so-called pro-choice electorate."

But when Ros-Lehtinen won and abortion opponents hailed her victory as proof of the political strength of their movement, Fiedler pronounced the claim "poppycock." Several other issues determined the race, he wrote, among them "ethnicity." Other media agreed. Ros-Lehtinen, a Cuban-American running in a district with a heavy Cuban and other Hispanic population, won because of "ethnic rivalry," not abortion, the Los Angeles Times said.

Abortion opponents say many other anti-abortion candidates have also defeated abortion-rights supporters, and the national media have either ignored or played down the stories or minimized the role of abortion in the race. Among these races were a gubernatorial race in Nebraska, congressional races in Florida, Kentucky, Mississippi and Texas and legislative races in 10 states, including California.

Last month, the day after the primaries, the New York Times did publish a story, under the headline "Each Side Cites Primaries as Evidence of Strength on the Abortion Issue," that gave both sides an opportunity to proclaim victory. But it wasn't until three weeks later that the Los Angeles Times published a story—under the headline "Backing of Abortion Rights No Guarantee of Victory at Polls"—pointing out that anti-abortion candidates won seven of eight California state legislative races in which abortion was "a prominent issue." Most other media ignored that story altogether.

As the Christian Science Monitor noted in May, when abortion-rights candidates won at the polls, their "positions on abortion were widely touted. But anti-abortion forces have scored several successes in smaller races where far less money was spent and where, perhaps, the abortion issue was not so widely covered."

But because there were complicating factors in many of the races, it's difficult to evaluate the validity of the charge by abortion opponents that media bias is solely

responsible for their victories not having been "widely covered."

Ethnicity probably was the dominant factor in Florida, for example, and abortion rights candidates have generally won the high-profile races—governorships, rather than state legislative seats. Moreover, in several other races, neither candidate really made abortion a major issue, and in virtually every race, the losing side—abortion opponents and abortion-rights advocates alike—immediately announced they hadn't really campaigned much in that particular campaign, so abortion wasn't the crucial issue after all.

Even when abortion was a major issue—as in Killea's upset victory in San Diego—the candidate's support for abortion-rights itself may not have been the determining factor; when Roman Catholic Bishop Leo T. Maher barred Killea from receiving Communion three weeks before the election because of her pro-abortion-rights campaign stance, he made her a "national cause celebre" and created widespread voter "backlash," as the Los Angeles Times pointed out. Nevertheless, there were several

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races in which the media minimized the success of candidates opposed to abortion. And there were races in which the media said an abortion-rights advocate's victory showed the political strength of that movement when, in fact, most of the votes in the race actually went to anti-abortion candidates.

That was the case in Republican Tricia Hunter's narrow victory in a special Assembly primary in San Diego last summer.

Hunter was an outspoken advocate of abortion rights, and the national media tried to make

Peter Johnson of The Times' editorial library assisted with the research for this article.

her race "a referendum on abortion," as the San Diego Union noted.

USA Today's headline on Hunter's victory was: "Californian's Win May Be Bellwether."

But Hunter actually received only 30% of the vote; the other 70% was divided among five anti-abortion candidates, one of whom

finished fewer than 200 votes behind her, with only 20% of the registered voters going to the polls. The Washington Post was one of the few major news organizations to note all these mitigating factors.

Last month, when Hunter narrowly won renomination over an underfinanced opponent active in the anti-abortion movement, the national media largely ignored the story.

Moreover, in other races over the last year, the media often said candidates won because of their abortion-rights advocacy when, in fact, the losing candidates had waffled, temporized and flip-flopped so much on abortion that their losses may have been attributable more to their inconsistency than to their opposition to abortion.

In the New Jersey gubernatorial race, for example, it can be argued that Rep. Jim Courter lost to James J. Florio not because voters preferred Florio's abortion-rights position but because Courter backed off his own longstanding opposition to abortion (and because he was "out of touch with the voters on . . . basic state issues," in the words of David Hall, editor of the Bergen Record).

So many anti-abortion candidates changed or modified their position that the media began ridiculing them.

Newsweek labeled the syndrome "abortion contortions." The Chicago Tribune, in an editorial, said, "Call it the 'Candidate's Copout.' Or the 'Strategic Straddle.' Or the 'Ambitions Ambiguity.' Or maybe the 'Wimp Wriggle.'" Newsday columnist B.D. Colen said the "'moral' commitment of many politicians to the anti-abortion movement proved to be about as real as their 'moral' commitment to most issues. Nonexistent."

Candidates don't usually change positions on an issue like abortion unless they're afraid that if they don't, they'll lose. Given the high-profile electoral victories of many abortion-rights advocates and the defeat of proposed new abortion laws in the overwhelming majority of state legislatures, it's not surprising that fear of failure made abortion flip-flops the new national political sport. And the flip-flops all went one way—abortion opponents switching to abortion rights.

The question is whether the media artificially and unfairly stimulated the flip-flops.

"The abortion-rights movement has gained extraordinary political momentum recently," the Boston Globe said last October, and—until much more recently—the general impression given by the media has clearly been that candidates who oppose abortion are likely to lose on Election Day.

Next: Hype and superficiality—and a few good stories.

President Praises Ruling, Urges Stronger Action

'Roe v. Wade ... Should Be Reversed'

By David Hoffman
Washington Post Staff Writer

KENNEBUNKPORT, Maine, July 3—In a written statement, President Bush today praised the Supreme Court decision upholding Missouri restrictions on abortion, and he called for still further action "to restore to the people the ability to protect the unborn."

"We continue to believe that *Roe v. Wade* was incorrectly decided and should be reversed," Bush said in the statement issued to reporters here several hours after the court ruled.

Noting the divisive nature of the abortion debate and the "strong feelings" it has stirred, Bush called on Americans on both sides of the issue to "express their deeply held convictions on this subject within the bounds of civility and our legal institutions."

White House chief of staff John H. Sununu said Bush would continue to support a constitutional amendment to outlaw abortion except in cases of rape, incest and danger to the mother's life.

Sununu noted that further erosion of the *Roe v. Wade* decision that legalized abortion could come in future court decisions next term. "Whether it's done incrementally or whether it's done [in] one fell swoop with a constitutional amendment, the basic thrust of the *Roe v. Wade* decision ought to be reversed," he said. "He [Bush] is pleased with any step, including this one, that moves in the right direction."

"This decision made it clear that the states have some rights in limiting the easy access to abortion and made it clear that those rights within the states were well-framed in the Missouri law," Sununu said.

Bush, who last week announced with much fanfare his support for a constitutional amendment to outlaw flag desecration, was more reserved today on the divisive abortion issue.

He did not personally deliver the statement responding to the court decision. Later, reporters questioned him at the first hole of the Cape Arundel Golf Club here as he was preparing to play with his younger brother, William "Bucky" Bush, and golf pro Doug Sanders.

Clenching a yellow golf tee in his mouth, Bush was asked about the court decision and said, "We're going to have a statement in a few minutes." Asked if he would talk about the decision, he said, "Not when I'm doing this," as he practiced his golf swing.

"We're just going to go about our business of recreating," he said.

Asked if he had strong feelings about the decision, he said, "My statement will express very strong feelings. My position is very well-known, and now I'd like to concentrate on something else."

A final question brought a testy rebuke, "You know the ground rules."

Abortion has long been a difficult personal issue for Bush, and he has

shifted his position several times during his political career. Most recently, he has said he opposes abortion except in cases of rape, incest and danger to the mother's life and he would favor a constitutional amendment to outlaw abortion.

Sununu, the former New Hampshire governor, said Bush would not lobby the states for new restrictive antiabortion laws.

Sununu said Bush's highest priorities for amending the constitution are the flag and antiabortion amendments, followed by the balanced budget and line-item veto. He said he was unsure if Bush supports a school prayer amendment to the constitution. Bush will not be trying to draft his own constitutional amendment on abortion but will leave it to Congress, Sununu added.

Bush has built a career out of conciliation, and, unlike President Reagan, has avoided emotional social issues, such as abortion, when possible.

55% Oppose High Court On Abortion, Poll Finds

193/101/127

By Andrew Kohut and Larry Hugick
Gallup Organization

PRINCETON, N.J., July 11—A majority of Americans oppose last week's Supreme Court decision allowing states to restrict abortions, but most also favor some new restrictions on abortion, according to a Gallup poll released today.

The poll found that 55 percent of those interviewed said they disapproved of the decision, 37 percent approved and 8 percent said they were not sure.

The survey found that disapproval of the court's decision in *Webster v. Reproductive Health Services* came mostly from Americans who support liberal abortion policies. But the poll also reported that 29 percent of those who favored overturning *Roe v. Wade*, the 1973 decision allowing unrestricted access to abortion during the first three months of pregnancy, also disapproved of the court's most recent abortion ruling.

Men and women expressed generally similar views on last week's ruling. A larger proportion of women, however, said that a candidate's position on abortion now will play more of a role in their voting decisions than it did before the court's recent action.

Both men and women supported some new restrictions on abortion at the state level. The kinds of restrictions upheld by the Supreme Court in its decision in the Missouri case, however, were supported by only slim majorities.

Requiring that parents be notified when a woman under 18 is seeking an abortion won the approval of 67 percent of the public. A Newsweek Poll completed last week also showed 61 percent favored banning publicly funded abortions.

These kinds of restrictions were not at issue in the recent Missouri case. One type of restriction that applies to the Missouri case, a ban on abortions in public hospitals, was supported by 54 percent. A similar level of public support, 52 percent, was found for state-mandated fetal viability tests beginning at the fifth month of pregnancy, another component of Missouri law.

Looking ahead to a case the Supreme Court will consider next fall, the poll showed that 59 percent of Americans oppose the general idea of passing laws to make it more difficult for abortion clinics to operate.

Politically, the issue clearly helps Republicans with Southerners and evangelical Protestants, two groups who tend to oppose legal abortions.

Yet more than a third of all Republicans surveyed opposed any change in the legal status of abortion, including the Supreme Court's latest ruling. Forty-six percent of Democrats polled expressed both opposition to the court's action in the Missouri case and support for *Roe*.

The survey of 1,253 people over 18 years old was conducted by telephone last week. Margin of error for the overall results is plus or minus 3 percentage points.

Thornburgh: Court heads toward overruling of Roe

By Chris Harvey
THE WASHINGTON TIMES

120/10/127
Attorney General Dick Thornburgh predicted this weekend that future Supreme Court actions will "have the effect of overruling" the landmark Roe vs. Wade decision legalizing abortions.

"The direction in which the court is going is one that indicates that there'll be more and more authority vested in the states," Mr. Thornburgh said on CNN's Evans and Novak show Saturday. He noted the court will review three new abortion cases this fall, enabling it to further chip away at abortion rights granted under the 1973 decision.

Rep. Pat Schroeder, meanwhile, said she has asked legal scholars to look at the possibility of drafting a statute reinstating rights lost because of last week's Supreme Court decision. The ruling gave the states broader power to restrict abortions, particularly those that are taxpayer-

financed.

Speaking on ABC's "This Week," the Colorado Democrat said she would like to draft a constitutional amendment to ensure a woman's right to have an abortion, but there aren't enough votes to support that. A constitutional amendment requires a two-thirds vote by the House and Senate and ratification by 38 states.

Both sides on the abortion issue pledged to take the fight to the states.

Kate Michelman, executive director of the National Abortion Rights Action League, said Florida Gov. Bob Martinez is being targeted by pro-choicers for defeat. Mr. Martinez, who opposes abortion, is preparing to call a special session of the legislature this fall to consider anti-abortion bills.

"He will not get away with ending a woman's right to choose," Ms. Michelman said on ABC. "We will be there.

"We may have lost faith in the five justices . . . but we have not lost faith in the voters."

Mr. Martinez, a Republican, said he hoped a compromise could be reached in Florida, permitting abortions in cases of rape, incest and when the mother's life is endangered.

Susan Smith, associate legislative director of the National Right to Life Committee, said pro-choice politicians such as Vermont Gov. Madeleine Kunin are being targeted for defeat by her group.

"We're going to have a strong, grass-roots organization," she said yesterday on ABC. People "who for many years felt they had nothing to do with the process" are now getting involved, she said.

The Louisiana House of Representatives on Thursday passed a resolution asking prosecutors to enforce pre-1973 abortion laws that the prosecutors consider constitutional. The Senate rewrote the resolution

Friday, calling for enforcement of a more recent law similar to the Missouri law upheld by the Supreme Court, forbidding use of state money, workers or facilities for abortions.

A federal court ordered Louisiana in 1976 not to enforce its law banning abortions, which carried a penalty of up to 10 years in prison. However, it never was ruled unconstitutional, said John S. Baker Jr., a professor at Louisiana State University Law Center.

Mr. Baker said the federal court may soon be asked to reconsider the state's abortion-banning case.

• This article is based in part on wire service reports.

A plea for reason in abortion debate

By CLAUDE LEWIS 167

Last week's Supreme Court decision on abortion raised many more questions than it answered. If anything about the 5-4 edict is clear, it is that the state legislatures of America will play an increasing role in determining whether millions of women will have the ultimate control over their reproductive organs.

I believe the very last thing most pro-choice people think of is the fetus. If they consider it at all, it usually is in some abstract way, a way that makes most of their views dangerous.

On the other side, the very last thing anti-abortion advocates generally weigh is the right to privacy and the historical and current subjugation of women in America. Somewhere between the two positions is a common ground that should be acknowledged and cultivated.

As those who regularly read this column, or hear my views on public platforms know, I am on the side of the anti-abortion group. But I am not in concert with those who use or support terrorism in the battle to "rescue" fetuses. I am hopeful that a greater effect of the court decision may ultimately be that women — and the men who impregnate them — turn to some degree of rational thought and responsible behavior.

I am elated that the court has raised the possibility that abortion on demand in America may one day be substantially diminished. I am hopeful that casual abortion's indelible stain on the American personality may ultimately be removed. And how can legal abortions in excess of a million a year be referred to as anything but casual, pathetic and a crime against humanity?

For nearly two decades I have written and spoken publicly against the capricious reliance on abortion to rectify what most often is a lapse in moral responsibility by males and females who engage in unsafe sex. My definition of unsafe sex is the total disregard of the consequences of irresponsible sexual conduct. Are there exceptions that would permit abortions? Yes, but they are few and uncommon.

It is worth reiterating, however, that every time some group or individual employs violence against their "opponents" in an effort to protect the unborn, I am moved a half-step closer to the opposing view. I am unwilling to trade the violence against the unborn for violence against those already here.

If they haven't learned it already, Americans are going to discover how appallingly mean, frightening and tyrannical they and their neighbors can be. Many are choosing up sides now; the battles are going to be as irascible as they are relentless. Rhetoric concerning the "viability" of the fetus, undesired pregnancies, poverty, rape, incest and more, are going to fill the air and tear

this nation apart.

What should not be forgotten throughout the ensuing battles is that we are not speaking here about the Olympics or some other sporting event. As trite as it may sound, the issue is not simply about winning. It is also about how we conduct our disagreement. While we are choosing up sides, it must be remembered we're discussing life, responsibility, basic rights and personal freedom in the freest nation in human history.

Whatever action is taken by a legislature or a court, the question will persist as to whether the unborn have any rights that those who are already here are bound to respect. They do and on this aspect of this dreadfully complex question I do not equivocate. How we regard the unborn goes to the heart of who we are as a people.

Abortion should never be used as a birth control stratagem. The best birth control, in my view, is self-control. I have never held such contempt for Americans as to believe our nation is capable of responding to pregnancy only after the fact. Though some may be illiterate, most are aware of how not to become pregnant, and those unaware can be tutored if one-tenth the energy of battling over abortion rights is redirected toward education and responsibility.

Amid the intense anger and accusations, I hear few voices calling for a "time out," so we may mitigate our harshness on the issue. No matter how strongly one feels, one must never lose sight of the possibility of being wrong. No one is ever more potentially mistaken than he who is absolutely convinced of the perfection of his position.

Though I have many times been accused of holding "Roman Catholic views" on the issue of abortion, I reject that for several reasons. I am not Catholic, nor do I believe on this issue that there is homogeneous thought among that group. I hope the Catholic community will forgive me for suggesting that it is nearly as fractured and confused concerning abortion as everyone else.

Many have pleaded with me to write more often on the subject. It has been difficult to resist them. But I prefer not to join the us-against-them mentality.

Since the court's recent decision, I fear nearly as much for those Americans already mapping plans to take the issue to the streets as I do for the unborn. As temperatures escalate — and they will — the nation will be further splintered by the imbalance of greater heat than light. We have almost no chance of achieving accord in an atmosphere shaped by excessive anger and violence.

Americans can and must do better or the unborn, over whom we battle, may indeed be better off not being born into the likes of us.

Claude Lewis' column appears Mondays and Wednesdays.

Missouri After the Abortion Ruling: Both Sides Form Their Battle Lines

By ISABEL WILKERSON

Special to The New York Times

ST. LOUIS, July 7 — Abortion has become only a little harder to obtain in Missouri in the days since the Supreme Court upheld a state law restricting it, but many expect an intense social and political confrontation between those who want to preserve the right to abortion and those who want to ban it almost entirely.

For now, Missouri law forbids abortions at publicly financed medical units, a provision that, as of Monday's Supreme Court decision, ended abortions at two of the 12 centers in the state that have performed them.

The 5-to-4 ruling upheld a 1986 Missouri law barring public employees from taking part in abortions not necessary to save the life of the mother and barring the use of public buildings for any abortions.

The two hospitals where abortions just ended, Truman Medical Center in Kansas City and University Hospital in Columbia, accounted for a small fraction of the 17,000 abortions performed annually in the state, but they were believed to be the only facilities outside of St. Louis where Missouri women could get abortions after the 12th week of pregnancy.

Political Firestorm Expected

The ban at Truman Medical Center and University Hospital is expected to most severely affect poor women, who are often unable to get the money for an abortion until later in their pregnancies and who might not be able to travel to private centers in St. Louis.

Most public hospitals in Missouri stopped doing abortions in recent years as Medicaid public funding became unavailable. Truman and University continued to perform the operations, pending the appeal of the 1986 law, for women who could pay for them.

Monday's ruling has set off what many expect will be a political firestorm in the capital, Jefferson City. Only hours after the Court's decision was announced, Gov. John Ashcroft said he would set up a task force to consider ways to prohibit abortion in nearly all instances.

By Thursday, busloads of abortion rights supporters rallied at the state capitol, saying they will organize themselves district by district to defeat any such legislation and to elect politicians who support abortion rights.

Both sides are gearing up for a fight expected when anti-abortion legislators seek further restrictions, either at a special session in the fall or during the regular session starting in January 1990. Governor Ashcroft has not said if he will call a special session.

'Window of Opportunity'

"We have a few short months, a small window of opportunity," said Mary Bryant, spokeswoman for Planned Parenthood in Missouri and coordinator of a coalition of abortion-

rights organizations. "We're telling our legislators, 'If you come out pro-choice, which we know you are in your heart, we'll support you.'"

For anti-abortion groups, who through their discipline and organization wield tremendous power in the state capitol, the goal is simple. "We want to ban the majority of abortions throughout all nine months of pregnancy," said Samuel Lee, chief lobbyist for Missouri Citizens for Life, who helped draft the 1986 law. "The question is, how far and how quickly do we go right now?"

The Missouri law upheld by the Court declares that life begins at conception. It requires a doctor to test a fetus 20 weeks or older for viability. The decision paves the way for even further restrictions, opponents of abortion say.

A Weekend of Nightmares

Since the ruling, hundreds of women, many frightened and uncertain about what the ruling meant for them, have tied up telephone lines at abortion clinics and headquarters of women's advocacy groups throughout Missouri. Many said they worried that, because of the Court's ruling, they might have to bear children they could not afford or did not want.

"All weekend, I watched the news and had nightmares of me nine months pregnant," a 19-year-old nursing student in St. Louis who spoke on condition of anonymity said as she sat in an abortion clinic. "My whole life went before my eyes. People have no idea what is like to be poor, in school, sitting with the calendar on your lap."

Not yet affected by the Supreme Court ruling is the key target of Missouri abortion foes: Reproductive Health Services, a private, nonprofit clinic operating out of the second floor of a nondescript brick building in west central St. Louis. The clinic performs 8,500 abortions a year, about half of all abortions in the state. It was the lead plaintiff in the unsuccessful challenge to the 1986 law.

The clinic, which reduces fees for women with low incomes, is one of the few in the Middle West that performs abortions in the second trimester.

Across the Border

Reproductive Health Services is planning for the future. It is setting up its own adoption agency as an alternative for its clients. And B. J. Isaacson-Jones, its director, is preparing to repeat on a larger scale what she used to do for pregnant friends seeking abortions before they were legal in Missouri. She used to take them across the border to Kansas, where abortion is more readily obtainable.

"We'll be here no matter what happens in this state," Ms. Isaacson-Jones said. "We'll have a network to get women out of state to qualified providers of legalized abortion."

Opponents of abortion have picketed the clinic, the state's first and largest,

since it opened 16 years ago, right after the Supreme Court's *Roe v. Wade* ruling that established the right to abortion.

With Monday's decision behind them, anti-abortion groups say they plan to shut down Reproductive Health Services. "We want to shut down the abortion industry in this state," said Loretto Wagner, Federal legislative chairman and past president of the Missouri Citizens for Life, which has 50,000 members in 84 chapters.

Endorsements Are Coveted

The convictions of people like Mrs. Wagner have vast political impact in Missouri, where anti-abortion groups are like ready-made armies of campaign workers for politicians who agree with them.

Their endorsements are among the most coveted during election seasons. Most of the Missouri Legislature, Congressional delegation and nearly all statewide officeholders are against abortion. Telephone calls for the abortion opponents' chief lobbyist are taken directly by the office of the senior Democratic state senator, John Schneider.

The 1986 law on which the Court ruled Monday had been passed 119 to 36 in the Missouri House and 23 to 5 in the Senate. Now, under the leadership of the Governor, abortion opponents are seeking even tighter restrictions.

Seeking Narrow Definitions

Andrew F. Puzder, a St. Louis attorney who as counsel to Missouri Citizens for Life helped write the 1986 law, said the only possible exceptions would be "to save the life of the mother and, perhaps if forced on us, in rape and incest cases." Both opponents and supporters of abortion say those exceptions account for a tiny percentage of all abortions. Under the new law they seek, abortion opponents say, even those exceptions would have to more strictly defined.

"Threat to the health of the mother" would mean only the rare cases where there would be severe, long-lasting debilitation if the pregnancy continued," Mr. Lee said. "Not just, 'I'm pregnant and I get headaches.'"

All of this poses a tough challenge to abortion rights advocates who are still reeling from Monday's decision. "The reality of it knocked the wind out of you," said Laura Cohen, spokeswoman for the Missouri affiliate of the National Abortion Rights Action League.

Supporters of abortion rights, acknowledging that they are outnumbered and outfinanced by anti-abortion groups, maintain that they represent a previously apathetic majority. A coalition of abortion rights groups gathered 18,000 signatures and presented them to legislators on Thursday. "The message is, we won't go back," Ms. Bryant said at a rally at the capitol that day.

Their strategy rests on lobbying legislators who they say may have voted for the restrictive laws for political reasons and may have second thoughts now that these laws have become reality. "Those were throwaway votes that everyone knew would not immediately be law," Ms. Cohen said. "Now they're faced with the reality of what they're doing, and they have to look women right in the eye."

Abortion rights groups are hoping to get support from young urban professionals who have grown up taking the right to abortion for granted. "Yuppies aren't ready for this," Ms. Cohen said. "They don't expect the Government to tell them what to do. They have the money to fly to New York, but the very idea of it is offensive to them."

On Abortion, Can Democracy Do the Right Thing?

101/21
By E. J. DIONNE Jr.

PRIOR to nearly all other political questions is one that rang out around the country last week after the Supreme Court's decision in the Missouri abortion case: Who decides?

The question has become a slogan of the abortion rights movement. But it is in fact the central issue in a series of battles that have divided the nation for decades, over abortion and civil rights, capital punishment and pornography. All had to do with the balance of powers between the Federal Government and the states, the judiciary and the legislatures.

The abortion decision provided no definitive answer, but it did give a sense of what the Rehnquist Court believes. It believes that on many issues, the state legislatures should decide.

By choosing not to overturn the Roe v. Wade decision, which legalized abortion, the Court still left it to the individual woman to decide whether she will have an abortion or not. But the 5-to-4 majority expanded the power of the states to impose conditions on how, when and where abortions are performed.

The abortion rights movement fears that some legislatures will make those conditions so onerous that the right to an abortion will cease to be a right at all. That is exactly what the anti-abortion move-

ment, which does not think there is such a thing as the right to an abortion, is hoping for.

For most Americans, the abortion issue is primarily about profound moral questions, but much of the legal battle has centered on constitutional rights and politics.

Is abortion one of those moral issues that should be fought out in the political arena, subject to both the whims and the disciplines of the democratic process? Is it a question on which the individual rules or the majority rules? And will state legislatures fairly reflect the wishes of the majority — if they can figure out what the majority is on an issue where so many are so ambivalent?

Trades and Promises

For many Americans, state legislatures are strange places noted for the arcane arts of backroom dealing and improbable compromises: This Assemblyman gets a bridge in his district in exchange for the day-care center in a Senator's constituency across the state.

The abortion issue doesn't work that way. "There's almost no flexibility," said Lowell Junkins, former majority leader of the Iowa State Senate and a Democrat. "What makes this such a very difficult debate is that whoever is pushing for a change will put everything on the table."

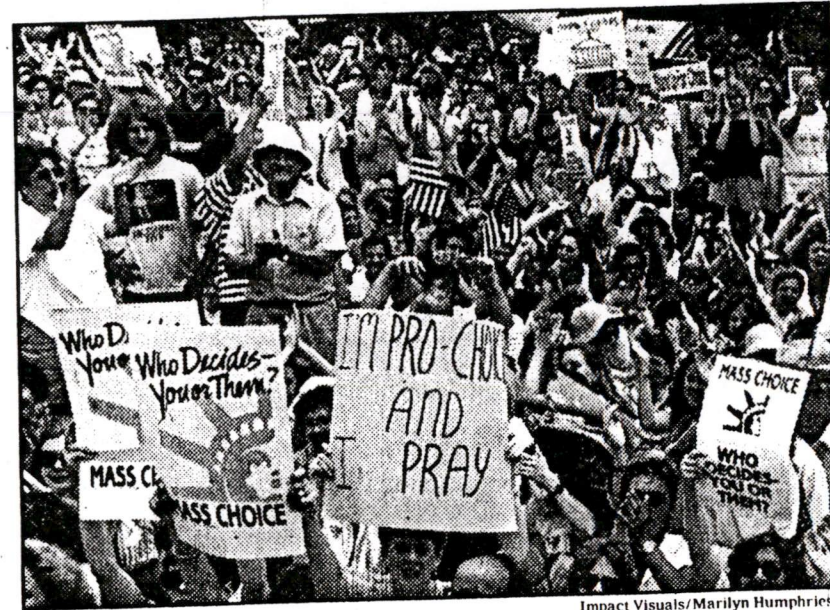
The same could be said of other sensitive issues involving individual rights that the Supreme Court has

Some hard questions lie in wait for the legislatures.

returned to the legislatures. By ruling that states may extend the death penalty to 16- and 17-year-olds and retarded people, for example, the Court may be forcing the question upon legislatures that never even took it up.

In theory, legislators can fashion compromises on anything, even abortion, and some have tried. David Prosser, the Republican Minority Leader of the Wisconsin Assembly, thinks it is reasonable to require minors seeking abortions to get their parents' consent. But he has opposed prohibiting public hospitals from performing abortions.

What looks like Solomonian wisdom to legislators like Mr. Prosser, however, is usually dismissed as fence-straddling by partisans on both sides. State Representative Steve Freind of Pennsylvania, a Republican who leads the anti-abortion forces in Harrisburg, said most legislators either support all the restrictions they can possibly place on abortions or want none at all. On this issue, he said, "you are where you



Abortion rights advocates demonstrating outside the Statehouse in Boston last week in response to the Supreme Court decision.

are where you are where you are."

For those who do not expect much wisdom from their legislatures, debates on abortion can be surprising. "It is as good a debate as you're going to hear on any issue," said Mr. Junkins. "People have thought about this a lot and they speak from the heart. They're eloquent. The irony is that nobody hearing the debate is going to change their minds."

For advocates of abortion rights,

that irony is not the only problem with having legislatures decide the issue. "Virtually all the power in legislatures is held by men who will never be affected by the restrictions they impose," said Walter Dellinger, professor of law at Duke University.

Moreover, he said, "there's an assumption that a legislative compromise will be a moderate, appropriate compromise, which ignores the fact that for a woman facing a crisis

pregnancy, there is no moderate, appropriate compromise." He added that even mild restrictions fall most heavily on poor women and those in rural areas.

But Mary Ann Glendon, a professor at Harvard Law School, said the democratic process has worked out effective compromises in many Western European countries. She thinks the same thing would have happened here if the Roe decision had not intervened in 1973.

Making Adjustments

"What you'd have is state legislatures balancing the interest in the rights of pregnant women with the state's interest in developing life," she said. The result, she thinks, would have been a handful of states with very restrictive laws and a handful with very liberal laws. Most, she thinks, would have few or no restrictions in the early stages of pregnancy and far greater restrictions later on.

"Most of us exist in a great deal of uncertainty and ambivalence about this," Professor Glendon said. "I think the political process is capable of reflecting that ambivalence."

But is it? There are no lobbyists for ambivalence, but there are plenty on the pro and con sides, and for the foreseeable future they will give the nation 7,000 state legislators little peace. Said Mr. Prosser, the Wisconsin legislator: "I don't think they enjoy this at all."

10/2

ABORTION: WHICH SIDE IS PUBLIC OPINION REALLY ON?

By Frank P. L. Somerville

10/1/83/177

Both sides in the heated-up "holy war" over abortion say polls show the American people are behind them, and both sides are correct.

This is not just because public opinion surveys can come up with a variety of answers on any subject, depending on how the questions are asked.

Rather, it is because abortion is a complex issue — ethically, morally and theologically — that demands and receives nuanced responses.

On the mornings after the emotional confrontations in front of the courthouses and clinics, when there is at least the opportunity for tempers to cool and heads to clear, both the pro-choice and the right-to-life forces must face a single emphatic reality: At the same time that the consciences of most Americans are troubled by the concept of "abortion on demand," most of them also oppose a constitutional amendment or a Supreme Court decision making all abortions illegal.

It is true of Roman Catholics. It is true of Jews. It is true of Protestants, whether "mainline" or evangelical.

Among the zealots engaged in the shouting and sign-waving matches, there is little satisfaction to be had from this fact.

But for others, who devoutly wish for a cease-fire in the "holy war," the existence of a broad middle ground on abortion in this nation offers some hope.

If scientific polling can be trusted, a majority of the nation's religious believers, whether in the pews of temples and churches on Saturdays and Sundays or not, favor reducing the huge number of abortions (1.5 million annually) being performed legally in the United States.

An underpinning of this finding is that Americans of all persuasions on abortion are together in preferring other solutions, if feasible, to the problem of unwanted pregnancies.

Almost no one is willing to say that an abortion of and by itself is a good thing. Even among the staunchest advocates of "abortion on demand," it is viewed as a lesser of evils.

In a recent *Los Angeles Times* poll, 78 percent of respondents agreed with the statement, "I personally feel that abortion is morally wrong, but I also feel that it is a decision that has to be made by every woman for herself."

Archbishop John L. May of St. Louis, president of the National Conference of Catholic Bishops, raised hackles, murmurs of incredulity and charges of dishonesty among some of those advocates with his immediate reaction last Monday to the Supreme Court's decision returning powers to regulate abortions to the states.

"In upholding Missouri's statute," Archbishop May said, "the court has indicated that *Roe vs. Wade* [the 1973 Supreme Court decision that gave women the legal right to have an abortion] has been the source of much confusion and [the court] has expressed a willingness to reconsider it. Since national polls show clearly that most Americans reject abortion on demand, that is welcome news. We look forward to new initiatives by elected state representatives."

Lobbying by the Roman Catholic Church in the state legislatures is quite understandably a prospect feared and loathed by the pro-choice leadership. A survey of legislatures showed that 24 of them favor making abortion illegal, 17 are evenly divided and nine want it to remain legal.

But in his characterization of the will of the democracy on the buzz phrase, "abortion on demand" — that is, on an unqualified legal right to abortion in all circumstances — the archbishop appeared to be on the money.

A finding by the Gallup organization in 1984 remains basically unchanged by further polling. It concluded that 65 percent of Catholics and 62 percent of Protestants opposed abortion on demand.

And no surprise to the fast-growing legions of evangelical Protestants, including the Southern Baptists who constitute the nation's largest Protestant denomination, 84 percent of them rejected the concept of an unrestricted right to abortion.

While only 27 percent of the Catholics and 31 percent of all Protestants "strongly" opposed the concept, "strong" opposition was registered by 55 percent of the evangelicals.

Twenty-seven percent of the Catholics and 31 percent of all Protestants favored an undiluted right, but only 11 percent of the

Frank Somerville is religion editor of *The Sun*.

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evangelical Protestants, arguably the most forceful and politically active segment of the religious community in the United States, supported the concept.

The Presbyterian Church (U.S.A.), generally considered the most liberal of the major mainline Protestant denominations on the abortion question, and the mostly liberal Episcopal Church number hard-line anti-abortionists as well as energetic pro-choice advocates among their members. Most of their congregants, while differing on whether human life starts at conception, seem to believe that a woman has the private right morally to choose to have an abortion.

But even when probing the consciences of these tolerant church-goers, Gallup polls have found that more than a third are troubled by the implications of the 1973 Roe vs. Wade decision. Of other religious groups singled out in a 1986 breakdown of positions on Roe vs. Wade, only the Methodists' response was favorable, by a 53-to-40 majority.

Negative denominational positions on the 1973 opinion were: Lutherans, 47-to-43 against; Catholics, 48-to-40 against; all Baptists, 56-to-35 against; Southern Baptists, 61-to-30 against.

According to the survey, 50 percent of Protestants generally were opposed to making abortions legal while 42 percent said they agreed with Roe vs. Wade.

In a *Los Angeles Times* poll this year, 62 percent agreed that "Abortion is murder." But in a CBS News/*New York Times* poll also taken this year, 63 percent said that if a woman wants to have an abortion and her doctor agrees to it, she should be allowed to have it.

"Pro-choice" does not preclude anyone from choosing not to have an abortion," said the Rev. Herbert D. Valentine, executive presbyter of the Presbytery of Baltimore, commenting on Monday's 5-4 ruling. "My personal feeling is that the Supreme Court's decision is a mistake. It is intruding on a theological understanding of when life begins. Clearly this is a religious issue."

Certainly those Americans most visibly buoyed by the decision consider it religious dogma that human life begins with conception, that to abort a fetus at any stage is ending human life, if not murder. The notion that all or even most members of the Catholic Church believe such killing is never justified, however, is way off the mark.

"The attitudes of American Catholics toward legal abortion are complex and often inconsistent," wrote George Gallup Jr. and Jim Castelli in their 1987 book based on polls, "The American Catholic People: Their Beliefs, Practices and Values."

"For example," the authors said, "66 percent of Catholics believe life begins at conception, yet an identical percentage believe

abortion should be legal in cases of pregnancy resulting from rape and incest."

In Monday's decision, the Supreme Court justices declined to act on Missouri's provision that says "the life of each human being begins at conception" and "unborn children have protectable interests in life, health and well-being."

Chief Justice William H. Rehnquist wrote that the provision, though expressing a state preference for childbirth over abortion, could not be evaluated until Missouri courts use it to restrict abortion rights "in some concrete way."

Nevertheless, religionists hailing the high court's harbinger of further rethinking of abortion laws saw it as acknowledging a fundamental premise widely shared by American citizens. The Rev. William A. Au, spokesman for the Roman Catholic Archdiocese of Baltimore, said, "As we understand the decision . . . it seems to allow states to adopt the governing principle that life begins at conception. We see this as a definite step in the right direction."

The coin, however tarnished or shiny, has another side. It is that this wide acceptance of "the governing principle" of life at conception does not automatically extend to the condemnation of every abortion.

The Gallup-Castelli summary of polls noted that "trends make it clear that American Catholics are part of a broad consensus that opposes abortion on demand but believes that abortion should be legal in some circumstances. There is further agreement that those circumstances should include situations in which the mother's life is endangered and when pregnancy results from rape or incest."

"There is considerably more division," the authors observed, "in cases when the mother's physical or mental health is endangered or when the baby will be born deformed. At the same time, there is overwhelming agreement that economic reasons are not sufficient to justify abortion."

In the *Boston Globe* last week, Ethan Bronner suggested a link between the population's aversion to abortions obtained solely for economic reasons and pro-choice advocates' legitimate fears of trouble ahead for their position. "What may become the real legal battleground," he wrote, "will be efforts by anti-abortion forces to pass laws against so-called 'lifestyle' abortions, those obtained because the pregnant woman is not emotionally or financially ready for a baby."

Perhaps of greatest importance in last week's decision is that five justices now believe the trimester-viability analysis at the heart of Roe vs. Wade must be changed.

Under the 1973 Roe guidelines, during the first trimester, about 12 weeks long, a state could not interfere with a woman's

right to an abortion. In the second trimester, states may regulate abortion procedures only to preserve the health of the mother. In the final trimester, states may forbid abortions to preserve the life of an unborn child capable of living outside the womb.

Polls have shown that public support for the right to an abortion declines in the second and third trimesters, but even in the first trimester the Gallup organization has found strong opposition.

In 1974, 1977, 1983 and 1986, the pollsters asked the same question of a scientific sample of Americans: "The U.S. Supreme Court has ruled that a woman may go to a doctor to end pregnancy at any time during the first three months. Do you favor or oppose this ruling?"

In the first poll, the response was 47 percent favoring, 44 percent opposing. In 1977 there was a switch, to 46 percent opposing, 45 percent favoring. Six years later, there was a switch again, to 50 percent favoring and 43 percent opposing. In 1986 the public was evenly divided, 45 percent to 45 percent.

It is the anti-abortion activists, and particularly Roman Catholics, who have most often been accused of a "single-issue" approach to abortion, but this may be changing. Last week, abortion rights forces sounded the alarm that they would be focusing on upcoming elections selectively, working to defeat candidates taking anti-abortion positions, regardless of their positions on other issues. "We need to make this a litmus test," said Ellen Carton, director of the New York state affiliate of the National Abortion Rights Action League.

And Molly Yard, president of the National Organization for Women, promised to make "every person who stands for election in this country" answer the question, "Are you for the right of a woman to control her reproductive life?"

Activists on the other side, meanwhile, especially Roman Catholics, were emphasizing their concern for human life beyond the fetus. Thomas R. Jewett, director of family services for the Catholic Diocese of Wilmington, which includes Maryland's Eastern Shore, said that abortion opponents "heartened" by last week's Supreme Court decision must now increase assistance to unwed mothers vulnerable to "the practitioners of abortion," in part because of "the physical and psychological harm abortion can do to women."

"Our efforts to advocate for housing, for food, for medical care services and for child care for those in need must increase," Mr. Jewett said. "So, too, must our efforts to build a society that has greater respect and reverence for all and provide greater recognition for both women and children."

IN THE NATION

Tom Wicker 899/101/127

Abortion
And the
G.O.P.

Despite loud cries of triumph and tragedy, the Supreme Court in *Missouri v. Webster* made no change whatever in abortion law or in a woman's constitutional right to choose an abortion.

What the Court may have done, however, is to contribute to a political burden too heavy for the Republican Party to bear.

As for the substance of the abortion ruling, Justice Blackmun pointed out in his dissent: "The Court extricates itself from this case without making a single, even incremental change in the law of abortion."

Or as Justice Scalia, partially concurring, wrote: "Today we contrive to avoid overturning *Roe v. Wade*, and indeed to avoid almost any decision of national import."

It also may have been too quickly assumed — even by Justice Blackmun — that the Court put itself in position to overturn *Roe v. Wade*, explicitly or implicitly, in its next term. My colleague Anthony Lewis, closely examining the various opinions, found numerous "constraints and hesitations" plausibly suggesting that even this Court is not willing to go that far.

Justice Scalia, who expressly favors overturning *Roe*, apparently agrees. "What will it take," he asked in rather despairing terms, "to permit us to reach that fundamental question?" He does not appear to have a majority for his purpose and

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remarked unhappily that the various opinions in the *Missouri* case show that *Roe v. Wade* can never be "entirely brought down."

The politics of the issue is another matter. Anti-abortion forces interpreted the ruling as a victory and quickly prepared Missouri-like restrictions for various state legislatures. Pro-choice leaders — wisely having planned to proclaim anything short of an endorsement of *Roe* as a disaster for women — are effectively polarizing the issue on that emotional line.

The anti-abortion position is identified with and has been pushed by the Republicans, with some individual exceptions. Party leaders like Ronald Reagan and George Bush strongly advocated that position, not least to placate the powerful right wing of their party; now that right wing will hold Republicans to what may prove to have been a Faustian political bargain, starting with those anti-abortion statutes in state legislatures.

Democrats — again with some individual exceptions — are closely associated with pro-choice arguments. Already, in this year's major elections, following the claims of the two sides in the *Missouri* case, a clear party lineup has emerged. In the New York City mayoral election, the favored Republican, Rudolph Giuliani, has been thrown on the defensive; but Mayor Koch, a Democrat, has announced that he'll put up \$7 million for abortions the Federal or state governments won't finance.

In New Jersey, the Democratic gubernatorial candidate, James Florio, quickly restated his support for abortion rights; his Republican opponent, Jim Courter, backed the *Missouri* decision. In Virginia, Gov. Gerald Baliles, a Democrat, strongly endorsed a woman's right to choose an abortion; the Democratic candidate to succeed him, Douglas Wilder, probably will have to take a similar stand. The Democrats can only be strengthened, perhaps now but especially for the long term, by the identification of their party with women's independence, privacy and right to choose — in effect, its identification with women.

If the Supreme Court should go on to overturn *Roe v. Wade*, and thus a woman's right to make her own decision about abortion, the Republicans would have a real problem — a national problem — whatever the near-term results in some legislatures. They would then be forced, in fear of alienating the right and splitting their party, to defend Federal power to intervene in the most private decisions of women's and families' lives. That seems sure to widen the "gender gap" that already favors Democrats.

Only 1 in 10 Americans believes abortion is murder, and should be prohibited — though 6 of 10 tell poll-takers they consider it immoral. More significant politically, polls show that 3 of every 4 Americans believe that abortion is a choice a woman has a right to make for herself. Generations have become accustomed to that right, since *Roe v. Wade* in 1973, and will not lightly accept its abolition or restraint.

When more and more women are working, including wives who must supplement family income, limitations on the right to choose abortion will be seen as repressing a woman's economic as well as her personal freedom. A party seen as having helped to bring about such repression is likely to find that it has paid too high a price for the support of its right wing. □

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GOP Seen as Having Most to Lose in Abortion 'War'

10/12/05
By DAVID LAUTER and KAREN TUMULTY, Times Staff Writers

WASHINGTON—The coming legislative war over abortion poses deep risks for both political parties but could be particularly costly to Republicans, according to politicians and political analysts.

For Democrats, who generally have staked out an abortion rights stance, an increased focus on abortion could accelerate the flight of ethnic Catholics and conservative rural voters to the Republicans. That could further weaken the party in strongly anti-abortion states such as Pennsylvania, Missouri and many in the South.

However, the GOP, which has benefited from the abortion issue in the past, now may have more to lose.

Republicans "were always better off promising the sizzle and not delivering the steak" on the abor-

tion issue, said Republican analyst Kevin Phillips. By promising to change the law on abortion, the GOP attracted anti-abortion voters.

But delivering on that promise could drive a wedge into the coalition forged in 1980 by Ronald Reagan, according to Phillips and

William Schneider, a political analyst for The Times. The abortion issue could divide upscale, well-educated suburban voters who generally favor abortion rights from less well-off, less-educated, religiously motivated anti-abortion voters, they said.

At the extreme, these analysts suggested, a national fight over

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abortion could split Republicans in much the same way that struggles over civil rights split the Democratic Party.

The outlines of the debate may soon begin to become apparent.

On Wednesday, the first working day after the Supreme Court gave states new power to restrict abortions, Florida Gov. Bob Martinez called a special session of the Legislature. He wants to convene the session by the end of September and is meeting with legislative leaders to choose a date.

First of Many Struggles

And Florida's battle, pitting a determinedly anti-abortion Republican governor against Democratic state legislative leaders who favor abortion rights, almost certainly will be only the first of many such confrontations.

For both parties, the difficulty is that abortion cuts across traditional coalitions but leaves very little room for compromise.

To date, both parties have staked out strong positions on the issue on the national level—the Democrats pro- and the Republicans anti-abortion—even though both parties have large groups of dissenters. For the dissenters, the issue has long been uncomfortable; but so long as the courts kept control of the issue, that discomfort was manageable.

Unendurable Discomfort

Now, the chief political questions are likely to be how quickly that discomfort becomes unendurable and which side's dissenters fall away first.

The worry for Republicans is that most of the Democrats likely to switch allegiances because of abortion may already have done so but the bulk of GOP desertions may be yet to come.

Many Republicans accepted the party position on abortion even

though they didn't agree with it "for the simple reason that they felt the Supreme Court would never let" that position be implemented, said GOP strategist Peter Teeley, a leading campaign adviser to President Bush during the 1988 election. "So they could focus on other issues. I'm not sure that applies any more."

That could pose problems for GOP moderates such as Illinois Gov. James R. Thompson, who repeatedly has vetoed anti-abortion legislation. Thompson argued that the bills clashed with the Supreme Court's 1973 *Roe vs. Wade* decision, which made abortion legal, but he has refused to take a public stand on abortion itself.

Now, as the governor weighs whether to seek an unprecedented fifth term, the Supreme Court has taken that political cover away from him. Wednesday, with riot police standing by, both sides rallied hundreds of demonstrators outside the state office complex in Chicago, calling on Thompson to take a stand.

The only stand he has taken so far is a statement Monday cautioning lawmakers not to move hastily and saying that he hopes for a compromise that would "balance liberties."

But "balance" may be a hard position to sell to voters. "There's very little middle ground" on the abortion issue, GOP strategist John Buckley said.

Lack a Strong Leader

Similar difficulties could befall abortion rights Republicans in California, Democratic strategists hope. Sen. Pete Wilson, a candidate for governor, has succeeded so far in bridging the gap over abortion by persuading anti-abortion conservatives to support him on other issues. The more important abortion becomes as a voting issue, however, the more difficult that maneuver will become, said Democratic consultant Kam Kuwata.

Anti-abortionists in California are in the odd situation of providing great sums of money to finance activist crusades across the nation while they lack a strong, identifiable political leader of their own.

Once Republican Gov. George Deukmejian retires, anti-abortion activists looking for champions will be left with a grab bag of legislators who are unlikely allies—such as Senate President Pro Tem David A. Roberti of Los Angeles, a liberal Democrat, and Sen. John Doolittle of Rocklin, a conservative Republican. In this case, Roberti is likely to

be kept on a tight leash by other Democrats who strongly disagree with his Catholic religious view of abortion.

As for anti-abortion Democrats across the country, the party's national position "is something we always have to make apologies for," said Rep. Gerard A. Kosinski, an anti-abortion legislator in Pennsylvania, one of the most strongly anti-abortion states.

Democratic legislators such as Kosinski have had many years to practice those apologies, but anti-abortion leaders now hope to raise the pressure. "If the Democrats are going to succeed, they are going to have to make room for the pro-lifers," said Brian Young of the American Life League.

The unknown variable is how rapidly each side will organize. So far, all agree, the anti-abortion side is far ahead. But the court's decision has provided the other side something to rally around, and abortion rights forces "are rabid, they are not going to be taken to the cleaners again," said Iowa Democratic leader Bonnie Campbell.

The fight over abortion will hit American politics at a critical point. Both Democrats and Republicans have been planning to pour thousands of hours and millions of dollars into state-level elections this year and in 1990 as each party seeks to control the state legislatures, which will draw legislative and congressional district lines after the 1990 census.

With the high court's decision, many of those state elections are likely to turn into referendums on abortion. With the combination of an intensely partisan election and a heated debate over the premier emotional issue of the day, Campbell said, "it's going to be a long, hot election cycle."

Staff writers John Balzar in Los Angeles and Bob Sexter in Chicago contributed to this story.

Webster's Chaotic Aftermath

By ROBERT POST 101/127

As legal doctrine, the Supreme Court's blockbuster decision in *Webster vs. Reproductive Health Services* is a disappointment. It tells us little that we did not already know and provides only the dimmest guidance for future litigation. As abortion policy, the decision is a disaster.

In the aftermath of *Webster*, seven of the nine justices have taken unequivocal stands on *Roe vs. Wade*, the 1973 decision that first recognized the constitutional right to an abortion. Four (William J. Brennan Jr., Thurgood Marshall, Harry A. Blackmun and John Paul Stevens) stand solidly behind *Roe*. Three (William H. Rehnquist, Byron R. White and Antonin Scalia) are explicitly prepared to overrule.

The future therefore lies with Justices Anthony M. Kennedy and Sandra Day O'Connor. In *Webster*, Kennedy joined with Rehnquist and White in an opinion that refused to decide whether *Roe* should be explicitly overruled, but whose hostility to any constitutionally protected right to an abortion was undisguised. It is not clear whether this means that Kennedy is unprepared to overrule *Roe*, or that he is only biding his time before showing his hand. The smart money is on the latter interpretation.

O'Connor is therefore once again uncomfortably at center stage. As in past decisions, she refused to say whether she regards *Roe* as sound precedent. She needn't decide that question, she said, because her previous position—that regulation of "abortion is not unconstitutional unless it unduly burdens the right to seek an abortion"—would permit the Missouri law at issue in *Webster* to stand.

The court's refusal to reach the question of *Roe*'s continued validity irritated Scalia. He charged that the "indecisive" decision "preserves a chaos that is evident to anyone who can read and count." Scalia is clearly right in this: The outcome in *Webster* is an open invitation to state and local governments to test the limits of the court's resolve. If O'Connor and Kennedy in fact believe that *Roe* should be overturned, there is little to justify the agonizing uncertainty, the untold hours of unnecessary effort and litigation, the mountains of wasted legal fees and judicial time that *Webster* is almost certain to produce.

If O'Connor and Kennedy are postponing the destruction of *Roe* in the hope that the *coup de grâce* will seem less political if sufficiently delayed, they are almost certainly incorrect. As frustration and anxiety grow, as legislative options for the regulation of abortion increase but remain trapped in the courts, the whole question will become more, rather than less, politicized. Whenever and however *Roe* is destroyed, the court will have hell to pay.

If there are in fact five justices who believe that the whole question of abortion should be handed back to the states for legislative resolution, then it would be best for the court and the country to have done with it cleanly and decisively.

In the meantime, however, the definitive vote in evaluating the constitutionality of abortion regulation is likely to be O'Connor's, which means that everything depends on which regulations she will find to be "unduly" burdensome. Unfortunately, her opinion casts little if any illumination on this question.

There were two salient issues. The first concerned a Missouri statute banning the utilization of any public facility for abortions not necessary to save the life of the mother. Ten years ago the court ruled that state governments could withhold public support for abortions. The Missouri law was different because its broad definition of "public facility" suggested that the state was attempting to reach out and use public property as leverage to control private conduct.

O'Connor, however, refused to decide the question of the reach of Missouri law, stating that the constitutionality of the application of the law to private hospitals leasing state-owned land "need not be decided here."

She pursued a similar strategy of deflection with regard to the second major issue—a poorly drafted Missouri statute that appeared to require that physicians conduct expensive and possibly dangerous tests whenever performing abortions at 20 weeks or later. O'Connor ducked the issue by reinterpreting the statute to require only safe and easily administered medical tests that "would only marginally, if at all, increase the cost of an abortion."

At every level, then, *Webster* raises more questions than it answers. This result could be disabling for the pro-choice movement. In the past decade the movement has been lulled into political lethargy by the siren promise of judicial protection. Had the court swept *Roe* cleanly off the books, the movement might have been galvanized into action. But the legal ambiguities of *Webster* appear to offer yet another siren call, one the movement would be well-advised to ignore. In the future, the real game will be played in state legislatures, not federal courts. What remains to be seen is whether the pro-choice movement can effectively mobilize in the absence of a clear and decisively negative court ruling that would enable states seriously to constrict the access to abortion of middle-class women.

Robert Post is a professor of law at UC Berkeley.

5-4 Ruling Backs Missouri Law's Ban on Use of Public Facilities

By DAVID G. SAVAGE, Times Staff Writer

WASHINGTON—The Supreme Court opened the way Monday for states to limit access to abortion but it stopped well short of overturning the landmark *Roe vs. Wade* ruling that made the practice legal in 1973.

On a 5-4 vote in the most closely watched case in a decade, the high court took a significant step back from its long-established practice of striking down nearly all state restrictions on abortion.

The court upheld a Missouri law that bans abortions in public hospitals and forbids public employees from assisting abortions in any way. Moreover, the court said, Missouri may require doctors to test women who are at least 20 weeks pregnant to see if their fetuses are viable—and to prevent abortions if they are.

But the Missouri law does not forbid abortions in private medical facilities, where 90% of the state's abortions are performed.

Monday's ruling marked a clear turning point for the court. A series of rulings since the *Roe* decision had struck down state laws designed to restrict the practice of abortion, leaving intact only the doctrine that the government need not pay for abortions for poor women.

Majority Still Split

Although the court's five-member majority agreed that the time had come to approve some restrictions on the right to abortion, it remained split over how far down that path the court should travel.

Only Justice Antonin Scalia said that he would overturn *Roe vs. Wade* and three other justices in the majority said that they favored a position that would at least "modify and narrow" the *Roe* decision.

By contrast, Justice Sandra Day O'Connor, while accepting the outcome reached by the other justices in the majority, said that she interpreted it as consistent with past court decisions. She did not accept the conclusion that the decision would "modify and narrow" the *Roe* decision and she indicated that she is not ready to jettison *Roe vs. Wade*.

Three More Cases

That leaves the prospect that the court might continue to chip away at the abortion right. As if to underline that possibility, the court announced that it would hear three more abortion cases, two involving teen-age abortions and the third dealing with outpatient surgical units that perform abortions, when it reconvenes in October.

Justice Harry A. Blackmun, the author of the original *Roe* ruling, called Monday's ruling "ominous" and warned that it might portend an eventual return to the days of "back-alley abortions."

Blackmun said that a woman's fundamental right to choose abortion had "survived," but that it was "not secure." In a statement read aloud in the courtroom, he criticized the majority for a "deceptive" move to undercut the abortion right without admitting their intent.

"For today, the women of this nation still retain the liberty to control their destinies," he said.

"But the signs are evident and very ominous, and a chill wind blows."

Although Monday's ruling was limited to the Missouri law regulating abortions, leaders of both the abortion rights and anti-abortion movements predicted that it would set off bitter battles in every state capital.

Anti-abortion activists said that they would seek new laws to restrict abortion in many states. Some of their proposals, such as a required two-day waiting period for women seeking abortions, would breathe new life into ideas that a more liberal Supreme Court already has rejected.

Others would break new ground by seeking an absolute ban on abortions for women who seek them for reasons of "life style" or "sex selection," according to James Bopp Jr., general counsel for the National Right to Life Committee.

Abortion rights activists, by contrast, geared up for defensive battles in state capitals around the country. The founder of the St. Louis abortion center that was on the losing end of Monday's decision said that abortion could become "the Vietnam of the 1990s."

President Bush issued a statement of mild praise for the court. He said that he is pleased the justices had "begun to restore to the people the ability to protect the unborn" but he added that he continues to support a constitutional amendment to outlaw abortion.

Narrow Issues

Chief Justice William H. Rehnquist, who wrote the controlling opinion for the court, dealt almost exclusively with the narrow issues raised by Missouri's law. He avoided the larger issue of whether *Roe vs. Wade* should be overturned.

He said that the decision "would modify and narrow *Roe*" by permitting some state regulation of abortion during the second trimester of pregnancy. The *Roe* decision prohibited government interference with abortion through the first two trimesters of pregnancy or about 24 weeks.

"This case affords us no occasion to revisit the holding of *Roe*," Rehnquist said, "and we leave it undisturbed."

Justices Byron R. White and Anthony M. Kennedy joined in Rehnquist's opinion.

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Previous Decisions

O'Connor concurred in large parts of Rehnquist's decision because "it seems to me to follow directly from our previous decisions" that states need not fund or assist abortion in any way.

In a separate opinion, Justice Antonin Scalia supported the outcome reached by Rehnquist and lambasted O'Connor for "finessing" the Missouri case rather than reversing the Roe ruling immediately, as he said he would have preferred.

His harsh comments aimed at O'Connor—including a footnote calling one of her statements "irrational"—strongly suggested that O'Connor alone among the conservatives refused to join a move to overturn Roe vs. Wade.

Scalia predicted that the court for another year would receive "carts full of mail from the public and streets full of demonstrators." Rather than abandoning the Roe decision all at once, "it thus appears that the mansion of constitutionalized abortion-law, constructed overnight in Roe vs. Wade, must be disassembled door-jamb by door-jamb, and never entirely brought down, no matter how wrong it may be."

Blackmun was joined in his dissent by Justices William J. Brennan Jr. and Thurgood Marshall. Justice John Paul Stevens issued a separate dissent.

Although Monday was the last day of the court's 1988-89 term, the abortion issue will be back before the court in the fall. The justices said they would consider the three state abortion appeals.

Cases from Minnesota and Ohio will test whether states can forbid teen-agers from getting abortions without their parents' consent (Hodson vs. Minnesota, 88-1125, and Ohio vs. Akron Center for Reproductive Health, 88-805).

A third case from Illinois (Turnock vs. Ragsdale, 88-790) will test the constitutionality of state regulations of outpatient surgical units. Lower courts said the regulations appeared designed to drive abortion clinics out of business.

Although none of the three pending cases will call on the court to overturn the Roe ruling, they will give the conservative majority a chance to further limit abortion.

Even if the court had overturned Roe vs. Wade, the states would be free to determine their own abortion policy. In California, as Atty. Gen. John K. Van de Kamp pointed out Monday, the state Supreme Court had said that abortion is legal under the right to privacy spelled out in the California Constitution.

Had Been Struck Down

Rehnquist, in his controlling opinion, had no trouble upholding the specific provisions of the 1986 Missouri statute before the court, even though all of them had been struck down by lower courts as unconstitutional.

Rehnquist held as harmless a philosophical preamble to the 1986 Missouri law, which states that "the life of each human being begins at conception." That language, Rehnquist held, has no direct impact on abortion. More than that, he said, states may "make a value judgment favoring childbirth over abortion."

Rehnquist then turned to provisions of the Missouri law forbidding the use of "any public facility" and forbidding any public employee to "perform or assist" abortion, except to save a mother's life.

"Nothing in the Constitution requires states to enter or remain in the business of performing abortion," Rehnquist said. "Nor do private physicians and their patients have some kind of constitutional right of access to public facilities for the performance of abortions."

A third provision of the Missouri law requires that a doctor treating a woman who appears to be 20 or more weeks pregnant try to determine if the fetus is viable and if it could live outside its mother's womb. Other Missouri laws prohibit the abortion of a viable fetus.

In the original Roe ruling, the court had said that a state could act to save the life of a viable fetus. However, it also had said that viability does not occur until 24 weeks at the end of the second trimester of pregnancy.

Despite what Rehnquist called the "rigid trimester" system written into the Roe ruling, he said that Missouri's 20-week testing requirement is valid because it "further the state's interest in protecting potential human life. We do not see why the state's interest in protecting potential human life should come into existence only at the point of viability."

That statement raises the possibility that the high court would uphold many state restrictions on early abortions.

BRUCE FEIN

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Waterloo just one step away

Pro-choice groups encountered their penultimate Waterloo in the U.S. Supreme Court ruling in Webster vs. Reproductive Health Services on Monday. A majority of the justices have now voiced disdain for the so-called trimester medical technology approach of Roe vs. Wade (1973) to determine when private abortions with private funds may be regulated. Although the Supreme Court left Roe intact for the moment, it postured itself for a renewed assault on the precedent next October.

The Webster decision was narrow on its facts. It upheld three provisions in a Missouri law that curbed abortions: a requirement of viability testing whenever a physician suspects the fetus is 20 or more weeks old; a prohibition on the use of public employees or facilities to assist abortions that are required to save the mother's life; and, a ban on fiscal officers using public funds that encourage or counsel a mother to abort when her life is unthreatened. These types of abortion restrictions had previously been sustained by the Su-

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preme Court, and affect only a minute fraction of abortions.

The vast majority of the 1.6 million abortions annually are obtained with private funds and in private facilities during the first trimester of pregnancy. The Webster decision will not affect these abortion practices that remain constitutionally shielded from legislative regulation so long as Roe stands. But Webster's voting alignment and reasoning make Roe a dying star.

Writing for a plurality, Chief Justice William H. Rehnquist, joined by Justices Byron White and Anthony Kennedy, assailed Roe as misconceived and a usurpation of legislative power by the Supreme Court. Justice Rehnquist scolded Roe as a virtual "code of regulations" ill-befitting a court whose pronouncements should find some constitutional text on principle to inform its interpretations. Justice Rehnquist resisted declaring Roe overruled, however, because the Missouri law could be sustained without confronting that momentous question.

Justice Antonin Scalia concurred in the judgment with an opinion lamenting the declination to overrule Roe. Justice Sandra Day O'Connor, like the plurality, voted to sustain Missouri's abortion curbs without addressing the continued validity of Roe. Conspicuously omitted from Justice O'Connor's concurring opinion was any reaffirmation of Roe. She also remarked:

"When the constitutional invalidity of a state's abortion statute actually turns on the constitutional validity of Roe vs. Wade, there will be time enough to re-examine Roe. And to do so carefully."

The Webster decision portends an overruling of Roe at an appropriate time. And that time seems imminent. On the same day as the Webster ruling, the Supreme Court agreed to review state laws that require some type of parental consent or notice before a minor may obtain an abortion, and, proscribe abortions in private health clinics after the first trimester of pregnancy.

Justice O'Connor would be required to confront Roe to sustain the latter restriction because the case permits second-trimester abortion regulations only to safeguard maternal health.

Justice O'Connor's past voting record makes her abandonment of Roe probable. For instance, in *Akron vs. Akron Center for Reproductive Health* (1983), Justice O'Connor dissented from Roe's trimester framework and medical technology approach for ascertaining abortion rights. She ascerbicly noted: "The state interest in potential human life is . . . extant throughout pregnancy. . . . The choice of viability as the point at which the state interest in potential life becomes compelling is no less arbitrary than choosing any point before viability or any point afterward. Accordingly, I believe the State's interest in protecting potential life exists throughout the pregnancy."

Justice O'Connor has thus already rejected the Roe view that no legitimate government interest justifies restricting private abortions during the initial trimester of pregnancy. Further, she joined a 1986 opinion that assailed the constitutional doctrine of an open-ended right to privacy in *Bowers vs. Hardwick*. It

Thus, a year from now, the Supreme Court will probably have written Roe's epitaph. At a minimum, parental consent and notice laws restricting abortions for minors will be constitutionally blessed by the court, which will require an overthrow of prevailing precedents.

But judicial intrusion on abortion policy will not end with Roe's demise. Several state constitutions safeguard a right to privacy.

A half-dozen state court interpretations of state law demand public funding of non-therapeutic abortions. Activist state judges, who dominate in such states as New Jersey, Oregon and Washington, will probably find the equivalent of Roe abortion rights in state constitutions or statutes. States lacking privacy protections are likely to confront initiatives that would entrench privacy rights in their state constitutions.

State judiciaries will be a main legal battleground for pro-choice and anti-abortion forces after Roe lapses. The Webster decision will also encourage state legislatures and Congress to enact laws that would leave abortions unregulated during the initial trimester of pregnancy, and in cases of rape, incest or a deformed fetus. Otherwise, abortions will probably be strictly regulated. That is the predominant approach in Western Europe.

The entire abortion debate, however, may be ultimately muted and mooted by new abortion methods. A French pharmaceutical company recently disclosed the probable availability of a drug that would permit home abortions during early weeks of pregnancy without the need of a physician. Prohibitions on such abortions would be virtually unenforceable. Government would typically lack the witnesses needed to arrest or search for evidence of the crime. Further, what prosecutor would dare invade the bedroom to explore for an abortion drug?

The rancor of the abortion debate has hidden the larger constitutional significance of the Webster decision. It has, together with other civil rights, death penalty and criminal justice opinions, ushered in the era of the "Reagan Court" — a court consistently devoted to interpretive modesty in addressing statutes and the Constitution. The days when losers in the legislative process regularly stole success in the Supreme Court by singing the spirit of the Constitution and a need to protect political minorities are over.

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On Both Sides, Partisans Predict a 50-State Battle

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By E. J. DIONNE Jr.

Special to The New York Times

WASHINGTON, July 3 — The Supreme Court ruling on abortion will move the issue to the center of the nation's political debate and lead to a bitter 50-state battle that is certain to spill over into the 1990 elections, people on both sides predicted today.

The ruling, coming 16 years after the Roe v. Wade decision, which legalized abortion, was seen by both sides as a potential watershed in American politics. Advocates of abortion rights, who had long relied on the courts to vindicate their position, said they would now turn to political action to keep abortion legal and unrestricted.

Although the decision today did not overturn the right to abortion, opponents are looking forward to the Supreme Court's next term, beginning in the fall, when they expect it to uphold further restrictions embodied in statutes in Illinois, Minnesota and Ohio.

'A Sad Day'; 'The First Big Step'

The historic significance of the decision today was lost on no one active in the debate over abortion, an issue as morally and emotionally volatile as any the political and judicial systems have confronted in recent years.

Supporters of abortion rights condemned the ruling as a wrenching reversal after 16 years in which women faced few legal restrictions to ending their pregnancies. "This is a sad day for freedom," said Faye Wattleton, president of the Planned Parenthood Federation of America. "Now, a woman's access to abortion will become hostage to geography as states enact a patchwork of laws and regulations aimed at blocking abortions."

Senator Howard M. Metzenbaum, an Ohio Democrat, said the ruling "signals that women's equality and their right to privacy are in danger." Molly Yard, president of the National Organization for Women, called the decision "a total disaster" and promised to make "every person who stands for election in this country" confront the question: "Are you for the right of a woman to control her reproductive life?"

But opponents of abortion, who have long argued that the Supreme Court overstepped its authority in the Roe decision, hailed today's ruling and said it opened the way to further restrictions on abortion.

"The biggest winners today are the tiniest people of all — children within the womb," said Archbishop John May

of St. Louis, president of the National Conference of Catholic Bishops. Senator Gordon J. Humphrey, a New Hampshire Republican, called the decision "the first big step toward overturning Roe v. Wade."

Bush Welcomes Ruling

President Bush, who commented eagerly and in strong language on last week's Supreme Court decision on burning the American flag, left it to his chief of staff, John H. Sununu, to read his statement on today's decision.

"We welcome this decision," Mr. Bush's statement said. "By upholding the Missouri statute, the Court appears to have begun to restore to the people the ability to protect the unborn. We continue to believe that Roe v. Wade was incorrectly decided and should now be reversed."

In response to questions, Mr. Sununu said Mr. Bush continued to be "a strong supporter of a constitutional amendment" to ban abortions except "in cases of rape or incest or when the mother's life is in danger. He added that the President viewed a constitutional amendment as "the best long-term guarantee of the rights of the unborn."

Likely Battleground: the States

The immediate political fallout from today's decision will be felt more in state legislatures than in Congress, both sides agreed.

While advocates of the right to choose abortion, like Senator Bob Packwood, Republican of Oregon, were

considering legislation or a constitutional amendment to overturn today's decision, those who would support such moves conceded that they were unlikely to pass.

"The votes are not there in the Congress," said Representative Les AuCoin, an Oregon Democrat who is a strong advocate of abortion rights. Mr. AuCoin said past votes on issues like Federal funding of abortion indicated that its foes have a margin of about 50 votes in the House.

According to the National Abortion Rights Action League, which supports choice on abortion, at least 250 anti-abortion bills have been introduced in state legislatures since 1988. Randall Terry, head of Operation Rescue, an anti-abortion group, predicted an "avalanche of new legislation."

Following Missouri's Lead

Both sides agree that the states most likely to pass anti-abortion legislation on the model of the Missouri law upheld by the Court are Louisiana, Utah, Idaho, Pennsylvania and Minnesota. The National Abortion Rights Action League also expects anti-abortion

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legislation to pass in Nebraska, Oklahoma, Mississippi and Georgia.

Advocates of abortion rights said that while they viewed today's decision as disastrous, they saw it as likely to strengthen their movement politically and organizationally.

Kate Michelman, executive director of the National Abortion Rights Action League, said that until now opponents of abortion have been better organized than abortion rights advocates. But today's ruling, she said, would heighten fears among the advocates and galvanize them into action.

'Political Firestorm' Predicted

"This ruling will set off a political firestorm throughout America," she said. "We have awakened the sleeping giant and today we mobilize that giant for the battles that lie ahead."

Ms. Michelman's group plans to involve itself heavily in this year's gubernatorial election in New Jersey, where Representative Jim Courter, the Republican nominee, is an opponent of abortion and Jim Florio, the Democrat, favors abortion rights.

Dr. John C. Willke, president of the National Right to Life Committee, said his group would also be active in state contests.

Ms. Yard, of NOW, said her organization would not only press state legislators to support abortion rights but if necessary would seek statewide referendums on the issue.

Issue Crosses Party Lines

Last year's national party platforms were clear on the issue; the Republicans opposed abortion while the Democrats favored abortion rights. But the issue crisscrosses party lines at the state and local levels, where so much will be decided now.

Many Republican state legislators from affluent suburbs favor abortion rights, for example; many Democrats from rural areas or white urban enclaves are opposed to abortion.

Overall, abortion opponents appear to be in a strong position at the state level. A survey by the National Abortion Rights Action League found that legislatures in 24 states favored making abortion illegal. The survey found that in only 9 states and the District of Columbia were legislatures clearly in favor of keeping abortion legal. In the other 17 states, the survey found, legislatures were divided, often with one house favoring abortion rights and the other house opposing them.

If today's decision makes abortion a major issue in the 1990 gubernatorial and state legislative elections, the effect will be to raise the stakes in an already critical set of contests. Both national parties will be investing heavily in the legislative races, since the results will largely determine who gets to draw the new district lines for Congress and the legislatures themselves after the 1990 Census.

Republicans fear that if Democrats control that process, as they largely did after the 1980 Census, they will have little chance of winning control of the House of Representatives in subsequent elections.

But calculation was only part of the reaction to a Court decision that has been awaited for months. Mostly, those who responded today did so with deep

emotion — joy from opponents of abortion, anger and sorrow from those who want it to remain legal.

"Today's decision is only the beginning," said Senator William L. Armstrong, Republican of Colorado. "Now, Americans can make their views known to the elected representatives who are accountable to them. Therefore, I'm very optimistic about the prospects for the unborn."

On the other side, Nancy Dickinson, administrator of Commonwealth Women's Clinic in Falls Church, Va., and Nova Women's Medical Center in Fairfax, Va., called the decision "a silent destroyer." "We're being nibbled away at," she said. "I think it's going to have a chilling effect."

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Across the Nation, Reactions Divided on Court's Abortion Ruling

10/1/27

By Megan Rosenfeld
Washington Post Staff Writer

While the president issued a supportive statement in Maine and organizations announced their official reactions in Washington, ordinary Americans heard the news of the Supreme Court's limitation of abortion rights as they worked, lounged poolside or stocked up on charcoal for the Fourth of July. For some people, the news changed their pre-holiday mood from joviality to dismay; for others it affirmed their own conviction that abortion should be restricted.

"I think it's unfortunate that we still have to argue about what a woman can do with her body," said Martha Neal, a 33-year-old administrator in the publicly funded Bedford Pine Family Resource and Day Care Center in downtown Atlanta. In front of her tiny office stood two rows of white cribs, 13 in all, stocked with 13 stuffed blue elephants and 13 babies. Classical music failed to soothe their midday cries. "Now the states are going to make it so the poor women who would get an abortion won't be able to get one," she said. "It makes it harder for poor women to take care of their families."

In random interviews with 40 people in 10 cities across the country as they went about their lives shopping, exercising, caring for children or relaxing, 28 were opposed to the Supreme Court's decision to restrict abortions—but no one thought that abortion was an easy choice or that it should be used as a method of birth control. Ten thought unequivocally that the Supreme Court did the right thing, while the remaining two were ambivalent. The technicalities of the legal decision, as handed down by radio and television, were largely reduced to a "won" or "lost" mentality, and people reacted more according to their personal views about abortion than the specifics of *Webster v. Reproductive Health Services*.

"No woman goes into an abortion clinic with a smile on her face," said Judy Hubbell, 25, a bookkeeper in Arlington. "I see these people protesting in the street, and they're worried about unborn children, but don't give any thought to the women and what happens to their lives." She paused as she shopped in a grocery on Wilson Boulevard, placed a box of

cat food in her cart, and sighed. "I had an abortion when I was 17," she said slowly. "I hate to think what would have happened to my life if I hadn't."

"These men picketing—I always want to say to them, 'Have you ever been pregnant?' But I never have."

In Oakland, a 61-year-old real estate agent, who did not want to give his name, felt differently. "I think 70 percent of the people on this earth are unwanted, unplanned, accidental. . . . It's been that way since the beginning of time." His friend, a 46-year-old secretary, spoke adoringly of her granddaughter, now 4, and the daughter who had her out of wedlock in high school. "My first thought [when my daughter got pregnant] was, 'Let's march down and have an abortion.' But then I thought, 'Hey, wait a minute, that's a human life.'"

Several people expressed a kind of free-floating anxiety about giving more powers to state legislatures. "If it's going to be up to the individual states, that's really going to get out of hand," said Clarence Tanksley, 39, a New York Port Authority toll collector on his day off, waiting to take his two sons to see the movie "Honey, I Shrunk the Kids." "Eventually lots of people will start going to the back alleys."

Tom Millea, a 28-year-old computer software salesman, paused with two loaded shopping bags in the Cen-

tury City Mall near Los Angeles. "The Supreme Court has been having a tough time with everything," said Millea, who supports abortion rights. "Everything's a 5-4 vote, and there's a lot of dissent. It's time they were more decisive, especially on an issue like this, and showed some leadership."

"It looks like the flag is going to have more rights than I do," said Catherine L. Creech, a 27-year-old lawyer in private practice in downtown Washington. Like hundreds of others in Washington, she had waited eagerly for a copy of the decision from the clerk's office at the court. She got it by early afternoon.

"This is awful, I'm totally depressed," said Lee Cooper as she pushed a stroller carrying Louise, 4, and Jason, 13 weeks, to the wading pool at the Upton Hills Regional Park in Arlington. "I was hoping they would put it [the decision] off until the fall. I chose to have my children when I wanted to have them, and I think everyone should have that right."

Nearby, two sisters sunned themselves on towels spread on the grass, horror novels open and sunblock at the ready. "I don't think abortion is right," said Sharon Lewis, 20, who works in a print shop. "There are plenty of people willing to adopt. But I think the anti-abortion people should take them in and adopt the babies."

Her 18-year-old sister Christine,

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working at Baskin-Robbins until she enters Virginia Commonwealth University next fall, agreed, but she had a few worries that she hadn't quite sorted out. "A lot of times when girls get pregnant, their parents kick them out of the house," she said.

"Girls are embarrassed when they get pregnant," said her sister. "So they drop out of school or get an abortion."

In the South Park Barber Shop ("It Pays to Look Well") in Montclair, N.J., the prevailing view was in favor of restricting abortions—but not necessarily in favor of the Supreme Court. "It's a bit of a cop-out, but a step in the right direction," said Joseph Kelleher, 65, as he had his silver gray hair trimmed by proprietor Dante Mazzeo. "I say impeach 'em all. They feel they can desecrate the American flag, they don't belong on the Supreme Court. This world is going to pot."

"You can't put laws on the books to put these things in order," argued barber Ed Guarducci. "It's a matter of faith."

A similar thought was expressed a continent away in Oakland by a young black woman, a cosmetics saleswoman in a downtown department store. "I understand what they're really trying to do—they're trying to stop the way life has been for the last 16 years, with the sexual promiscuity and so on," said Cassandra Fuller, 25.

"But it's still up to the woman to make a decision for what she does."

For the first time in her life yesterday, Nichelle Blackwell, 21, turned on the news to hear about a Supreme Court decision. Blackwell, a colleague of Fuller's at the Emporium, noted that "a lot of times pregnancy doesn't just occur from a mistake. It could be incest, rape, any number of things. And you don't get to make a decision about whether you want this child or not, because other people don't like the idea of abortion."

But another young black woman, further to the south at the mall in Century City, Calif., took the opposite view. "When a woman conceives, it's a gift," said Kim Hampton, 26, a receptionist in Hollywood. "If a woman has faith in herself she can make it without having an abortion. But the father . . . should be required to stick around or he should be thrown in jail." She spoke thoughtfully and slowly, looking at the traffic on the Avenue of the Stars below.

Henrietta Farve, 46, an employee at the INS here, had just completed a nine-mile run around the Lincoln Memorial and Hains Point when she was asked for her reaction to the decision. She is the mother of a 20-year-old son and has spent most of her child's life as a single parent. Farve said that despite the support of her ex-husband's family, raising a child on her own was draining financially and

physically; as much as she loves her son, she said, she would not abridge another woman's right to have an abortion. Farve, an Alexandria resident, said she plans to vote in November for candidates who support abortion rights. "And I do vote," she said.

And in Chicago, Ana Montoya, a 20-year-old secretary, recalled a girlfriend who had an abortion at age 15. "She was just a child herself. But when she went to the clinic they didn't give her any counseling. They didn't ask for her name, her phone number or her address. They didn't ask for her parents' permission or any ID. All they asked for was money. She said it was like a fast-food store."

Sara Arason, 39 and a research analyst with the Library of Congress, was neither as sad as those who support abortion rights nor as joyful as those who oppose them. She was somewhere in the middle, and as confused as many people probably are.

"I think abortion is wrong," she said. "But even if it's wrong, it may be necessary. If state legislatures turn it around completely, that would be kind of barbaric. But I'm not really for abortion. I used to think adoption was the answer, but I've seen some adopted kids and seen that it wasn't the answer. If they could legislate that all adoptions will be done by wonderful parents . . . but they can't. I don't know what the answer is."

A thirty-somethingish couple carried on a spirited argument as they strolled across the tarmac to their Cessna Citation at Aspen Airport, an island of flatland surrounded by a breathtaking sea of towering Rocky Mountain peaks.

"What I heard is that they upheld *Roe v. Wade*," said she, dressed elegantly in an all-white pantsuit. "The radio said they upheld *Roe v. Wade*, so women still have a choice."

"Yeah, they upheld it, but they also upheld that law in Missouri," replied he, fashionably sloppy in khaki shorts. "That means a state can make it really hard for a woman who wants an abortion."

"How could they uphold both?" she asked in confusion. "What happened?"

"I only know what they said on the radio," he said. "Probably nobody really understands what the whole thing means."

Staff writers Cynthia Gorney, Holly Morris, Bill Peterson, T.R. Reid, Paula Span and Patrick Whalen contributed to this report.

But Roe survives in 5-4 vote

By Linda Ponce
THE WASHINGTON TIMES

10/127

The Supreme Court yesterday gave state legislatures broader power to regulate abortion, but stopped short of overturning its landmark 1973 ruling that legalized abortion nationwide.

The court voted 5-4 to reinstate key provisions of a Missouri abortion regulation law and signaled it may go further next term when it examines three more abortion cases.

Justice Harry Blackmun, who wrote the 1973 *Roe vs. Wade* opinion legalizing abortion as a fundamental privacy right, sharply dissented from yesterday's decision.

"For today, the women of this nation still retain the liberty to control their destinies. But the signs are evident and very ominous, and a chill wind blows," he said.

The Missouri law bars abortions by public employees or in public facilities and requires tests on fetuses 20 weeks or older to see if they can survive outside the mother's body.

The court also said states may prohibit the use of tax money for "encouraging or counseling" women to have abortions. That section of the Missouri law was upheld 6-3.

Chief Justice William Rehnquist and Justices Byron White, Antonin Scalia and Anthony Kennedy favored abandoning the court's earlier position in *Roe vs. Wade*.

But five members — Justices William Brennan, Thurgood Marshall, Blackmun, John Paul Stevens and Sandra Day O'Connor — said they were not willing to reconsider or overrule *Roe* in this case.

Only Justice Scalia called directly for overturning the 1973 decision.

Justice Rehnquist, who wrote the main opinion, attacked the framework of *Roe*, saying states should be able to regulate abortion throughout pregnancy, not just in the final three months.

Justice O'Connor, a key vote yesterday, supported upholding the Missouri law, but said that could be done without changing *Roe*.

Justice Rehnquist said, "This case affords us no occasion to revisit the holding of *Roe* . . . and we leave it undisturbed." But he added, "To the extent indicated in our opinion, we would modify and narrow *Roe* and succeeding cases."

In an impassioned dissent, Justice Blackmun said the court "implicitly invites every state legislature to enact more and more restrictive abortion regulations in order to provoke more and more test cases, in the hope that sometime down the line the court will return the law of procreative freedom to the severe limitations that generally prevailed in this country before Jan. 22, 1973," the day *Roe* was issued.

"I fear for the future. I fear for the liberty and equality of the millions

of women who have lived and come of age in the 16 years since *Roe* was decided. I fear for the integrity of, and public esteem for, this court," he said.

Kate Michelman, executive director of the National Abortion Rights Action League, called the ruling "a giant step backward for this country and a tremendous loss of liberty for every American."

"Women's lives hang by a thread, and the justices this morning handed politicians a pair of scissors," she said.

But anti-abortion activists were elated. "We are smiling, we have our thumbs up and we feel a new era dawning," said J.C. Willke, president of the National Right to Life Committee.

Rep. Don Edwards, California Democrat, said at a press conference, "Make no mistake, this decision invites the government into the bedroom of every American family."

President Bush welcomed the ruling. "The court appears to have begun to restore to the people the ability to protect the unborn," he said.

From his vacation home in Kennebunkport, Maine, Mr. Bush issued a written statement saying, "I have confidence that the American people will continue to express their deeply held convictions on this subject within the bounds of civility and our legal institutions."

Both the Bush and Reagan administrations had urged the court to use the Missouri case, called *Webster vs. Reproductive Health Services*, to overrule *Roe* and completely return abortion regulation to the states.

Instead, the ruling retained the constitutional privacy right to abortion but appeared to dismantle *Roe*'s framework for when states could regulate abortions.

In *Roe*, the high court said women have an absolute right to choose an abortion during the first three months of pregnancy, and states can restrict abortions during the second three months, or trimester, only for reasons "reasonably related to maternal health."

After the fetus becomes viable —

able to live outside the mother — usually at 23-24 weeks, states can restrict or ban abortions except in cases where the woman's health is at stake.

But Justice Rehnquist said that "trimesters and viability" are not found in the text of the Constitution, so "the result has been a web of legal rules that have become increasingly intricate, resembling a code of regulations rather than a body of constitutional doctrine."

He said that "we do not see why the state's interest in protecting potential human life should come into existence only at the point of viability."

Coupled with Justice O'Connor's past criticism of *Roe*'s trimester approach, that part of the opinion suggested that further chipping away at *Roe* could occur next term when the court takes up three more abortion cases.

The court yesterday ordered arguments in two cases dealing with parental-notice requirements for minors seeking abortions and a third involving licensing restrictions on abortion clinics.

Justice Scalia predicted more of the intense activism that this year generated a record number of friend-of-the-court briefs and letters to the justices in the *Webster* case.

"We can now look forward to at least another term with carts full of mail from the public, and streets full of demonstrators, urging us — their unelected and life-tenured judges who have been awarded those extraordinary, undemocratic characteristics precisely in order that we might follow the law despite the popular will — to follow the popular will," he wrote.

The Missouri law at issue was passed in 1986, but never went into effect because it was declared unconstitutional by a U.S. District Court and the 8th U.S. Circuit Court of Appeals.

The provisions reinstated yesterday now can be enforced: a ban on public employees performing or assisting abortions; a ban on using taxpayer money for "encouraging or counseling" women to have abortions; a ban on abortions in public facilities; and fetal testing for age, weight and lung maturity.

127/101

JUSTICE

CHRIS.SCI.MON.:07-05-90

New Tests Ahead For Roe Decision

WHILE the nation continues to debate the broad implications of last week's Supreme Court rulings on abortion, new legal tests are on the horizon for this emotion-clad and controversial issue.

These involve the right of the federal government to withhold funds from federally financed family planning programs that provide abortion information and the constitutionality of state laws that all but ban abortion, levying heavy penalties on those who perform one.

So-called right-to-life groups see these challenges as leading to a final downfall of *Roe v. Wade*, the landmark 1973 decision of the Supreme Court that allows abortion under the regulation of a structured trimester arrangement. Under *Roe*, abortion on demand, in effect, is allowed during the first three months of pregnancy. After that, states may set specific regulations regarding conditions for abortion.

These things seem probable in the short range:

- *Roe* won't fall quickly, because of the lack of a case that might not pass the constitutional test.

So far, 350 anti-abortion bills have been introduced in more than 40 state legislatures. The toughest – and those that go to the heart of *Roe* – have either failed with lawmakers or have been struck down by gubernatorial veto. A Louisiana law, which would directly challenge the concept of *Roe*, hangs in the balance.

Most state proposals exempt victims of rape or incest and allow abortion where the mother's life is in danger.

- The high court will continue to tighten the reins on abortion but appears to lack the votes to ban it completely.

At this time, only Associate Justice Antonin Scalia seems determined to strike down *Roe*. Fellow conservative Associate Justice Sandra Day O'Connor has basically upheld state laws restricting abortion, but she opposes statutes that place an undue burden on the right to have an abortion.

Justice O'Connor's position could be a key factor in the ultimate disposition of *Roe*. The court's only female justice has shown concern for the plight of women, particularly those who are poor and from minority groups.

She voted last week to uphold abortion laws in Minnesota and Ohio that require teenagers to notify parents of a planned abortion. The jurist took exception, however, to the part of a Minnesota statute that required two-parent notification without the benefit of judicial bypass, which would allow a court to permit a teenage abortion in extraordinary circumstances.

Justice O'Connor's reference to avoiding "unduly burdening the minor's limited right to obtain an abortion" suggests that she might be reluctant to completely destruct *Roe*, where the justices declared abortion to be a fundamental constitutional right. Subsequent rulings have modified this stance. Last year in a Missouri case, the justices referred to abortion as a "liberty interest," which had to be balanced against other state interests.

- Abortion, along with flag burning, will be a major campaign issue in elections later this year.

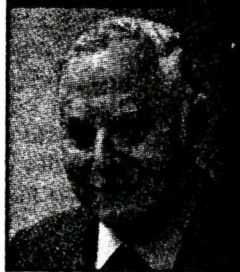
Pro-choice groups will line up against anti-abortion forces in congressional contests in particular. This controversy could be upstaged only by concerns about taxes and the economy.

Abortion could also spill over into the presidential campaign of 1992. President Bush, a likely candidate for reelection, opposes abortion but may be forced to take a specific position on *Roe*. Mario Cuomo, his possible Democratic opponent, is a Roman Catholic who personally opposes abortion but has taken a pro-choice stance for others.

Next term the Supreme Court will rule on the constitutionality of a government ban on abortion counseling at publicly funded family-planning clinics across the United States. Bush administration regulations, if upheld, would deny funds to groups that give advice on abortion.

Federal courts in Boston and New York have split on this issue, with the US Court of Appeals for the First Circuit in Boston calling the regulations an unconstitutional intrusion on reproductive and free-speech rights.

CURTIS J.
SITOMER



ONE YEAR AFTER WEBSTER DECISION

KEY DATES IN THE ABORTION DEBATE

1989

July 3: The Supreme Court decision in *Webster v. Reproductive Health Services* gives the states more room to restrict the availability of abortions.

Oct. 12: Proposals submitted by Florida Gov. Bob Martinez (R) to limit and regulate abortions are defeated in committee votes before reaching floor debate.

Nov. 7: Gubernatorial candidates Rep. Jim Florio (D) and Lt. Gov. L. Douglas Wilder (D), abortion rights supporters, win elections in New Jersey and Virginia against antiabortion contenders Rep. Jim Courter (R) and Marshall Coleman (R).

Nov. 12: "Mobilize for Women's Lives" holds abortion-rights rallies in more than 150 cities across the country, including an event in Washington which draws a crowd of approximately 150,000.

Nov. 17: Pennsylvania Gov. Robert F. Casey (D) signs legislation that outlaws abortion after the 24th week of pregnancy except when the woman's life is severely threatened, institutes a 24-hour wait before an abortion, prohibits "sex selection" abortions and requires a married woman to prove to her physician that her husband has been notified of her abortion decision.

Dec. 9: Democratic Assemblywoman Lucy Killea, denied communion by a Roman Catholic bishop because of her abortion-rights stand, wins a close race in a California state senate election against an antiabortion opponent.

1990

Jan. 19: Republican National Committee Chairman Lee Atwater tells a winter meeting of the committee that the GOP should consider itself an "umbrella party" open to all views on abortion. The party

platform contains an antiabortion plank.

March 19: Gov. Joseph F. Ada (R) of Guam, an unincorporated U.S. territory in the western Pacific Ocean, signs a bill that criminalizes advocacy of abortion and prohibits all abortions except when the life of the mother is endangered.

March 30: Idaho Gov. Cecil D. Andrus (D) vetoes a bill which called for banning all abortions in the state except in the cases of a threat to the physical

health or life of the mother, rape reported within seven days, incest if the victim is under 18 and severe fetal deformity. The legislation would have outlawed more than 90 percent of the abortions now legally performed in Idaho.

April 28: The National Right to Life Committee holds a rally in Washington which attracts approximately 200,000 people.

June 14: Cardinal John O'Connor, archbishop of New York, suggests in an article in the weekly newspaper of the archdiocese that Roman Catholic officeholders who support abortion

rights could face excommunication.

June 25: The Supreme Court, in a 5-4 decision, strikes down a Minnesota law that requires pregnant teenagers to notify both parents before having an abortion. The constitutionality of two-parent notification laws is upheld, however, provided they allow teenagers to seek a court waiver of the requirement. The court also upholds an Ohio parental notification law.

June 27: Louisiana Gov. Charles E. "Buddy" Roemer (D) says he will veto legislation passed by both houses of the state legislature which would criminalize all abortions except when the mother's life is in danger and mandate hard labor for doctors who perform the procedure.



Compiled by staff researcher Bruce Brown

Excerpts

From: Webster
US Rep. Health Services

WASH. POST: 07-04-89

10/7

Excerpts from the Supreme Court decision in *Webster v. Reproductive Health Services*:

Rehnquist for the Majority 8/10/12

This appeal concerns the constitutionality of a Missouri statute regulating the performance of abortions. The United States Court of Appeals for the 8th Circuit struck down several provisions of the statute on the ground that they violated this court's decision in *Roe v. Wade* and cases following it. We noted probable jurisdiction and now reverse

Section 188.210 provides that "[i]t shall be unlawful for any public employee within the scope of his employment to perform or assist an abortion not necessary to save the life of the mother," while §188.215 makes it "unlawful for any public facility to be used for the purpose of performing or assisting an abortion not necessary to save the life of the mother." The court of appeals held that these provisions contravened this court's abortion decisions. (851 F. 2d, at 1082-1083.) We take the contrary view

In *Maier v. Roe, supra*, the court upheld a Connecticut welfare regulation under which Medicaid recipients received payments for medical services related to childbirth but not for nontherapeutic abortions. The court rejected the claim that this unequal subsidization of childbirth and abortion was impermissible under *Roe v. Wade*

We think that this analysis is much like that which we rejected in *Maier, Poelker* and *McRae*. As in those cases, the state's decision here to use public facilities and staff to encourage childbirth over abortion "places no governmental obstacle in the path of a woman who chooses to terminate her pregnancy." (*McRae*, 448 U.S. at 315.) Just as Congress' refusal to fund abortions in *McRae* left "an indigent woman with at least the same range of choice in deciding whether to obtain a medically necessary abortion as she would have had if Congress had chosen to subsidize no health-care costs at all," (*id.*, at 317) Missouri's refusal to allow public employees to perform abortions in public hospitals leaves a pregnant woman with the same choices as if the state had chosen not to operate any public hospitals at all.

The challenged provisions only restrict a woman's ability to obtain an abortion to the extent that she chooses to use a physician affiliated with a public hospital. This circumstance is more easily remedied, and thus considerably less burdensome, than indigency, which "may make it difficult—and in some cases, perhaps, impossible—for some women to have abortions" without public funding. (*Maier*, 432 U.S. at 474.) Having held that the state's refusal to fund abortions does not violate *Roe v. Wade*, it strains logic to reach a contrary result for the use of public facilities and employees. If the state may "make a value judgment favoring childbirth over abortion and . . . implement that judgment by the allocation of public funds" (*Maier, supra*, at 474), surely it may do so through the allocation of other public resources, such as hospitals and medical staff

"Constitutional concerns are greatest," we said in *Maier, supra*, at 476, "when the state attempts to impose its will by the force of law; the state's power to encourage actions deemed to be in the public interest is necessarily far broader." Nothing in the Constitution requires states to enter or remain in the business of performing abortions. Nor, as appellees suggest, do private physicians and their patients have some kind of constitutional right of access to public facilities for the performance of abortions. (Brief for appellees 46-47.) Indeed, if the state does recoup all of its costs in performing abortions and no state subsidy, direct or indirect, is available, it is difficult to see how any procreational choice is burdened by the state's ban on the use of its facilities or employees for performing abortions

Thus, we uphold the act's restrictions on the use of public employees and facilities for the performance or assistance of nontherapeutic abortions

Section 188.029 of the Missouri Act provides:

"Before a physician performs an abortion on a woman he has reason to believe is carrying an unborn child of 20 or more weeks gestational age, the physician shall first determine if the unborn child is viable by using and exercising that degree of care, skill and proficiency commonly exercised by the ordinarily skillful, careful and prudent physician engaged in similar practice under the same or similar conditions. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical records of the mother"

We think the viability-testing provision makes sense only if the second sentence is read to require only those tests that are useful to making subsidiary findings as to viability. If we construe this provision to require a physician to perform those tests needed to make the three specified findings in all circumstances, including when the physician's reasonable professional judgment indicates that the tests would be irrelevant to determining viability or even dangerous to the mother and the fetus, the second sentence of §188.029 would conflict with the first sentence's requirement that a physician apply his reasonable professional skill and judgment. It would also be incongruous to read this provision, especially the word "necessary," to require the performance of tests irrelevant to the expressed statutory purpose of determining viability

The viability-testing provision of the Missouri Act is concerned with promoting the state's interest in potential human life rather than in maternal health. Section 188.029 creates what is essentially a presumption of viability at 20 weeks, which the physician must rebut with tests indicating that the fetus is not viable prior to performing an abortion. It also directs the physician's determination as to viability by specifying consideration, if feasible, of gestational age, fetal weight and lung capacity. The District Court found that "the medical evidence is uncontradicted that a 20-week fetus is not viable" and that "23½ to 24 weeks gestation is the earliest point in pregnancy where a reasonable possibility of viability exists." (662 F. Supp., at 420.) But it also found that there may be a four-week error in estimating gestational age, (*id.*, at 421), which supports testing at 20 weeks.

In *Roe v. Wade*, the court recognized that the state has "important and legitimate" interests in protecting maternal health and in the potentiality of human life. (410 U.S., at 162.) During the second trimester, the state "may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health." (*Id.* at 164.) After viability, when the state's interest in potential human life was held to become compelling, the state "may, if it chooses, regulate and even proscribe abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." (*Id.* at 165.)

In *Colautti v. Franklin, supra*, upon which appellees rely, the court held that a Pennsylvania statute regulating the standard of care to be used by a physician performing an abortion of a possibly viable fetus was void for vagueness. (439 U.S., at 390-401.) But in the course of reaching that conclusion, the court reaffirmed its earlier statement in *Planned Parenthood of Central Missouri v. Danforth*, [428 U.S. 52, 64 (1976)], that "the determination of whether a particular fetus is viable is, and must be, a matter for the judgment of the responsible attending physician." (439 U.S., at 396.)

20/7

The dissent, *post*, at 9, n. 6, ignores the statement in *Colautti* that "neither the legislature nor the courts may proclaim one of the elements entering into the ascertainment of viability—be it weeks of gestation or fetal weight or any other single factor—as the determinant of when the state has a compelling interest in the life or health of the fetus." (439 U.S., at 388-389.) To the extent that §188.029 regulates the method for determining viability, it undoubtedly does superimpose state regulation on the medical determination of whether a particular fetus is viable. The Court of Appeals and the District Court thought it unconstitutional for this reason. (851 F. 2d, at 1074-1075; 662 F. Supp., at 423.) To the extent that the viability tests increase the cost of what are in fact second-trimester abortions, their validity may also be questioned under *Akron*, 462 U.S., at 434-435, where the court held that a requirement that second-trimester abortions must be performed in hospitals was invalid because it substantially increased the expense of those procedures.

We think that the doubt cast upon the Missouri statute by these cases is not so much a flaw in the statute as it is a reflection of the fact that the rigid trimester analysis of the course of a pregnancy enunciated in *Roe* has resulted in subsequent cases like *Colautti* and *Akron* making constitutional law in this area a virtual Procrustean bed. Statutes specifying elements of informed consent to be provided abortion patients, for example, were invalidated if they were thought to "structur[e] . . . the dialogue between the woman and her physician." *Thornburgh v. American College of Obstetricians and Gynecologists*, [476 U.S. 747, 763 (1986)]. As the dissenters in *Thornburgh* pointed out, such a statute would have been sustained under any traditional standard of judicial review, *id.*, at 802 (WHITE, J., dissenting), or for any other surgical procedure except abortion, *id.*, at 783 (Burger, C.J., dissenting).

Stare decisis is a cornerstone of our legal system, but it has less power in constitutional cases where, save for constitutional amendments, this court is the only body able to make needed changes. See *United States v. Scott* [437 U.S. 2, 101 (1978)]. We have not refrained from reconsideration of a prior construction of the Constitution that has proved "unsound in principle and unworkable in practice." *Garcia v. San Antonio Metropolitan Transit Authority*, [469 U.S. 528, 546 (1985)]; see *Solorio v. United States*, [483 U.S. 435, 448-450 (1987)]; *Erie R. Co. v. Tompkins*, [304 U.S. 64, 74-78 (1938)]. We think the *Roe* trimester framework falls into that category.

In the first place, the rigid *Roe* framework is hardly consistent with the notion of a Constitution cast in general terms, as ours is, and usually speaking in general principles, as ours does. The key elements of the *Roe* framework—trimesters and viability—are not found in the text of the Constitution or in any place else one would expect to find a constitutional principle. Since the bounds of the inquiry are essentially indeterminate, the result has been a web of legal rules that have become increasingly intricate, resembling a code of regulations rather than a body of constitutional doctrine. As Justice [Byron R.] White has put it, the trimester framework has left this court to serve as the country's "ex officio medical board with powers to approve or disapprove medical and operative practices and standards throughout the United States." *Planned Parenthood of Central Missouri v. Danforth* [428 U.S., at 99], opinion concurring in part and dissenting in part. Cf. *Garcia, supra*, at 547.

In the second place, we do not see why the state's interest in protecting human life should come into existence only at the point of viability and that there should therefore be a rigid line allowing state regulation after viability but prohibiting it before viability. The dissenters in *Thornburgh*, writing in the context of the *Roe* trimester analysis, would have recognized this fact by positing against the "fundamental right" recognized in *Roe* the state's "compelling interest" in protecting potential human life throughout pregnancy. "[T]he State's interest, if compelling after viability, is equally compelling before viability." [*Thornburgh*, 476 U.S., at 795 (White, J., dissenting); see *id.*, at 828 (O'Connor, J., dissenting)]. ("State has compelling interests in ensuring maternal health and in protecting potential human life, and these interests exist 'throughout pregnancy' "). [citation omitted].

The tests that §188.029 requires the physician to perform are designed to determine viability. The state here has chosen viability as the point at which its interest in potential human life must be safeguarded. See Mo. Rev. Stat. §188.030 (1986). ("No abortion of a viable unborn child shall be performed unless necessary to preserve the life or health of a woman.") It is true that the tests in question increase the expense of abortion and regulate the discretion of the physician in determining the viability of the fetus. Since the tests will undoubtedly show in many cases that the fetus is not viable, the tests will have been performed for what were in fact second-trimester abortions. But we are satisfied that the requirements of these tests permissibly furthers the state's interest in protecting potential human life, and we therefore believe §188.029 to be constitutional.

The dissent takes us to task for our failure to join in a "great issues" debate as to whether the Constitution includes an "unenumerated" general right to privacy as recognized in such cases as *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Roe*. But *Griswold v. Connecticut*, unlike *Roe*, did not purport to adopt a whole framework, complete with detailed rules and distinctions, to govern the cases in which the asserted liberty interest would apply. As such, it was far different from the opinion, if not the holding, of *Roe v. Wade*, which

sought to establish a constitutional framework for judging state regulation of abortion during the entire term of pregnancy. That framework sought to deal with areas of medical practice traditionally subject to state regulation, and it sought to balance once and for all by reference only to the calendar the claims of the state to protect the fetus as a form of human life against the claims of a woman to decide for herself whether or not to abort a fetus she was carrying.

The experience of the court in applying *Roe v. Wade* in later cases, see *supra*, at 20, n. 15, suggests to us that there is wisdom in not necessarily attempting to elaborate the abstract differences between a "fundamental right" to abortion, as the court described in *Akron*, 462 U.S. at 420, n. 1, a "limited fundamental constitutional right," which Justice Blackmun's dissent today treats *Roe* as having established, *post*, at 18, or a liberty interest protected by the due-process clause, which we believe it to be. The Missouri testing requirement here is reasonably designed to ensure that abortions are not performed where the fetus is viable—an end which all concede to be legitimate—and that is sufficient to sustain its constitutionality.

The dissent also accuses us, *inter alia*, of cowardice and illegitimacy in dealing with "the most politically divisive domestic legal issue of our time." [Post, at 23.] There is no doubt that our holding today will allow some governmental regulation of abortion that would have been prohibited under the language of cases such as *Colautti v. Franklin*, 439 U.S. 379 (1979), and *Akron v. Akron Center for Reproductive Health, Inc.*, *supra*. But the goal of constitutional adjudication is surely not to remove inexorably "politically divisive" issues from the ambit of the legislative process, whereby the people through their elected representatives deal with matters of concern to them. The goal of constitutional adjudication is to hold true the balance between that which the Constitution puts beyond the reach of the democratic process and that which it does not. We think we have done that today. The dissent's suggestion, *post*, at 1-2, 21-22, that legislative bodies, in a nation where more than half of our population is women, will treat our decision today as an invitation to enact abortion regulation reminiscent of the dark ages not only misreads our views but does scant justice to those who serve in such bodies and the people who elect them.

Both appellants and the United States as *Amicus Curiae* have urged that we overrule our decision in *Roe v. Wade*. [Brief for Appellants 12-18; Brief for the United States as *Amicus Curiae* 8-24.] The facts of the present case, however, differ from those at issue in *Roe*. Here, Missouri has determined that viability is the point at which its interest in potential human life must be safeguarded. In *Roe*, on the other hand, the Texas statute criminalized the performance of *all* abortions, except when the mother's life was at stake. [410 U.S., at 117-118.] This case therefore affords us no occasion to revisit the holding in *Roe*, which was that the Texas statute unconstitutionally infringed the right to an abortion derived from the due-process clause, *id.*, at 164, and we leave it undisturbed. To the extent indicated in our opinion, we would modify and narrow *Roe* and succeeding cases.

Because none of the challenged provisions of the Missouri Act properly before us conflict with the Constitution, the judgment of the Court of Appeals is *Reversed*.

O'Connor, Concurring in Part

... In its interpretation of Missouri's "determination of viability" provision, Mo. Rev. Stat. §188.029 (1986), see *ante*, at 15-23, the plurality has proceeded in a manner unnecessary to deciding the question at hand

Unlike the plurality, I do not understand these viability-testing requirements to conflict with any of the court's past decisions concerning state regulation of abortion. Therefore, there is no necessity to accept the state's invitation to reexamine the constitutional validity of *Roe v. Wade* [410 U.S. 113 (1973)]. Where there is no need to decide a constitutional question, it is a venerable principle of this court's adjudicatory processes not to do so for "[t]he Court will not 'anticipate a question of constitutional law in advance of the necessity of deciding it.' " [Ashwander v. TVA, 297 U.S. 288, 346 (1936) (Brandeis, J., concurring), quoting *Liverpool, New York and Philadelphia S.S. Co. v. Commissioners of Emigration*, 113 U.S. 33, 39 (1885)]. Neither will it generally "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." [297 U.S., at 347.]

Quite simply, "[i]t is not the habit of the court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case." [Burton v. United States, 196 U.S. 283, 295 (1905)]. The court today has accepted the state's every interpretation of its abortion statute and has upheld, under our existing precedents, every provision of that statute which is properly before us. Precisely for this reason, reconsideration of *Roe* falls not into any "good-cause exception" to this "fundamental rule of judicial restraint" [Three Affiliated Tribes of Fort Berthold Reservation v. Wold Engineering, P.C., 467 U.S. 138, 157.] See *post*, at 4 (Scalia, J., concurring in part and concurring in judgment). When the constitutional invalidity of a state's abortion statute actually turns on the constitutional validity of *Roe v. Wade*, there will be time enough to reexamine *Roe*. And to do so carefully . . .

I do not think the second sentence of §188.029, as interpreted by the court, imposes a degree of state regulation on the medical determination of viability that in any way conflicts with prior decisions of this court. As the plurality recognizes, the requirement that, where

not imprudent, physicians perform examinations and tests useful to making subsidiary findings to determine viability "promote(s) the State's interest in potential human life rather than in maternal health." *Ante*, at 17. No decision of this court has held that the state may not directly promote its interest in potential life when viability is possible. Quite the contrary.

In *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747 (1986), the court considered a constitutional challenge to a Pennsylvania statute requiring that a second physician be present during an abortion performed "when viability is possible." [Id., at 769-770.] For guidance, the court looked to the earlier decision in *Planned Parenthood Assn. of Kansas City, Missouri, Inc. v. Ashcroft*, 462 U.S. 476 (1983), upholding a Missouri statute requiring the presence of a second physician during an abortion performed after viability. [Id., at 482-486 (opinion of Powell, J.); *id.*, at 505 (opinion concurring in judgment in part and dissenting in part)]. The *Thornburgh* majority struck down the Pennsylvania statute merely because the statute had no exception for emergency situations and not because it found a constitutional difference between the state's promotion of its interest in potential life when viability is possible and when viability is certain. [476 U.S., at 770-771.]

Despite the clear recognition by the *Thornburgh* majority that the Pennsylvania and Missouri statutes differed in this respect, there is no hint in the opinion of the *Thornburgh* court that the state's interest in potential life differs depending whether it seeks to further that interest postviability or when viability is possible. Thus, all nine members of the *Thornburgh* court appear to have agreed that it is not constitutionally impermissible for the state to enact regulations designed to protect the state's interest in potential life when viability is possible. [See *id.*, at 811 (White, J., dissenting); *id.*, at 832 (dissenting opinion)]. That is exactly what Missouri has done in §188.029.

Similarly, the basis for reliance by the District Court and the Court of Appeals below on *Colautti v. Franklin*, 439 U.S. 379 (1979), disappears when §188.029 is properly interpreted. In *Colautti*, the court observed:

"Because this point [of viability] may differ with each pregnancy, neither the legislature nor the courts may proclaim one of the elements entering into the ascertainment of viability—be it weeks of gestation or fetal weight or any other single factor—as the determinant of when the state has a compelling interest in the life or health of the fetus. Viability is the critical point." [Id., at 388-389.]

The courts below, on the interpretation of §188.029 rejected here, found the second sentence of that provision at odds with this passage from *Colautti*. [See 851 F.2d, at 1074; 662 F. supp., at 423.] On this court's interpretation of §188.029, it is clear that Missouri has not substituted any of the "elements entering into the ascertainment of viability" as "the determinant of when the state has a compelling interest in the life or health of the fetus." All the second sentence of §188.029 does is to require, when not imprudent, the performance of "those tests that are useful to making subsidiary findings as to viability." [Ante, at 16 (emphasis added)]. Thus, consistent with *Colautti*, viability remains the "critical point" under §188.029.

Finally, and rather halfheartedly, the plurality suggests that the marginal increase in the cost of an abortion created by Missouri's viability testing provision may make §188.029, even as interpreted, suspect under this court's decision in *Akron*, 462 U.S., at 434-439, striking down a second-trimester hospitalization requirement. [See *ante*, at 19.] I dissented from the court's opinion in *Akron* because it was my view that, even apart from *Roe*'s trimester framework which I continue to consider problematic, see *Thornburgh*, *supra*, at 828 (dissenting opinion), the *Akron* majority had distorted and misapplied its own standard for evaluating state regulation of abortion which the court had applied with fair consistency in the past: that, previability, "a regulation imposed on a lawful abortion is not unconstitutional unless it unduly burdens the right to seek an abortion." [Akron, *supra*, at 453 (dissenting opinion). (internal quotations omitted)].

It is clear to me that requiring the performance of examinations and tests useful to determining whether a fetus is viable, when viability is possible, and when it would not be medically imprudent to do so, does not impose an undue burden on a woman's abortion decision. On this ground alone, I would reject the suggestion that §188.029 as interpreted is unconstitutional. More to the point, however, just as I see no conflict between §188.029 and *Colautti* or any decision of this court concerning a state's ability to give effect to its interest in potential life, I see no conflict between §188.029 and the court's opinion in *Akron*.

The second-trimester hospitalization requirement struck down in *Akron* imposed, in the majority's view, "a heavy, and unnecessary, burden," 462 U.S., at 438, more than doubling the cost of "women's access to a relatively inexpensive, otherwise accessible and safe abortion procedure." [*Ibid.*; see also *id.*, at 434.] By contrast, the cost of examinations and tests that could usefully and prudently be performed when a woman is 20-24 weeks pregnant to determine whether the fetus is viable would only marginally, if at all, increase the cost of an abortion. [See Brief for American Association of Prolife Obstetricians and Gynecologists et al. as *Amici Curiae* 3 ("At 20 weeks gestation, an ultrasound examination to determine gestational age is standard medical practice. It is routinely provided by the plaintiff clinics. An ultrasound examination can effectively provide all three designated findings of sec. 188.029"); *id.*, at 22 ("A finding of fetal weight can be obtained from the same ultrasound test used to determine gestational age"); *id.*, at 25 ("There are a number of different methods in standard medical practice to determine fetal lung maturity at 20 or more weeks gestation. The most simple and most obvious is by inference. It is well known that fetal lungs do not mature until 33-34 weeks gestation If an assessment of the gestational age indicates that the child is less than 33 weeks, a general finding can be made that the fetal lungs are not mature. This finding can then be used by the physician in making his determination of viability under section 188.029"); cf. Brief for American Medical Association et al. as *Amici Curiae* 42 (no suggestion that the fetal weight and gestational age cannot be determined from the same sonogram); *id.*, at 43 (another clinical test for gestational age and, by inference, fetal weight and lung maturity, is an accurate report of the last menstrual period), citing Smith, Frey, & Johnson, Assessing Gestational Age, 33 Am. Fam. Physician 215, 219-220 (1986).]

Moreover, the examinations and tests required by §188.029 are to be performed when viability is possible. This feature of §188.029 distinguishes it from the second-trimester hospitalization requirement struck down by the *Akron* majority. As the court recognized in *Thornburgh*, the state's compelling interest in potential life postviability renders its interest in determining the critical point of viability equally compelling. [See *supra*, at 7-8.] Under the court's precedents, the same cannot be said for the *Akron* second-trimester hospitalization requirement. As I understand the court's opinion in *Akron*, therefore, the plurality's suggestion today that *Akron* casts doubt on the validity of §188.029, even as the court has interpreted it, is without foundation and cannot provide a basis for reevaluating *Roe*. Accordingly, because the Court of Appeals misinterpreted Mo.

Rev. Stat. §188.029, and because, properly interpreted, §188.029 is not inconsistent with any of this court's prior precedents, I would reverse the decision of the Court of Appeals.

Scalia, Concurring in Part

. . . I share Justice Blackmun's view, *post*, at 20, that it effectively would overrule *Roe v. Wade*, 410 U.S. 113 (1973). I think that should be done but would do it more explicitly. Since today we contrive to avoid doing it, and indeed to avoid almost any decision of national import, I need not set forth my reasons, some of which have been well recited in dissents of my colleagues in other cases

The outcome of today's case will doubtless be heralded as a triumph of judicial statesmanship. It is not that, unless it is statesmanlike needlessly to prolong this court's self-awarded sovereignty over a field where it has little proper business since the answers to most of the cruel questions posed are political and juridical—a sovereignty which therefore quite properly, but to the great damage of the court, makes it the object of the sort of organized public pressure that political institutions in a democracy ought to receive.

Justice O'Connor's assertion, *ante*, at 5, that a "fundamental rule of judicial restraint" requires us to avoid reconsidering *Roe*, cannot be taken seriously. By finessing *Roe*, we do not, she suggests, *ante*, at 5, adhere to the strict and venerable rule that we should avoid "decid[ing] questions of a constitutional nature." We have not disposed of this case on some statutory or procedural ground but have decided, and could not avoid deciding, whether the Missouri statute meets the requirements of the United States Constitution. The only choice available is whether, in deciding that constitutional question, we should use *Roe v. Wade* as the benchmark or something else

The real question, then, is whether there are valid reasons to go beyond the most stingy possible holding today. It seems to me there are not only valid but compelling ones. Ordinarily, speaking no more broadly than is absolutely required avoids throwing settled law into confusion; doing so today preserves a chaos that is evident to anyone who can read and count. Alone sufficient to justify a broad reading is the fact that our retaining control, through *Roe*, of what I believe to be, and many of our citizens recognize to be, a political issue, continuously distorts the public perception of the role of this court.

We can now look forward to at least another term with carts full of mail from the public, and streets full of demonstrators, urging us—their unelected and life-tenured judges who have been awarded those extraordinary, undemocratic characteristics precisely in order that we might follow the law despite the popular will—to follow the popular will. Indeed, I expect we can look forward to even more of that than before, given our indecisive decision today. And if these reasons for taking the unexceptional course of reaching a broader holding are not enough, then consider the nature of the constitutional question we avoid: In most cases, we do no harm by not speaking more broadly than the decision requires. Anyone affected by the conduct that the avoided holding would have prohibited will be able to challenge it himself and have his day in court to make the argument.

Not so with respect to the harm that many states believed, pre-*Roe*, and many may continue to believe, is caused by largely unrestricted abortion. That will continue to occur if the states have the constitutional power to prohibit it and would do so, but we skillfully avoid telling them so. Perhaps those abortions cannot constitutionally be proscribed. That is surely an arguable question, the question that reconsideration of *Roe v. Wade* entails. But what is not at all arguable, it seems to me, is that we should decide now and not insist that we be run into a corner before we grudgingly yield up our judgment. The only sound reason for the latter course is to prevent a change in the law—but to think that desirable begs the question to be decided.

It was an arguable question today whether §188.029 of the Missouri law contravened this court's understanding of *Roe v. Wade*, and I would have examined *Roe* rather than examining the contravention. Given the court's newly contracted abstemiousness, what will it take, one must wonder, to permit us to reach that fundamental question? The result of our vote today is that we will not reconsider that prior opinion, even if most of the justices think it is wrong, unless we have before us a statute that in fact contradicts it—and even then (under our newly discovered “no broader than necessary” requirement), only minor problematical aspects of *Roe* will be reconsidered, unless one expects state legislatures to adopt provisions whose compliance with *Roe* cannot even be argued with a straight face. It thus appears that the mansion of constitutionalized abortion-law, constructed overnight in *Roe v. Wade*, must be disassembled door-jamb by door-jamb and never entirely brought down, no matter how wrong it may be.

Of the four courses we might have chosen today—to reaffirm *Roe*, to overrule it explicitly, to overrule it *sub silentio* or to avoid the question—the last is the least responsible. On the question of the constitutionality of §188.029, I concur in the judgment of the court and strongly dissent from the manner in which it has been reached.

Blackmun, Concurring and Dissenting

Today, *Roe v. Wade* . . . and the fundamental constitutional right of women to decide whether to terminate a pregnancy, survive but are not secure. Although the court extricates itself from this case without making a single, even incremental, change in the law of abortion, the plurality and Justice Scalia would overrule *Roe* (the first silently, the other explicitly) and would return to the states virtually unfettered authority to control the quintessentially intimate, personal and life-directing decision whether to carry a fetus to term. Although today, no less than yesterday, the Constitution and the decisions of this court prohibit a state from enacting laws that inhibit women from the meaningful exercise of that right, a plurality of this court implicitly invites every state legislature to enact more and more restrictive abortion regulations in order to provoke more and more test cases, in the hope that, sometime down the line, the court will return the law of procreative freedom to the severe limitations that generally prevailed in this country before Jan. 22, 1973. Never in my memory has a plurality announced a judgment of this court that so foments disregard for the law and for our standing decisions.

Nor in my memory has a plurality gone about its business in such a deceptive fashion. At every level of its review, from its effort to read the real meaning out of the Missouri statute, to its intended evisceration of precedents and its deafening silence about the constitutional protections that it would jettison, the plurality obscures the portent of its analysis. With feigned restraint, the plurality announces that its analysis leaves *Roe* “undisturbed,” albeit “modif[ied] and narrow[ed].” *Ante*, at 23. But this disclaimer is totally meaningless. The plurality opinions are filled with winks and nods and knowing glances to those who would do away with *Roe* explicitly but turns a stone face to anyone in search of what the plurality conceives as the scope of a woman's right under the due-process clause to terminate a pregnancy free from the coercive and brooding influence of the state. The simple truth is that *Roe* would not survive the plurality's analysis and that the plurality provides no substitute for *Roe*'s protective umbrella.

I fear for the future. I fear for the liberty and equality of the millions of women who have lived and come of age in the 16 years since *Roe* was decided. I fear for the integrity of, and public esteem for, this court.

I dissent

Tucked away at the end of its opinion, the plurality suggests a radical reversal of the law of abortion, and there, primarily, I direct my attention. In the plurality's view, the viability-testing provision imposes a burden on second-trimester abortions as a way of furthering the state's interest in protecting the potential life of the fetus. Since under the *Roe* framework, the state may not fully regulate abortion in the interest of potential life (as opposed to maternal health) until the third trimester, the plurality finds it necessary, in order to save the Missouri testing provision, to throw out *Roe*'s trimester framework. [*Ante*, at 19-22.] In flat contradiction to *Roe*, 410 U.S., at 163, the plurality concludes that the state's interest in potential life is compelling before viability and upholds the testing provision because it “permissibly furthers” that state interest. [*Ante*, at 21.]

Far from avoiding constitutional difficulty, the plurality attempts to engineer a dramatic retrenchment in our jurisprudence by exaggerating the conflict between its untenable construction of §188.029 and the *Roe* trimester framework.

No one contests that, under the *Roe* framework, the state, in order to promote its interest in potential human life, may regulate and even proscribe nontherapeutic abortions once the fetus becomes viable. [*Roe*, 410 U.S., at 164-165.] If, as the plurality appears to hold, the testing provision simply requires a physician to use appropriate and medically sound tests to determine whether the fetus is actually viable when the estimated gestational age is greater than 20 weeks (and therefore within what the District Court found to be the margin of error for viability, *ante*, at 19), then I see little or no conflict with *Roe*. Nothing in *Roe* or any of its progeny holds that a state may not effectuate its compelling interest in the potential life of a viable fetus by seeking to ensure that no viable fetus is mistakenly aborted because of the inherent lack of precision in estimates of gestational age.

A requirement that a physician make a finding of viability, one way or the other, for every fetus that falls within the range of possible viability does no more than preserve the state's recognized authority. Although, as the plurality correctly points out, such a testing requirement would have the effect of imposing additional costs on second-trimester abortions where the tests indicated that the fetus was not viable, these costs would be merely incidental to, and a necessary accommodation of, the state's unquestioned right to prohibit nontherapeutic abortions after the point of viability. In short, the testing provision, as construed by the plurality is consistent with the *Roe* framework and could be upheld effortlessly under current doctrine.

How ironic it is, then, and disingenuous, that the plurality scolds the Court of Appeals for adopting a construction of the statute that fails to avoid constitutional difficulties. [*Ante*, at 16.] By distorting the statute, the plurality manages to avoid invalidating the testing provision on what should have been noncontroversial constitutional grounds; having done so, however, the plurality rushes headlong into a much deeper constitutional thicket, brushing past an obvious basis for upholding §188.029 in search of a pretext for scuttling the trimester framework. Evidently, from the plurality's perspective, the real problem with the Court of Appeals' construction of §188.029 is not that it raised a constitutional difficulty but that it raised the wrong constitutional difficulty, one not implicating *Roe*. The plurality has remedied that, traditional canons of construction and judicial forbearance notwithstanding.

Having set up the conflict between §188.029 and the *Roe* trimester framework, the plurality summarily discards *Roe*'s analytic core as “unsound in principle and unworkable in practice.” [*Ante*, at 20, quoting *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528, 546 (1985)]. This is so, the plurality claims, because the key elements of the framework do not appear in the text of the Constitution, because the framework more closely resembles a regulatory code than a body of constitutional doctrine and because under the framework the state's interest in potential human life is considered compelling only after viability, when, in fact, that interest is equally compelling throughout pregnan-

cy. [Ante, at 21-22.] The plurality does not bother to explain these alleged flaws in *Roe*. Bald assertion masquerades as reasoning. The object, quite clearly is not to persuade, but to prevail.

The plurality opinion is far more remarkable for the arguments that it does not advance than for those that it does. The plurality does not even mention, much less join, the true jurisprudential debate underlying this case: whether the Constitution includes an "unenumerated" general right to privacy as recognized in many of our decisions, most notably *Griswold v. Connecticut* and *Roe*, and more specifically, whether and to what extent such a right to privacy extends to matters of childbearing and family life, including abortion These are questions of unsurpassed significance in this court's interpretation of the Constitution, and mark the battleground upon which this case was fought, by the parties, by the solicitor general as *amicus* on behalf of petitioners and by an unprecedented number of *amici*. On these grounds, abandoned by the plurality, the court should decide this case.

But rather than arguing that the text of the Constitution makes no mention of the right to privacy, the plurality complains that the critical elements of the *Roe* framework—trimesters and viability—do not appear in the Constitution and are, therefore, somehow inconsistent with a Constitution case in general terms. [Ante, at 20.] Were this a true concern, we would have to abandon most of our constitutional jurisprudence. As the plurality well knows, or should know, the "critical elements" of countless constitutional doctrines nowhere appear in the Constitution's text. The Constitution makes no mention, for example, of the First Amendment's "actual malice" standard for proving certain libels . . . or of the standard for determining when speech is obscene Similarly, the Constitution makes no mention of the rational-basis test or the specific verbal formulations of intermediate and strict scrutiny by which this court evaluates claims under the equal-protection clause. The reason is simple. Like the *Roe* framework, these tests or standards are not, and do not purport to be, rights protected by the Constitution. Rather, they are judge-made methods for evaluating and measuring the strength and scope of constitutional rights or for balancing the constitutional rights of individuals against the competing interests of government.

With respect to the *Roe* framework, the general constitutional principle, indeed the fundamental constitutional right, for which it was developed is the right to privacy, see, e.g., *Griswold v. Connecticut*, 381 U.S. 479 (1965), a species of "liberty" protected by the due-process clause, which under our past decisions safeguards the right of women to exercise some control over their own role in procreation. As we recently reaffirmed in *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747 (1986), few decisions are "more basic to individual dignity and autonomy" or more appropriate to that "certain private sphere of individual liberty" that the Constitution reserves from the intrusive reach of government than the right to make the uniquely personal, intimate and self-defining decision whether to end a pregnancy. [*Id.*, at 772.]

It is this general principle, the "moral fact that a person belongs to himself and not others nor to society as a whole," *id.*, at 777 n. 5 (Stevens, J., concurring), quoting Fried, Correspondence, 6 Phil. & Pub. Aff. 288-289 (1977), that is found in the Constitution. [See *Roe*, 410 U.S., at 152-153.] The trimester framework simply defines and limits that right to privacy in the abortion context to accommodate, not destroy, a state's legitimate interest in protecting the health of pregnant women and in preserving potential human life. [*Id.*, at 154-162.] Fashioning such accommodations between individual rights and the legitimate interests of government, establishing benchmarks and standards with which to evaluate the competing claims of individuals and government, lies at the very heart of constitutional adjudication. To the extent that the trimester framework is useful in this enterprise, it is not only consistent with constitutional interpretation, but necessary to the wise and just exercise of this court's paramount authority to define the scope of constitutional rights.

The plurality next alleges that the result of the trimester framework has "been a web of legal rules that have become increasingly intricate, resembling a code of regulations rather than a body of constitutional doctrine." [Ante, at 20.] Again, if this were a true and genuine concern, we would have to abandon vast areas of our constitutional jurisprudence. The plurality complains that, under the trimester framework, the court has distinguished between a city ordinance requiring that second-trimester abortions be performed in clinics and a state law requiring that these abortions be performed in hospitals, or between laws requiring that certain information be furnished to a woman by a physician or his assistant and those requiring that such information be furnished by the physician exclusively. [*Ibid.*, at n. 15, citing *Simopoulos v. Virginia*, 462 U.S. 506 (1983), and *Akron*, *supra*.]

Are these distinctions any finer, or more "regulatory," than the distinctions we have often drawn in our First Amendment jurisprudence where, for example, we have held that a "release time" program permitting public school students to leave school grounds during school hours to receive religious instruction does not violate the Establishment clause, even though a release-time program permitting religious instruction on school grounds does violate the Clause? Our Fourth Amendment jurisprudence recognizes factual distinctions no less intricate That numerous constitutional doctrines result in narrow differentiations between similar circumstances does not mean that this court has abandoned adjudication in favor of regulation. Rather, these careful distinctions reflect the process of constitutional adjudication itself, which is often highly fact-specific, requiring such determinations as whether state laws are "unduly burdensome" or "reasonable" or bear a "rational" or "necessary" relation to asserted state interests.

In a recent due-process case, the chief justice wrote for the court: "[M]any branches of the law abound in nice distinctions that may be troublesome but have been though nonetheless necessary: 'I do not think we need trouble ourselves with the thought that my view depends upon differences of degree. The whole law does so as soon as it is civilized.'"

These "differences of degree" fully account for our holdings in *Simopoulos*, *supra*, and *Akron*, *supra*. Those decisions rest on this court's reasoned and accurate judgment that hospitalization and doctor-counseling requirements unduly burdened the right of women to terminate a pregnancy and were not rationally related to the state's asserted interest in the health of pregnant women, while Virginia's *substantially less restrictive* regulations were not unduly burdensome and did rationally serve the state's interest. That the court exercised its best judgment in evaluating these markedly different statutory schemes no more established the court as an "ex officio medical board" . . . than our decisions involving religion in the public schools establish the court as a national school board or our decisions concerning prison regulations establish the court as a bureau of prisons If, in delicate and complicated areas of constitutional law, our legal judgments "have become increasingly intricate" . . . it is not, as the plurality contends, because we have overstepped our judicial role. Quite the opposite: The rules are intricate because we have remained conscientious in our duty to do justice carefully, especially when fundamental rights rise or fall with our decisions.

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.... I remain convinced, as six other members of this court 16 years ago were convinced, that the *Roe* framework and the viability standard in particular fairly, sensibly and effectively functions to safeguard the constitutional liberties of pregnant women while recognizing and accommodating the state's interest in potential human life.... Although I have stated previously for a majority of this court that "[c]onstitutional rights do not always have easily ascertainable boundaries," to seek and establish those boundaries remains the special responsibility of this court.... In *Roe*, we discharged that responsibility as logic and science compelled. The plurality today advances not one reasonable argument as to why our judgment in that case was wrong and should be abandoned.

Having contrived an opportunity to reconsider the *Roe* framework, and then having discarded that framework, the plurality finds the testing provision unobjectionable because it "permissibly furthers the state's interest in protecting potential human life".... This newly minted standard is circular and totally meaningless. Whether a challenged abortion regulation "permissibly furthers" a legitimate state interest is the *question* that courts must answer in abortion cases, not the standard for courts to apply. In keeping with the rest of its opinion, the plurality makes no attempt to explain or to justify its new standard, either in the abstract or as applied in this case. Nor could it.... Were the plurality's "permissibly furthers" standard adopted by the court, for all practical purposes, *Roe* would be overruled....

Thus, "not with a bang, but with a whimper" the plurality discards a landmark case of the last generation and casts into darkness the hopes and visions of every woman in this country who had come to believe that the Constitution guaranteed her the right to exercise some control over her unique ability to bear children. The plurality does so either oblivious or insensitive to the fact that millions of women and their families have ordered their lives around the right to reproductive choice and that this right has become vital to the full participation of women in the economic and political walks of American life. The plurality would clear the way once again for government to force upon women the physical labor and specific and direct medical and psychological harms that may accompany carrying a fetus to term. The plurality would clear the way again for the state to conscript a woman's body and to force upon her a "distressful life and future." [*Roe*, 410 U.S., at 153.]

The result... would be that, every year, hundreds of thousands of women, in desperation, would defy the law and place their health and safety in the unclean and unsympathetic hands of back-alley abortionists, or they would attempt to perform abortions upon themselves, with disastrous results. Every year, many women, especially poor and minority women, would die or suffer debilitating physical trauma, all in the name of enforced morality or religious dictates or lack of compassion, as it may be.

Of the aspirations and settled understandings of American women, of the inevitable and brutal consequences of what it is doing, the tough-approach plurality utters not a word. The silence is callous. It is also profoundly destructive of this court as an institution. To overturn a constitutional decision is a rare and grave undertaking. To overturn a constitutional decision that secured a fundamental personal liberty to millions of persons would be unprecedented in our 200 years of constitutional history....

The plurality makes no serious attempt to carry "the heavy burden of persuading... that changes in society or in the law dictate" the abandonment of *Roe* and its numerous progeny... much less the greater burden of explaining the abrogation of a fundamental personal freedom. Instead, the plurality pretends that it leaves *Roe* standing and refuses even to discuss the real issue underlying this case: whether the Constitution includes an unenumerated [right] to privacy that encompasses a woman's right to decide whether to terminate a pregnancy. To the extent that the plurality does criticize the *Roe* framework, these criticisms are pure *ipse dixit*.

This comes at a cost.... Today's decision involves the most politically divisive domestic legal issue of our time. By refusing to explain or to justify its proposed revolutionary revision in the law of abortion, and by refusing to abide not only by our precedents but also by our canons for reconsidering those precedents, the plurality invites charges of cowardice and illegitimacy to our door. I cannot say that these would be undeserved.

For today, at least, the law of abortion stands undisturbed. For today, the women of this nation still retain the liberty to control their destinies. But the signs are evident and very ominous, and a chill wind blows.

I dissent.

THE WHITE HOUSE
WASHINGTON

June 12, 1992

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: D. CAMERON FINDLAY 
SUBJECT: Preparation for the Casey Decision

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If, as expected, a majority endorses the Chief Justice's standard of review in Webster, it is likely that all three challenged provisions would be upheld as reasonably related to the state's interest in protecting prenatal life.

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For Immediate Release

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- o I recognize that abortion is an extremely emotional issue, and that people feel strongly about their positions. That is why it is critical that decisions about abortion be left to the elected representatives of the people and not to unelected Federal judges. This decision respects the democratic system of our Constitution.
- o My own position on abortion is well-known. I oppose abortion in all cases except rape or incest or where the life of the mother is at stake. Tragically, each year 1.5 million abortions take place in this country. I support reasonable restrictions that would reduce that number.
- o I continue to oppose the so-called Freedom of Choice Act. That bill would impose a National regime of abortion-on-demand on all 50 states. It would outlaw even the most modest and reasonable restrictions on abortions, such as parental notice requirements.

#

THE WHITE HOUSE
WASHINGTON

DATE: 6/10

TO:

Cam

FROM:

LEIGH ANN METZGER *ham*
Deputy Assistant to the President
for Public Liaison
Room 194, OEOB, x7142

The pro-life organizations
have all signed off on
the following -

I've distributed to our
group -

6/4/92
all support

67 - 21 - (")

PROPOSED STATEMENT ON CASEY DECISION

Today's ruling is a cause for hope and not alarm. At last the rights of women and the rights of the unborn can be joined. Loving alternatives like adoption can now be the focus of our debate. We reach out to every woman faced with the agony of abortion and say to her: Your life and the life of your baby are both important, and we will not desert either one of you. *Why can't we love them both?*

Possible theme outcomes:

- (1) Adoption the loving alternative
- (2) Joining of rights

THEMES & DISCUSSION

- . Now both mother and child can be protected
- . The debate that was choked off in '73 can now come to full power
- . Adoption, the loving alternative
- . You are not alone
- . A victory for women
- . Hands again untied
- . Roe has stood in the way of even the most reasonable restrictions on abortion
- . Question is: Shall the people decide?
- . Joan Beck - the Washington march - sad
- . Women and unborn child still do not have protection of both
- . Unshackled
- . Break down the isolation that drives women to the tragic choice of abortion
- . PA is mainstream
- . Don't let them keep you in the dark -- Casey turns on the light
- . FOCA - nobody has the Right to Know
- . Always mother and baby
- . 3 out of 4 Americans agree with Casey
- . Who has the Right to Know
- . Casey finally turns on the light
- . Finally, she is not alone
- . Now Mom and kid can both be protected
- . Fewer women exploited -- more babies adopted
- . Adoption - balancing of rights
- . Love them both

*In this decision the bottom line,
the fundamental question is:*

Who has a right to Know?

- The pregnant woman who deserves basic information about fetal development, complications and alternatives.
- The parents of a minor daughter who is pregnant.
- The husband of the pregnant woman.
- The pregnant woman who will be given 24 hours to reconsider a decision that will effect the rest of her life.
- The American people who will be provided with accurate statistics.

■	■	■	■
	■	■	
	■		

Life Issues Poll

National Survey

Marginals

(Persuadables)

February 1992

Format

Soft Probes

Introduction

Opinions - agree/disagree

Developing the Strategies

Message Senders/Authority Figures

Wrap Up Probe

Demographics

Hello, my name is _____, and I'm calling from Command Research, a public opinion polling firm, and I would like to ask you a few questions on a strictly confidential basis.

1. Are you over 18 years old? (If answer is no, ask to speak with an adult. If no adult is available, terminate interview.)

Yes	1	100%
-----	---	------

2. Are you currently a registered voter?

Yes	1	80.5%
-----	---	-------

No	2	19.5
----	---	------

3. Do you consider yourself a Democrat, Republican, or Independent? (Rotate choices)

Democrat	1	34.6%
----------	---	-------

Republican	2	35.6
------------	---	------

Independent	3	29.8
-------------	---	------

4. During the recent Supreme Court confirmation hearings, Judge Clarence Thomas was often asked his position on abortion. Should nominees to the Supreme Court be required to state their position on abortion?

Yes	1	39.9%
No	2	49.4
Don't know	3	10.7

5. With the recent confirmation of Judge Clarence Thomas to the Supreme Court, many legal scholars have noted that the court has now shifted to the right and become quite conservative in its beliefs and opinions. Does such a shift concern or please you?

Concern	1	38.1%
Please	2	34
Don't know	3	27.9

6. Recently, there has been increased discussion regarding the issue of abortion and women's rights. Specifically, which of the following positions on this issue comes closest to your own view?

I favor the option of abortion for women in all cases.	1	33.3%
I oppose all abortions.	2	17.8
I favor only some abortions/ Don't know my position/ I'm not really sure.	3	48.9

(Note: Can #1's and #2's, in some circumstances, be pushed into #3's?)

What We're Looking For

The Keys to Framing the Abortion Debate for the 1990s

*Soft Probes: These are the most important questions in the survey. The objective questions are the framework in which to set the comments which you can only get from detailed and extensive conversations with those willing to talk at length. Continue soft probes until finished.

Specifically:

- (1) In the 1990s, what are the most powerful images for turning people against abortions?
- (2) What are the most powerful images for turning people toward a greater acceptance of abortions?
- (3) What are the most important facts/arguments/statements which push the voter toward opposing more abortions?
- (4) What are the most important facts/arguments/statements which push the voter toward accepting more abortions?
- (5) Going beyond the authority questions per se, what personality types seem to have the most power in the 1990s on this issue?
- (6) Do many people find adoption a fitting alternative to abortion? Does this have ethnic overtones? How do a

woman's rights come in conflict with society's? Should women be socialized away from abortion and toward adoption? Would they feel better about themselves? Would society feel better about them?

- (7) What tactics do people use for or against abortion which the average persuadable person likes? Dislikes?
- (8) Is making someone have an abortion they later regret sexual harassment? Is not letting a woman have an abortion if she wants one, sexual harassment?
- (9) How much does being a woman determine one's attitudes toward abortion vs. adoption, i.e., what is "choice" really about?
- (10) What symbols get peoples' attention on abortion? Pro-abortion? Anti-abortion?

Bottom Line:

What will frame the abortion debate for the 1990s, pro and con?

7. Would you say you favor abortions in cases of rape and incest?

Yes	1	88.7%
No	2	7.9
Don't know	3	3.4

8. Would you say you generally favor the right of a woman to decide if she needs or wants an abortion even if you personally oppose abortion?

Yes	1	59.1%
No	2	34.6
Don't know	3	6.4

(Probe: In all cases? For all reasons? Why? Why not?)

9. Would you say you generally favor society's right to decide if a woman should have an abortion?

Yes	1	17.4%
No	2	71
Don't know	3	11.7

10. Should society, through the use of tax dollars, ensure that a woman have an abortion if she wants or needs one, even if other people object?

Yes	1	25%
No	2	65.6
Don't know	3	9.4

11. Do you agree or disagree with President Bush's decision to prevent abortion from being mentioned as an option at federally funded clinics - the so-called "gag rule"?

Agree	1	30.4%
Disagree	2	53.3
Don't know	3	16.4

12. Should the Morning After Abortion Pill (RU 486) be made available in the United States?

Yes	1	38%
No	2	42.5
Don't know	3	19.5

13. When you think of a woman having an abortion, what do you think of? (Open end - soft probe)

Now I would like to read you some statements, and I would like you to tell me if you agree strongly, agree somewhat strongly, disagree somewhat, or disagree strongly with the statement.

14. "Abortion is morally wrong; it's not God's will."

Agree strongly	1	43.4%	>	60
Agree somewhat	2	17.2		
Disagree somewhat	3	12.3	>	37
Disagree strongly	4	20.1		
Don't know	5	7		

15. "Abortion may be morally wrong to some but for society, as a whole, it is a necessary option."

Agree strongly	1	39.6%	>	55
Agree somewhat	2	15.6		
Disagree somewhat	3	8.7	>	37
Disagree strongly	4	28.6		
Don't know	5	7.4		

16. "Adoption is much better than abortion since there are two million couples waiting to adopt children."

Agree strongly	1	71.7%	>	87
Agree somewhat	2	15.1		
Disagree somewhat	3	2.8	>	9
Disagree strongly	4	6.2		
Don't know	5	4.2		

17. "A woman's body is her own. No one should tell her what to do."

Agree strongly	1	45.1%	} 66
Agree somewhat	2	20.5	
Disagree somewhat	3	12	} 29
Disagree strongly	4	16.8	
Don't know	5	5.6	

18. "A woman's body is her own, but we still need restrictions on abortion."

Agree strongly	1	57.8%	} 79
Agree somewhat	2	20.9	
Disagree somewhat	3	6.1	} 17
Disagree strongly	4	11.2	
Don't know	5	4	

19. "There's more to abortion than woman's rights. A husband or boyfriend who has responsibility should have some say in whether or not their child is aborted. We need balanced rights on this issue."

Agree strongly	1	59.5%	} 79
Agree somewhat	2	18.8	
Disagree somewhat	3	5.5	} 16
Disagree strongly	4	10.4	
Don't know	5	5.8	

24. "Frankly, abortion is the ultimate child abuse."

Agree strongly	1	32.3%
Agree somewhat	2	15.3
Disagree somewhat	3	9.4
Disagree strongly	4	31.6
Don't know	5	11.4

25. "If abortions become illegal, they will still be carried out in back alleys. We need to keep them legal."

Agree strongly	1	53.4%
Agree somewhat	2	17.3
Disagree somewhat	3	7.7
Disagree strongly	4	15
Don't know	5	6.6

26. "4,000 abortions a day is too many."

Agree strongly	1	71%
Agree somewhat	2	7.6
Disagree somewhat	3	1.8
Disagree strongly	4	7.5
Don't know	5	12

27. "In this day and age, it's ridiculous to have the Pope excommunicate public officials who support abortion."

Agree strongly	1	52.9%
Agree somewhat	2	10.6
Disagree somewhat	3	5.3
Disagree strongly	4	12.2
Don't know	5	19

28. "Those who blockade abortion clinics are fanatics. They make me think that the pro-life movement is a radical group. It's alarming."

Agree strongly	1	40.3%
Agree somewhat	2	15.9
Disagree somewhat	3	9.6
Disagree strongly	4	23.9
Don't know	5	10.3

29. "I support those who blockade abortion clinics. They have the right to do that, because they feel so strongly about the issue."

Agree strongly	1	26.7%
Agree somewhat	2	16.2
Disagree somewhat	3	16
Disagree strongly	4	33
Don't know	5	8.1

20. The U.S. Supreme Court Roe v. Wade abortion decision is now almost two decades old. With the advancements we have seen in science and medicine (such as test-tube babies and being able to see the unborn through ultra-sound), society should begin to recognize some rights of the unborn child too.

Agree strongly	1	56.2%	> 75
Agree somewhat	2	19	
Disagree somewhat	3	4.9	> 15
Disagree strongly	4	10.2	
Don't know	5	9.6	

21. "I am against abortion when the child can live outside the womb."

Agree strongly	1	35.8%	> 47
Agree somewhat	2	10.7	
Disagree somewhat	3	6.1	> 22
Disagree strongly	4	16.2	
Don't know	5	31.2	

22. "No matter how you slice it, the fetus is a human baby. Killing is wrong no matter what the month or stage of development."

Agree strongly	1	62.6%	} 73
Agree somewhat	2	10.6	
Disagree somewhat	3	4.7	} 12
Disagree strongly	4	7.7	
Don't know	5	14.4	

23. "With abortion you have a clash of rights--the woman's rights and the child's rights. We need to pay more attention to the rights of the unborn child."

Agree strongly	1	54.7%	} 73
Agree somewhat	2	18.6	
Disagree somewhat	3	5.6	} 16
Disagree strongly	4	10.7	
Don't know	5	10.4	

30. "Frankly, I'm sick of the whole abortion debate. I wish it would just go away. There are more important issues facing us today."

Agree strongly	1	26.4%
Agree somewhat	2	21.6
Disagree somewhat	3	13.8
Disagree strongly	4	31.9
Don't know	5	6.3

31. "I think it is better that each state have its own abortion laws; that way people on the local level can decide."

Agree strongly	1	35.2%	
Agree somewhat	2	10.3	> 46
Disagree somewhat	3	8.8	
Disagree strongly	4	32.9	> 43
Don't know	5	12.8	

32. Should the State Legislature reflect the views of a majority of its citizens when it comes to abortion, or just do what it thinks is "right"?

Follow majority	1	62.4%	-
Do what it thinks is right	2	21.9	-
Don't know	3	15.7	

33. In your view, should your State Legislature in any way restrict abortion in your state?

Yes - definite	1	29.4%
Yes - lean	2	18.2
No - lean	3	13.1
No - definite	4	27.3
Don't know	5	12

34. "The Pro-Life group bothers me. They're completely against abortions, yet they're against birth control as well. It doesn't make sense. If they really want fewer abortions, they should be advocating birth control methods."

Agree strongly	1	66.1%
Agree somewhat	2	12.5
Disagree somewhat	3	3.1
Disagree strongly	4	5.9
Don't know	5	12.4

Probe answer. (Why do you say that? What kind of people are pro-life?)

35. "The Pro-Choice group bothers me. They're really radical feminists. They're anti-male and anti-family. They don't care about the role of families, only themselves."

Agree strongly	1	17.5%
Agree somewhat	2	15.1
Disagree somewhat	3	13.7
Disagree strongly	4	27.4
Don't know	5	26.5

36. "Sexual harassment is involved in the abortion question. Telling a woman not to have an abortion is a form of sexual harassment."

Agree strongly	1	12.1%
Agree somewhat	2	13.3
Disagree somewhat	3	11.4
Disagree strongly	4	49.1
Don't know	5	14.2

37. "Children today are being brought up in a pro-abortion culture. Getting an abortion is accepted as normal behavior. Many women don't even think twice about having abortions."

Agree strongly	1	40.3%
Agree somewhat	2	20.6
Disagree somewhat	3	8.5
Disagree strongly	4	18.4
Don't know	5	12.2

38. "I would have more sympathy for those who are against abortion if they presented their case in a more objective or scientific way."

Agree strongly	1	41%
Agree somewhat	2	18
Disagree somewhat	3	6.3
Disagree strongly	4	17.7
Don't know	5	17

39. "When I see pictures of fetuses, I get angry. Not at the person having the abortion, but at the person showing them to me."

Agree strongly	1	28.9%
Agree somewhat	2	11.9
Disagree somewhat	3	8.9
Disagree strongly	4	26.6
Don't know	5	23.7

40. "Abortion shouldn't be used as a contraceptive."

Agree strongly	1	83.4%	> 91
Agree somewhat	2	7.5	
Disagree somewhat	3	.7	> 4
Disagree strongly	4	3.3	
Don't know	5	5.4	

41. "Of course, adoption sounds like a better option than abortion. But personally, I couldn't live with myself knowing my child was somewhere out there calling someone else 'Mom' or 'Dad'. Having an abortion is actually easier."

Agree strongly	1	28.1%
Agree somewhat	2	15.9
Disagree somewhat	3	9.4
Disagree strongly	4	26.6
Don't know	5	20

With an emotional issue, such as abortion, it is often difficult to tell who is telling the truth. In your mind, how believable are the following to you personally?

42. A couple who has lost a child through an abortion and regrets it

Very believable	1	54.7%
Somewhat believable	2	16.8
Somewhat unbelievable	3	3.1
Very unbelievable	4	4
Don't know	5	21.4

43. A spokesperson for the National Right to Life
Committee

Very believable	1	22%
Somewhat believable	2	21
Somewhat unbelievable	3	7.8
Very unbelievable	4	11.7
Don't know	5	37.5

> 43

44. A spokesperson for the National Abortion Rights
Action League

Very believable	1	14.4%
Somewhat believable	2	16.7
Somewhat unbelievable	3	6.8
Very unbelievable	4	14.9
Don't know	5	47.3

> 31

45. A spokesperson for the League of Women Voters

Very believable	1	14.3%
Somewhat believable	2	12.6
Somewhat unbelievable	3	2.5
Very unbelievable	4	5.5
Don't know	5	65.1

46. A religious figure

Very believable	1	29.7%
Somewhat believable	2	19
Somewhat unbelievable	3	6.6
Very unbelievable	4	14.4
Don't know	5	30.3

47. A spokesperson for the National Organization of Women
(NOW)

Very believable	1	18.6%
Somewhat believable	2	19.2
Somewhat unbelievable	3	5.2
Very unbelievable	4	16.9
Don't know	5	40.1

> 38

Rescue 21,

NAHAL
31

NOW 38

NRL
43

PP 56

-51

48. Someone who counsels teens on a regular basis

Very believable	1	35.9%
Somewhat believable	2	23
Somewhat unbelievable	3	2.9
Very unbelievable	4	5.9
Don't know	5	32.3

49. A spokesperson for Planned Parenthood

Very believable	1	36.4%
Somewhat believable	2	20
Somewhat unbelievable	3	4.5
Very unbelievable	4	9.1
Don't know	5	30

> 56

50. A spokesperson for Operation Rescue

Very believable	1	12.4%
Somewhat believable	2	9.1
Somewhat unbelievable	3	3.8
Very unbelievable	4	21
Don't know	5	53.7

> 21

51. Which of the following doctors is the most believable to you?

A doctor who performs abortions	1	21.8%
A doctor who performed abortions and now opposes them	2	28
A doctor who has never performed abortions	3	19.7
Don't know	4	30.6

52. If you were in charge of the pro-choice movement, what is the best argument you would make for abortion?
(Don't read - Keep list)

Woman's body is her own	1	19.8%
Her life is in danger	2	16.5
Rape and incest	3	21.8
Stop child abuse/Unwanted	4	2.1
Birth defects	5	2.3
Other (keep list)	6	8.6
Don't know	7	28.9

53. If you were in charge of the pro-life movement, what is the best argument you would make against abortion?

(Don't read - Keep list)

Killing fetus is wrong/Murder	1	24.6%
Other options available	2	11.6
Used for birth control	3	6.1
Fetus is alive/A human	4	7.8
Religion/God/Morally wrong	5	10
Other	6	13.7
Don't know	7	26.2

54. Thinking about 1992 and the upcoming elections, overall, how important is abortion to you in choosing a candidate?

Abortion isn't that important to me.	1	8.9%
Abortion is only one important issue among many.	2	60.3
I would always vote for a candidate who favored abortion.	3	5
I would always vote for a candidate who opposed abortion.	4	14.9
Don't know	5	10.9

To conclude, I would like to ask you a few questions for statistical purposes only.

55. Age

18-25	1	17.5%
25-45	2	39
45-60	3	20.2
Over 60	4	23.4

56. Sex/Occupation

Male	1	51.2%
Female/works outside the home	2	24.6
Female/works inside the home	3	24.3

57. Approximate total income of household

0-\$15,000	1	16.8%
\$15-\$30,000	2	28
\$30-\$50,000	3	31.2
Over \$50,000	4	23.9

58. Education

Grade school	1	5.3%
High school graduate	2	30.3
Some college	3	29.9
College graduate	4	34.5

59. Religion

Roman Catholic	1	23.7%
Fundamental/Evangelical	2	9.7
Other Protestant	3	42
Other religion	4	18.3
No religion	5	6.7

60. Race or National Origin

White	1	76.7%
Black	2	11.8
Hispanic	3	7.6
Other/Won't say	4	3.9

61. Location (by observation)

Northeast	1	21.9%
Southeast	2	23.1
Central	3	20.8
Midwest	4	18.1
West	5	16.1



THE POTHOLM GROUP

Life Issues Institute

Benefits Testing

Probe

June 1992

1. The May 1992 survey consisted of 250 completed interviews of people who were neither definitely opposed to all abortions, nor supportive of all abortions.
2. The normal statistical margin of error for a study of this type is plus or minus .062 at the 95th level of confidence.
3. The proposed response cluster is highly regarded. 67% agreed with its provisions. Only 21% objected, primarily to its lack of inclusion of the word "choice."
4. Most of the nearly 12% who were undecided simply found the statement as read, "too complex" or "difficult" to follow. Comments given to clarify focused on the simple statement:

"Adoption: The Better Option"

or

"Adoption: The Better Choice"

5. Who was most strongly supportive of the paragraph?
 - 41% of registered voters (vs. 32% of non-registered)
 - 45% of Independents, 41% of Republicans and 37% of Democrats
 - 43% of Northeast, 45% of South (37% of West, 37% of Midwest, 29% of Central)

Totals by region (strong and somewhat) showed a good deal of commonality:

62% Northeast

61% Southeast

72% Central

63% Midwest

66% West

45% of those 25-45 (one-third of other groups)

46% of males, 41% of females in the home and

20% of females outside (totals: 64%, 66% and 54%)

41% of high school, 45% of college, 30% of

some college and 33% of grade school (totals: 69%, 75%, 68% and 65%)

6. Comments: Question #6

"Agree"

- Bible says it's murder/not God's plan (6)
- Like all (the whole statement) (10)
- Like adoption (idea) (36)
- Lives of both important (21)
- Like adoption except in case of rape (4)
- A woman alone needs help. (3)
- Woman should get care during pregnancy--physically and financially (6)
- Rights of unborn are important, but there needs to be funding for those who want to carry to term (5)

- Woman and child should not be deserted (2)
- Up to the woman (10)
- Alternatives are necessary (6)
- All options should be considered. (9)
- But a woman has the right to have an abortion. (6)
- Like (idea of) alternatives and working together (15)
- Shouldn't discredit the rights of the unborn
child (8)
- If single, a woman has no right to get pregnant and
have an abortion. (6)
- Like the idea of "reaching out" (5)
- It's a living being. (4)
- It deals with the big picture and helps the mother and
child. (5)

7. Comments: Question #7

"Disagree"

- Woman's right to choose (20)
- Society should not decide. (8)
- Disagree with "rights of unborn and woman are
joined" (6)
- It's against abortion. (4)
- Woman has priority (4)
- Not everyone will adopt these children. (3)
- Should be unlimited abortion in first trimester and
limited in second and third (1)

- If rape, or baby retarded, should have choice (5)
- There are not enough children being adopted now. (3)
- It's a pipedream--we should take care of the ones
that are here and forget the unborn. (2)
- Disagree with the whole statement (4)
- Sometimes a woman has to have an abortion. (2)
- Against adoption in every case (2)



THE POTHOLM GROUP

Life Issues Institute Probe

June 1992

Hello, my name is _____, and I'm calling from Command Research, a public opinion polling firm, and I would like to ask you a few questions on a strictly confidential basis.

1. Are you over 18 years old? (If answer is no, ask to speak with an adult. If no adult is available, terminate interview.)

Yes	1	100%
-----	---	------

2. Are you currently a registered voter?

Yes	1	70.5%
No	2	29.5

3. Do you consider yourself a Democrat, Republican, or Independent? (Rotate choices)

Democrat	1	38.8%
Republican	2	28.3
Independent	3	33

4. Recently there has been increased discussion regarding the issue of abortion and women's rights. Specifically, which of the following positions on this issue comes closest to your view?

I favor the option of abortion for women in all cases.	1	0
I oppose all abortions.	2	0
I favor only some abortions.	3	86.3%
Don't know my position/I'm really not sure.	4	14.6

5. Some people say we should move beyond confrontation with regard to abortion and try to work out some areas of agreement. I'd like to read you a statement and ask if you generally agree with it: "We should give cause for hope and not alarm. The rights of women and the rights of the unborn should be joined. Loving alternatives like adoption should become the focus of our debate. We should reach out to every woman faced with the agony of abortion and say to her: Your life and the life of your baby are both important, and we will not desert either one of you."

Agree strongly	1	38.1%	) 67%
Agree somewhat	2	28.1	
Disagree somewhat	3	10.6	) 21%
Disagree strongly	4	10.9	
Don't know	5	11.5	

*What about
the right to
choose?*

6. (Ask of those who agree)

Is there any particular part of the statement you agree strongly with?

See comments (open end)

7. (Ask of those who disagree)

Anything you disagree strongly with?

See comments (open end)

In conclusion, I would like to ask you a few questions for statistical purposes only.

8. Location (by observation)

Northeast	1	20%
Southeast	2	19.5
Central	3	20.2
Midwest	4	19.9
West	5	20.2

9. Age

18-25	1	10.6%
25-45	2	42.6
45-60	3	15.3
Over 60	4	31.4

10. Sex/Occupation

Male	1	50%
Female/works outside home	2	25
Female/works inside home	3	25

11. Education

Grade school	1	11.4%
High school graduate	2	47.6
Some college	3	21.6
College graduate	4	19.5

Leigh Ann - still approach
 - with
 - Chasen
 Tony Shows
 Glendon

Kay James
 Linda Chavez
 Mary Ellen Barker
 Lynne Cheney

we / SC I. Op - Ed (5) ?
 - Ede Halden
 - Connie Horner
 - Antonio Novello

II Surrogates - placed on TV
 - Connie Horner ?
 - Sullivan ?
 - Moby
 - Oke ?

III Spokesperson

Pres in press room
 on camera w/ statement
 Barr / Starr
 (Leigh to talk to Flanigan)

IV Statement

V other

→ KNC Mailing
 Lee
 Leigh Ann

Francis Burns

UPI - sev.
 Post - sev.
 Times
 Chic 57

- op - ed
 - opening conf

→ Inoculation
 Glendon