

Originally Processed With FOIA(s):
1998-0004-F[1]

FOIA Number:
S

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the George Bush Presidential
Library Staff.**

Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files

OA/ID Number: 29135
Folder ID Number: 29135-004

Folder Title:
Abortion/Fetal Tissue Research (1989) [4]

Stack:	Row:	Section:	Shelf:	Position:
G	15	24	6	1

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Letter	From John C. Wilke to POTUS Re: Veto of HHS Bill/Abortion (3 pp.)	11/17/89	B5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [4]

Open on Expiration of PRA
(Document Follows)

By JP (NLGB) on 12/12/07

Date Closed: 12/1/2004	OA/ID Number: 29135-004
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information



91130
Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-8800 (FAX) 737-9189 or 347-5907

PERSONAL, CONFIDENTIAL, AND URGENT

November 17, 1989

President George Bush
The White House
Washington, D.C. 20500

Dear Mr. President:

During recent weeks, millions of pro-life Americans have been inspired and energized by the way in which you have stood steadfast in defense of the most helpless members of the human family-- our pre-born children. The press coverage and editorial commentary was particularly harsh and unfair with respect to your veto of the Health and Human Services appropriations bill. I am enclosing a copy of a letter which we sent to the Washington Post rebutting that paper's distortions of the reasoning behind your veto, which unfortunately has not been published by the Post.

One of the most important actions you have taken in defense of innocent human beings was your veto of the original appropriations bill for the District of Columbia (HR 3026), explaining in your veto statement that you objected to the resumption of tax-funded abortion in D.C. with either Federal or so-called "local" funds. I say "so-called local funds," because in the constitutional sense, D.C. does not have "local funds" in the sense that, say, Dallas does. As Marlin Fitzwater well explained in his remarks on that occasion, all D.C. funds are "Federal" funds in the sense that they are under Federal control and are appropriated by Congress.

In response to questions from the press in Puerto Rico, regarding the "local funds" aspect, you responded forcefully that abortion proponents in Congress "can push me for political advantage every time they want to, and they're going to be up against a brick wall."

Mr. President, the pro-abortion congressional leaders have decided to test your resolve by sending you a second D.C. bill (HR 3610). Like the first, it would allow D.C. to resume funding of unrestricted abortion on demand, using the so-called local funds. We implore you to veto this bill, and to forcefully reiterate in your veto message that you will not be satisfied with legal fictions and bookkeeping tricks which are intended to permit government funding of abortion on demand.

The annual D.C. appropriations bill distinguishes between the Federal contribution and local revenues on the income side of the ledger, but generally no distinction is made with respect to expenditures. The unusual

distinction was employed with respect to abortion in annual D.C. funding bills from 1979-88, because pro-abortion leaders in Congress accurately calculated that it would provide the appearance of an abortion restriction, but the reality of tax-funded abortion on demand. This pro-abortion sham language did not save a single life. In fact, during this period women flocked to D.C. from Virginia and Maryland, which had much more restrictive policies on funding abortions.

Finally, in October 1988, pro-life forces in Congress, backed by veto threats from President Reagan, won enactment of the current law, which bars the use of any congressionally appropriated funds-- Federal or "local"-- for abortions, except to save the life of the mother.

It seems clear from the statements of Chairman Julian Dixon in the Nov. 15 Washington Times (attached) that if you "make it clear" that you mean what you said in your original veto message, you will quickly be sent a third D.C. bill which will preserve the current pro-life policy.

The pro-life law has not been in effect in D.C. long enough for us to obtain statistics on just how many lives it has saved. However, studies in other jurisdictions have found that when public funds are not available for Medicaid abortions, the percentage of pregnancies aborted among Medicaid-eligible women diminishes by between 30 and 40 percent.

The children whose lives are saved by your pro-life vetoes will probably not be seen in media treatments of the abortion issue. But each is a unique, unrepeatable child of God. When I visited with you in the Oval Office on June 23, you met NRLC's longtime Legislative Director, Douglas Johnson. Doug has three adopted children. The youngest of these, Miriam Dolores (photo attached), was born in the District of Columbia, to an unwed young woman whose circumstances did not permit her to keep the baby. Miriam is a very happy little girl with a terrific zest for life. Doug and his wife are eternally grateful to Miriam's birthmother for choosing life. Doug was thinking of Miriam when he expressed the fervent hope, quoted in the Nov. 15 Washington Post, that you would not sign the new D.C. bill, since it would be "signing the warrant for the death of 4,000 unborn babies a year."

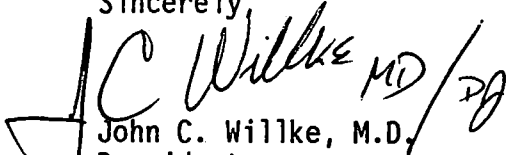
Finally, it has been suggested in recent commentary in The Washington Post and other D.C. media that the Supreme Court's July Webster decision somehow implied that decisions regarding abortion regulation must be made at the state or local level-- in this case, by the City Council. I am sure that your own capable White House Counsel's Office would confirm that the Webster decision had nothing whatever to do with the relative powers of Congress, state, or cities to restrict abortion. The Webster case happened to involve a state law, but the outcome would have been the same if a Federal law had been involved. The Webster ruling weakened the Constitutional barriers to restrictions on abortion by all levels of government.

In response to a recent request by a Member of Congress, Professor Robert A. Destro of the Catholic University of America Law School (a member of the U.S. Commission on Civil Rights) and Professor Basile J. Uddo of Loyola Law School (a member of the board of the Legal Services Corporation) prepared the enclosed memo, which explains the unique constitutional status of the District of Columbia, and rebuts claims that it is inappropriate for Congress to establish abortion policy for the District of Columbia.

The President, November 17, 1989, page 3

Again, pro-life Americans are profoundly grateful for the resolve which you have demonstrated in defense of innocent human life, and pray that you will receive the continued protection and guidance of God during the months and years ahead.

Sincerely,


John C. Willke, M.D.
President

enclosures

10/29/89 W. POST

THE WASHINGTON POST

President Defends His Veto of D.C. Funding Bill

Abortion-Rights Advocates Are Playing 'Political Games' With Residents, Bush Says

By Ann Devroy
Washington Post Staff Writer

SAN JOSE, Costa Rica, Oct. 28—President Bush today accused abortion-rights advocates of playing "political games" with the people of the District of Columbia by including language in the city's 1990 appropriations bill that would allow the city to use local tax dollars for abortions for the poor.

Bush vetoed the legislation on Friday, saying he opposed the use of public funds for abortion. The president repeated that opposition when asked about the issue today during a news conference. He is

here attending a summit of Southern Hemisphere leaders.

Asked how he could justify the veto when it was local, not federal, tax dollars being used, the president made no differentiation between the kinds of tax dollars at stake.

"My position is so well known," he said, "and they can push me for political advantage every time they want to and they're going to be up against a brick wall."

Bush said those who think they can change his mind on this should "forget it and get on with helping the people of the District of Columbia and that's what they ought to do and not try to play games"

Even though Bush himself gave hope to abortion-rights advocates by indicating two weeks ago some flexibility in his position, the president today said his position had not changed, at least since a year ago when voters heard the issue debated in the campaign.

"My position is spelled out, it's defined, openly debated a year ago in the elections and I'm not changing my position and they know that," he said. Bush's position, in fact, has changed numerous times since he first began running for president in 1979.

Mayor Marion Barry and other District officials on Friday sharply

criticized the veto as an assault on home rule that will impede the city's effort to fight crime and drugs and hurt its financial position overall. Today, Jesse L. Jackson issued a statement on Bush's veto saying, "Nothing demonstrates more clearly the colonial status of the District of Columbia."

Bush's veto of the District's \$3.4 billion spending plan for the fiscal year that began Oct. 1 puts the legislation back in the hands of Congress, which can try to override the veto, remove the abortion language and send it back to the president for approval, or try to attach it to some other legislation.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

October 27, 1989

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 3026, the "District of Columbia Appropriations Act, 1990."

I informed the Congress earlier that I would veto this bill if it permitted the use of appropriated funds to pay for abortions other than those in which the life of the mother would be endangered if the fetus were carried to term. The limitation I proposed is identical to the one included in the District of Columbia Appropriations Act for 1989 (Public Law 100-462).

This year, regrettably, the Congress has expanded the circumstances in which Federal funds could be used to pay for abortions. Moreover, unlike Public Law 100-462, H.R. 3026 would also permit payment for abortions with local funds, which under current law must be appropriated by the Congress. Thus, H.R. 3026 would not restrict the use of such funds for abortion in any way.

I am, therefore, compelled to disapprove H.R. 3026.

GEORGE BUSH

THE WHITE HOUSE,
October 27, 1989.

#

D.C. budget faces another veto threat

By John E. Smith
THE WASHINGTON TIMES

11-15-89

House lawmakers agreed yesterday to tighten restrictions on federal funding of abortions in the D.C. appropriations bill, but they placed no restrictions on the use of city tax funds, raising the possibility of a second presidential veto of the budget.

The House Appropriations Committee's vote yesterday would allow federal funding of abortions in the District only when the mother's life is endangered. Language in the earlier version of the budget bill, vetoed by President Bush, would also have allowed federal funding in cases of rape, incest and ectopic pregnancies.

But the new version of the bill leaves unrestricted the use of local tax dollars for abortions, a provision observers said could force another showdown with Mr. Bush.

Rep. Robert Dornan, California Republican and a leader of House anti-abortion forces, said lawmakers will again try to limit city funds when the bill comes to the floor. He

said he did not know whether the president will veto the bill, though, if they are unsuccessful.

"I cannot predict what the president will do," Mr. Dornan said. "That [the change approved yesterday] may be giving the president a home-rule out, a way out of another veto."

Rep. Julian Dixon, chairman of the House Appropriations subcommittee on the District, said other Republican lawmakers have guessed the president might sign this new bill.

"I hear various people say he would sign this," said Mr. Dixon, California Democrat. "The climate is changing on this issue."

Mr. Bush vetoed the appropriations measure last month because it would have permitted "appropriated funds" for abortions in cases other than when mothers face death because of pregnancy. Some lawmakers said they are not certain that Mr. Bush also meant to restrict the use of local funds, on top of the limits he advocated on federal funds.

"Before we restrict the District's decision to promulgate its own rules on abortion, we have to have a veto on

that issue. It has to be clear — without equivocation — that he [Mr. Bush] does not adhere to the Webster decision and will not let the District make its own decisions," Mr. Dixon said. The Webster decision was the July Supreme Court ruling that gave the states greater authority to regulate abortion.

But White House officials have said the president has indicated he does not want to sign a bill that allows any increases in abortion funding. In his veto message to Congress, Mr. Bush cited both the local and federal funding provisions as reasons for the veto.

Observers said such comments could foreshadow another veto of the bill if Congress does not tighten local abortion funding. But some lawmakers said the city's worsening financial situation and changes in public attitudes about abortion might make it more politically difficult for the president to veto the funding bill a second time.

While anti-abortion lawmakers have praised Mr. Bush's "courage" in

see BUDGET, page B2

BUDGET

From page B1

vetoing the bill, others have criticized the president for delaying the \$31.7 million anti-drug package contained in the measure, which would fund 700 police above the 300 approved by the city, additional judges, and treatment and education programs.

The veto also is expected to cost the city millions of dollars in interest on money borrowed to keep the government running while the federal budget debates continue.

The showdown over D.C. abortion funding comes as Congress is battling with Mr. Bush over abortion language in the appropriations bill

for the U.S. departments of Labor and Health and Human Services. Mr. Bush also vetoed that bill because of its abortion language, leading the Appropriations Committee yesterday to strengthen the limits on federal funding of abortions allowed under that bill.

The Appropriations Committee approved one other change to the D.C. budget bill yesterday, transferring up to \$1 million from the Correction Treatment Facility to the District Commission on Budget and Financial Priorities. The money, which would have to be matched with local funds, would pay for the newly created panel to study the city's eroding financial status and report on ways to improve the situation.



THE CATHOLIC UNIVERSITY OF AMERICA

*The Columbus School of Law
Office of the Faculty
Washington, D.C. 20064
202-635-5140*

October 31, 1989

The Honorable Jimmy Hayes
United States House of Representatives
503 Canon House Office Building
Washington, D.C. 20515

Dear Congressman Hayes:

It has come to our attention that you are concerned about the constitutional implications of a Congressional decision to prohibit abortion funding by the District of Columbia. As we understand it, your question is whether the exercise of the power of Congress to make abortion policy for the District of Columbia over the objections of the D.C. Council might set a precedent which would permit it someday to make abortion policy which is contrary to that set by State legislatures. For the reasons set forth below, we strongly believe that the answer is "no".

Article I, Section 8, clause 17 explicitly provides that "The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over such District . . . as may . . . become the Seat of Government of the United States." As understood by the courts from the earliest days of the Republic, the Seat of Government Clause means that, unlike the constitutionally mandated division of authority between the federal and State governments, there is "no division of powers between the general and [local] governments. Congress has the entire control over the district for every purpose of government. . . ." *Kendall v. United States*, 12 Pet. 524, 610 (1838). There is, therefore, no comparison whatever between the District of Columbia and a State, either in political or practical terms. Congress, in short, is the government of the District of Columbia.

The Honorable Jimmy Hayes
United States House of Representatives
October 31, 1989
Page 2

In keeping with the powers delegated to it by the Constitution, Congress expressly reserved all of its power when it created the current form of the District of Columbia government in 1973. Section 601 of the "Home Rule Act" provides that:

Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the [District] Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council."¹

The District of Columbia government is therefore not sovereign in the sense that a State such as Louisiana is. It is, in fact, a delegate of Congressional power which is given the responsibility and discretion to act in the interests of the people of the District of Columbia. The people of the United States acting through Congress and the President, however, retain the ultimate sovereign authority to act "at any time, on any subject."

Because the dispute over abortion funding raises the question of what the District government may legitimately do with money said to be "its own", two points are in order. First, the funds generated by taxes within the District of Columbia are not "its own" in the same sense that a State's tax revenues are. Tax revenues in the District of Columbia are, by their nature, *federal funds*, under the ultimate control of Congress. Section 47-313 of the Home Rule Act makes this explicit:

Nothing in this Act shall be construed as making any change in existing law, regulation, or basic procedure and practice relating to the respective roles of Congress [and] the President . . . in the preparation, review, submission, examination, authorization, and appropriation of the total budget of the District of Columbia government.

1. 87 Stat. 813, Pub.L. 93-198, title VI, section 601, December 24, 1973, and codified as D.C. Code section 1-206 (1981) [the District of Columbia Self-Government and Governmental Reorganization Act].

The Honorable Jimmy Hayes
United States House of Representatives
October 31, 1989
Page 3

Second, the plenary power of Congress to make policy, either directly or indirectly (through control of budget authority), for the District means that Congress -- not the District government -- bears ultimate responsibility for determining what the policies of the District of Columbia concerning abortion funding will be. Given that the District government is a delegate exercising Congressional power, it simply will not do to argue, as some member of Congress often do, that this is a "local" not a federal matter. Whether one likes it or not, the Constitution itself makes *everything* in the District a federal matter. The only way to change this state of affairs is to change the constitutional status of the District.

We hope that this brief summary of the respective powers of the Congress, the States and the District of Columbia is sufficient to answer your immediate questions.

Thank you for your attention. Should you have any questions concerning the content of this letter, please feel free to call either of us directly.

Sincerely,



Basile J. Uddo
Professor of Law
Loyola Law School
New Orleans, Louisiana 70118
(504) 861-5650

Robert A. Destro
Associate Professor of Law
The Catholic University of America
Washington, D.C. 20064
(202) 635-5140



Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-8800 (FAX) 737-9189 or 347-5907

November 8, 1989

On "rape/incest"
issue

Letters to the Editor
The Washington Post
1150 15th Street, N.W.
Washington, D.C. 20071

Dear Editor:

In her essay attacking President Bush's veto of the Health and Human Services appropriations bill, Brooklyn District Attorney Elizabeth Holtzman suggests that the President believes that women commonly fabricate claims of rape. ("A Veto That Came With an Insult," Nov. 1) But that is not what the President said. Rather, he argued that establishing a government policy of providing abortion "benefits" based on claims of rape might engender just such a problem.

Although Holtzman believes that the President's concern is based on "antiquated and sexist stereotypes," there is ample empirical evidence that the President is right. Can Holtzman be unaware that the Roe v. Wade case itself involved a fraudulent claim of rape? The plaintiff, Norma McCorvey, fabricated a story that she had been gang raped at a circus, in the mistaken impression that this would permit her to obtain a legal abortion in Texas. Not until 1987 did she reveal that the baby was actually conceived "through what I thought was love." (Post, Sept. 9, 1987.) (The child, her life saved by the Texas abortion law, was born and adopted, and is now a 19 year old.)

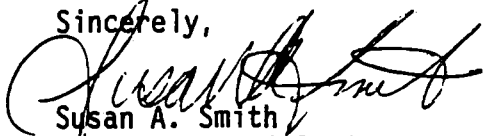
Perhaps Holtzman should also compare notes with radical feminist guru Gloria Steinem, who in a 1985 interview with USA Today said that "to make abortion legal only in cases of rape and incest would force women to lie."

Up until 1988, Pennsylvania's Medicaid program funded abortions for women who claimed they had been raped, without any requirement for reporting of the purported assault to a law enforcement agency. Under this law, abortion clinic personnel issued thinly veiled public invitations for women to simply state that they'd been raped, and the state ended up funding an average of 36 abortions a month based on such unsubstantiated claims. In 1988 the legislature added a requirement for reporting the rape to a law enforcement agency, and the average dropped to less than three abortions per month.

Unborn children are the immediate victims of the abortion policy which Holtzman in effect advocates (providing a free abortion to any woman who is willing to check off a box marked "rape"). But the policy would also contribute to the very problem regarding which Holtzman rightly expresses concern-- the unwarranted skepticism with which some law enforcement personnel and jurors greet genuine rape victims. If abortion-related

false rape claims become commonplace, skepticism regarding rape claims in general will become more pervasive, to the detriment of the real victims of sexual assault.

Sincerely,



Susan A. Smith
Associate Legislative Director

enc.

'Jane Roe' Recants Rape Claim

Associated Press

The woman whose case prompted the landmark Supreme Court decision legalizing abortion says she falsely claimed to have been raped in hopes of winning an exemption from Texas law banning the operation.

The new account by Norma McCorvey, who was called "Jane Roe" in the 1973 abortion case *Roe vs. Wade*, came during an interview with WUSA-TV here. The station released a partial transcript last night.

"I found out I was pregnant through what I thought was love," McCorvey said. "I told [a doctor] that I wanted an abortion, that I did not want to carry the child for economic reasons."

Despite her claim to have been

raped, she was unable to obtain an abortion. McCorvey had the child, which was given up for adoption.

She said she repeated the rape story later because she was "bitter, very bitter," and then allowed two lawyers to take her case to the Supreme Court.

Rape was never an issue in the Supreme Court case, in which the justices declared that women have a constitutional right to abortion on demand. McCorvey's lead lawyer in the case, Sarah Weddington, said the issue of rape had no bearing on the outcome.

McCorvey and Weddington were interviewed for a documentary, "Searching for Justice: Three American Stories," to be broadcast Sunday evening.

Child from Roe vs. Wade located; she is 19 and staunchly anti-abortion

BY ROCHELLE SHARPE
Gannett News Service

LOS ANGELES — The child at the center of the *Roe vs. Wade* case was recently located and told that her conception led to the Supreme Court's landmark abortion decision, according to an adoption search consultant.

The child, now 19, is presumably the biological daughter of Norma McCorvey, the Texas woman who used the pseudonym Jane Roe to challenge her state's restrictive abortion laws.

A college student, she lives in a Seattle suburb with her adoptive mother and is staunchly anti-abortion, according to Toby Hanft, the adoption search consultant who met the child and told her about McCorvey.

"I'm sure it's her," said Hanft, who runs a business in San Francisco that reunites adoptees with their biological parents. "The stats — her date of birth, weight, time of birth — are all the same."

She was mortified

The child was mortified when she learned the identity of her biological mother, Hanft said. At first, though, "she didn't know who Jane Roe was."

Sitting in a hotel restaurant with the young woman, her adoptive mother, her boyfriend and her best friend, Hanft said she explained the *Roe vs. Wade* case,

then handed the girl a *People* magazine story about McCorvey.

"She looked at it, and it sunk in," Hanft said. "She threw it down and ran out of the room."

"It was horrible," Hanft said. "Imagine your mother not wanting you so much that she went to the Supreme Court to get rid of you."

The young woman was located by the *National Enquirer*, which announced in its June 20 edition that it had found McCorvey's daughter.

Wanted to find child

McCorvey said earlier in the year that she wanted to find the child she had relinquished for adoption. Although she originally sought an abortion, she never got one because her lawsuit challenging the Texas law took three years to make it to the Supreme Court.

Neither McCorvey nor her lawyer would say whether the *National Enquirer* had found her child, complaining, instead, that the article was filled with inaccuracies. They refused to say what was untrue.

"I don't wish to comment on the story because it is so full of falsehoods," McCorvey said. "I still want to find my child I gave up for adoption. If I do find her, it will be in a private place and it will in no way be associated with the *National Enquirer*."

"It's such a sensitive issue. Maybe some damage has been

done to the woman who may or may not be my child. I don't want to hurt her or my child in any way."

Gloria Allred, a California attorney who has befriended McCorvey, said: "She's never had a blood test. There is no conclusive evidence."

Hanft said she got involved in the case after the *National Enquirer* asked her to serve as an intermediary in the reunion. Although she said she dislikes the newspaper and never reads it, she decided to help because she thought she could cushion the shock.

"I did it because it was a choice — either they would show up at her door with a photographer and blow her away or I could explain it to her," she said.

Before she went to Seattle, Hanft said she talked at length with McCorvey, sometimes six or seven times a day.

Alive and well

McCorvey told Hanft to tell her daughter she was glad she had not had the abortion and was happy to know the girl was alive and well, the adoption consultant said. Although she said she was still pro-choice, she promised to stop participating in abortion rights marches, Hanft said, and instead work for liberalizing adoption laws.

Hanft said she has yet to talk to McCorvey about the restaurant meeting because the activist hasn't returned her phone calls.

SOCIAL POLICY

Journal saying that he would vote to override a veto. On Oct. 18, however, Natcher politely declined to confirm or deny that report of his intentions.

Should Natcher — who is widely respected by his colleagues — support the override effort, he could bring along a considerable number of votes, members said.

"I think it will have a significant effect," said Steny H. Hoyer, D-Md., who serves on Natcher's subcommittee. "That doesn't mean I think we'll have enough to win, but [a loss] is not a fait accompli, either."

Others said that the vote could be tight because members are loath to jeopardize the programs funded by the Labor-HHS bill. These run the gamut from cancer research to child welfare programs to student loans.

Rep. Les AuCoin, D-Ore., a no-choice leader, said: "They don't want to leave the boat, but they don't want to walk the plank with him either," he said. "The wind is blowing in our direction."

Even some of those who share the president's position, said Green, "wouldn't want to hold up a bill that carries so much of the social service funding for the country."

Said Rep. Barbara Boxer, D-Calif., who sponsored the motion for the House to accept the Senate abortion language, Oct. 17: "I've had several members come up to me who have said, 'I didn't vote with you this time, but I'm going to on the override.'"

No More Bush Shifts

Whatever the political fallout may be, observers on both sides of the issue agreed that Bush had little choice but to carry out his veto threat, particularly because he is a fairly recent convert to the anti-abortion camp. It was only after Bush pinned his own political fortunes to those of Ronald Reagan, an ardent and outspoken critic of abortion, that he adopted the anti-abortion position.

Campaigning for the presidency in 1980, Bush supported federal funding for abortions in cases of rape and incest, a position he acknowledged changing by 1984.

He has also changed from pre-1980 opposition to a constitutional amendment to overturn *Roe v. Wade* to support for such an amendment.

Bush has explained that his position on abortion "has evolved" over time. Others phrase it less charitably.

"He's changed his position on choice more often than Imelda Marcos



Bush has "changed his position on choice more often than Imelda Marcos has changed her shoes."

—Rep. Barbara Boxer, D-Calif.

has changed her shoes," quipped Boxer.

Mike McCurry, press spokesman for the Democratic National Committee, said that anti-abortion forces "are not going to let him [Bush] off the hook. They've put him in a completely untenable position. If he switches again, he'll look like a windsock that fills with hot air depending on which way the polls are blowing."

Court Filings

In addition to the veto threats, the Bush administration over the past several days has moved to shore up its pro-life credentials on a variety of other fronts.

Probably the most significant was the Oct. 13 Supreme Court filing. The case in question, *Hodgson v. Minnesota*, tests a Minnesota law requiring that both parents be notified at least 48 hours before an abortion is performed on a minor, even if they are divorced or never married, or one is living at an unknown location. (Case preview, *Weekly Report* p. 2384)

While the case does not directly challenge *Roe v. Wade*, the solicitor general's brief said that the administration continues "to believe that *Roe*

was wrongly decided and should be overruled."

In a related development, the solicitor general on Oct. 16 filed a brief for the administration urging the Supreme Court to deny the parents of a comatose young Missouri woman the right to order removal of surgically implanted feeding tubes. The woman, Nancy Beth Cruzan, has been in a "persistent vegetative state" for more than six years following a car accident.

The case of *Cruzan v. Director, Missouri Department of Health* involves the same Missouri law that was at the core of last term's major abortion case, *Webster v. Reproductive Health Services*, in which the justices by 5-4 upheld the state's restrictions on abortion. (*Webster* ruling, *Weekly Report* p. 1698)

Cruzan's parents say the constitutional right of privacy cited in *Roe v. Wade* applies to their decision about their daughter's treatment.

But the administration's 35-page brief says that states should be allowed to require "clear and convincing evidence" that a comatose person would have wanted treatment stopped.

"The state supreme court... reasonably concluded that any error should be made on the side of life," said Solicitor General Kenneth W. Starr in the brief. Starr said Cruzan's parents do not have a constitutional right to make treatment decisions on her behalf.

Fetal Research

Also the week of Oct. 16, reports surfaced that HHS Secretary Louis W. Sullivan — who had his own abortion troubles before winning Senate confirmation earlier this year — would overturn the recommendations of two separate advisory committees and continue a 19-month-old ban on federal funding of research using tissue from aborted fetuses. (Sullivan, *Weekly Report* pp. 457, 392)

Abortion opponents have ardently opposed such research on the grounds that giving fetal tissue economic value would encourage more women to have abortions.

But scientists involved in fetal research say it has tremendous promise in developing treatments for a variety of ailments, including AIDS. A 1988 advisory committee to the National Institutes of Health concluded that it was possible to institute safeguards to prevent abortions from being encouraged simply to provide tissue for research.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Memo	From Frederick D. McClure to John Sununu Re: Abortion Language in Pending Appropriations Bill (3 pp.)	11/14/89	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [4]

Open on Expiration of PRA
(Document Follows)

By JP (NLGB) on 5/12/05

Date Closed:	12/1/2004	OA/ID Number:	29135-004
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE
WASHINGTON

November 14, 1989

MEMORANDUM FOR JOHN H. SUNUNU

FROM: FREDERICK D. MCCLURE *fm*

SUBJECT: Abortion Language in Pending Appropriations Bills

It is our understanding that the Labor-HHS Appropriations bill will go to the floor later this week with current law on the use of Federal funds for abortion, i.e., the Hyde amendment -- no Federal funds except where the life of the mother is threatened. Committee consideration is this morning. Either in committee or later on the floor, it is our understanding that Sil Conte may offer compromise language that is supposedly acceptable to the pro-life forces in the House that is a variation of the language which we were discussing a couple of weeks ago. Because of Conte's being upset about not being included in the earlier discussions with Weber, Smith and Hyde, he has refused to share the "acceptable" language with us. Weber encouraged Conte to offer the language in the mark-up today but Conte is hesitant about opposing the chairman, Bill Natcher, who desperately wants a bill that the President can sign. There is a difference of opinion as to whether Conte would prevail in Committee. I will keep you abreast of developments as they occur today.

Of a more immediate nature is action on the D.C. Appropriations bill. The language that was vetoed said:
None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. 

The language in the FY89 bill, which was signed into law, said:
None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. [Hyde Amendment -- current law]

The new language in the bill (after the President's veto), is:
None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

As you know, although there are Federal appropriations provided for the District, these Federal funds are mixed with local tax collections. Too, the District's budget must be approved by Congress. The primary issue thus becomes "fungibility" of funds. That is to say, although the new language does not provide additional exceptions, such as rape or incest, and limits the use of funds to the life of the mother exception, there yet remains the question of whether the funds, when mixed or commingled, could be used to get around the Federal prohibition.

In the Statement of Administration Policy for the original bill, our position was:

In particular, the Administration opposes the deletion of language included in the FY 1989 District of Columbia Appropriations Act [referenced above] that prohibits the use of Federal and local funds for abortion except where the life of the mother would be endangered if the fetus were carried to term.

To be consistent with both the original position and the UNFPA language in the Foreign Operations Appropriations bill (the fungibility issue), we would have to send a veto signal. On the other hand, I am told that thirteen states have similar laws and we do not raise the fungibility issue. This raises the issue of whether we should do the same for the District. The only difference is that those state budgets do not have to be approved by Congress.

It is my recommendation that should the Labor-HHS and Foreign Operations bills be satisfactorily resolved, we should not oppose the new D.C. language. If, however, we decide to pursue the veto route, we would probably be able to sustain it because of the peculiar nature of the District. Of course, another veto is likely to keep the abortion issue on the screen, as well as the drug funding issues raised on the last veto.

A decision needs to be made on this issue as soon as possible.

SEC. 204. NONE OF THE FUNDS CONTAINED IN THIS ACT SHALL BE USED TO PERFORM ABORTIONS EXCEPT WHERE THE LIFE OF THE MOTHER WOULD BE ENDANGERED IF THE FETUS WERE CARRIED TO TERM; OR EXCEPT FOR SUCH MEDICAL PROCEDURES NECESSARY FOR THE VICTIMS OF FORCIBLE RAPE OR INCEST, WHEN SUCH RAPE HAS BEEN REPORTED WITHIN 72 HOURS AFTER THE INCIDENT OCCURS TO A VALID LAW ENFORCEMENT AGENCY FOR INVESTIGATION, UNLESS THE VICTIM IS PHYSICALLY UNABLE TO REPORT THE FORCIBLE RAPE, IN WHICH CASE THE REPORT SHALL BE MADE WITHIN 72 HOURS AFTER THE VICTIM BECOMES PHYSICALLY ABLE TO REPORT THE FORCIBLE RAPE; IF THE PREGNANCY IS THE RESULT OF INCEST THEN ONLY IF THE INCIDENT AND RELATIVE ARE REPORTED TO A VALID LAW ENFORCEMENT AGENCY FOR INVESTIGATION PRIOR TO THE ABORTION. NOR ARE PAYMENTS PROHIBITED FOR DRUGS OR DEVICES TO PREVENT IMPLANTATION OF THE FERTILIZED OVUM OR FOR MEDICAL PROCEDURES NECESSARY FOR THE TERMINATION OF AN ECTOPIC PREGNANCY. PROVIDED, HOWEVER, THAT THE SEVERAL STATES ARE AND SHALL REMAIN FREE TO FUND OR NOT TO FUND ABORTIONS WITH STATE FUNDS TO THE EXTENT THAT THEY IN THEIR SOLE DISCRETION DEEM APPROPRIATE, EXCEPT THAT THE STATES SHALL FUND ABORTIONS WHERE THE LIFE OF THE MOTHER WOULD BE ENDANGERED IF THE FETUS WERE CARRIED TO TERM.

11/9/89

ULTRASONIC LIVER SURGERY

The course will be offered in Ann Arbor, Mich., on June 2.
Contact Betty Phillips, CME Office, G-1100 Towsley Ctr.-Box 0201,
Univ. of Michigan Medical School, Ann Arbor, MI 48109-0201; or call
(313) 763-1400.

FAMILY PRACTICE REFRESHER AND BOARD REVIEW

The 16th annual course will be offered in Santa Monica, Calif., May 30–
June 3.
Contact University of California, Los Angeles, Extension, Health Sciences
Dept., Los Angeles, CA 90024; or call (213) 825-7527.

TEACHING MEDICAL INTERVIEWING

The faculty development course will be offered in Miami, June 12–16.
Contact Dr. Mark Multach, Univ. of Miami School of Med., P.O. Box 016960
(R-103), Miami, FL 33101; or call (305) 547-6134.

GASTROENTEROLOGY

The course, subtitled "Recent Developments in Theory and Practice," will be
offered in San Francisco, June 14–16.
Contact Extended Programs in Medical Educ., Registration Office, 533 Par-
nassus, Box 0766, San Francisco, CA 94143-0766; or call (415) 476-5208.

EPIDEMIOLOGY

The graduate summer program will be held in Baltimore, June 19–July 7.
Applications must be received by June 1.
Contact Helen Walters, Dept. of Epidemiology, Johns Hopkins Univ., School
of Hygiene and Public Health, 615 N. Wolfe St., Baltimore, MD 21205; or call
(301) 955-3462.

GEORGETOWN UNIVERSITY MEDICAL CENTER

The following courses will be offered in Washington, D.C.: "Wound Manage-
ment" (June 3); "Lymphomas: Current Concepts in Pathogenesis and Manage-
ment" (Sept. 21–23); and "3rd International Symposium on Hepatitis Delta Vi-
rus" (Oct. 26–28).
Contact CME Office, Georgetown Univ. Medical Ctr., 3800 Reservoir Rd.,
NW, Washington, DC 20007; or call (202) 687-8735.

AMERICAN DIABETES ASSOCIATION

The 49th annual meeting and scientific sessions will be held in Detroit,
June 1–6.
Contact Christina Pappas, ADA, Meetings Dept., 1660 Duke St., Alexandria,
VA 22314; or call (703) 549-1500.

OCCUPATIONAL AND ENVIRONMENTAL MEDICINE

The 8th annual symposium with postgraduate mini-courses will be held in
Sacramento, Calif., June 1 and 2.
Contact Nina Musselman, CME Office, University of California, Davis,
School of Med., 2701 Stockton Blvd., Sacramento, CA 95817; or call (916)
453-5390.

SPECIAL REPORT**THE ETHICAL USE OF HUMAN FETAL
TISSUE IN MEDICINE**

In the past few years, medical science has made dramatic advances through research that uses tissue from dead human fetuses. At the same time, this research has led to controversy over the ethics of using human fetal tissue, particularly tissue from induced

abortions. In the spring of 1988, the Department of Health and Human Services halted all therapeutic research using tissue from fetuses aborted electively — stopping first all research at the National Institutes of Health and then any research by the Public Health Service — until the ethical considerations it involves have been studied further.^{1,2}

This report, like the department's moratoriums, deals with tissue taken from dead human fetuses. Our discussion is set within four generally accepted principles of medical ethics: beneficence, doing no harm, respect for the autonomy of the patient, and respect for human dignity.³ The principles do not lead to easy answers in this area. An induced abortion harms the fetus while it respects the patient's autonomy; the subsequent medical use of tissue from that abortion may be beneficent in preserving and improving the lives of others. We conclude, however, that subject to certain important conditions, ethical considerations allow the appropriate medical use of human fetal tissue.

Human fetal tissue has been a valuable research tool since the 1930s, as a source of human cell lines. These cell lines have been widely used in research on viruses and the preparation of vaccines — notably the polio vaccine — against them. More recently, research has been conducted on the transplantation of fetal tissue into living subjects for therapeutic purposes. Three properties make human fetal tissue particularly useful in transplants: it grows rapidly, it is very adaptable, and when it is treated properly it evokes little or no immune response from the host.⁴

Because of these properties, transplants of human fetal tissue have been used experimentally in the treatment of several conditions, such as Parkinson's disease, diabetes, and radiation-induced anemia.⁴ Transplants of fetal tissue have been used in more fundamental research to implant a human immune system in immunosuppressed mice, with great potential importance for research into the human immune system and its disorders.⁵ These uses remain experimental, but they and many others offer the hope of new medical treatments for millions of people. The benefits they may bring cannot be guaranteed, but the opportunities to preserve life and alleviate suffering could be enormous.

The use of human fetal tissue is currently subject to several legal constraints. Federal regulations govern its use in federally funded research.⁶ They require that the research be separated from the performance of the abortion, and they prohibit any inducements, monetary or otherwise, to the mother for the purposes of performing the research.⁷ Beyond this, they require only that applicable state and local law be followed.⁸ All 50 states and the District of Columbia have adopted the Uniform Anatomical Gift Act, which expressly applies to fetal tissue.⁹ (In 1987 a revised version of the act was adopted by the Commissioners on Uniform State Laws, but the new version has not yet been adopted by any states.¹⁰) Many states have adopted additional legislation on the disposition of fetal re-

mains and their use in research^{11,12}; a few states, such as Arizona, have banned all such use,¹³ although not without raising serious constitutional issues.¹⁴

THE USE OF HUMAN FETAL TISSUE IS NOT ITSELF OBJECTIONABLE

Although fetal tissue has distinctive biologic properties as compared with other human tissue, it does not in itself have distinctive ethical properties. Considered without regard to the cause of fetal death, tissue from a deceased human fetus is entitled to the same treatment and respect as tissue from a deceased child or adult, neither more nor less. In transplantation, for example, tissue from a fetus that spontaneously aborted should be treated with the same respect and subject to the same rules as tissue from the cadaver of an accident victim.

Transplantation is governed by the Uniform Anatomical Gift Act, which in the case of a fetus provides that either parent may donate the fetal remains as long as the other parent does not object.¹⁵ The act further provides that the physician certifying death shall not participate in the removal or transplantation of any body parts.¹⁶ State law and medical ethics impose additional constraints. The remains should be treated with respect, and any tissue not used should be disposed of properly. Such respect should require that human fetal tissue be used only for matters of medical benefit — medical treatment, research, or education.

The only relevant difference between fetal tissue from a spontaneous abortion and tissue from the cadaver of an adult is that the fetus was never in a position to choose whether its cadaver should be used. The Uniform Anatomical Gift Act does not require that decedents should have given consent for the medical use of their cadavers. If a decedent has expressed no preferences for or against medical use, the next of kin as defined by the act can make the decision. When an abortion is spontaneous, the fact that the decedent is a fetus does not change the ethical considerations behind that decision.

Applying to the use of human fetal tissue the legal and ethical constraints that govern the use of cadavers affirms that fetuses have moral value. Other kinds of tissue removed from an adult, such as an infected appendix or a benign tumor, do not raise the same issues. A fetus is not simply a mass of tissues: it is at least a potential human life and should be treated with dignity.

THE ETHICAL USE OF FETAL TISSUE FROM INDUCED ABORTIONS

The use of human fetal tissue is not in itself ethically objectionable when handled under the conditions we have set out. Fetal tissue differs from the tissue of adult cadavers, however, because it often becomes available as the result of a mother's decision, implemented by a physician's actions, to end her pregnancy. This element of volition introduces a new ethical problem. It raises the possibility that the subsequent use of fetal tissue will encourage abortions that would

not otherwise have occurred. If tissue from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using tissue from induced abortions. Subject to certain additional constraints, however, fetal tissue acquired as a result of induced abortions can ethically be used.

Whether or not induced abortions should be legal, ending a pregnancy through an abortion is not an affirmatively "good" thing. The ethical principles of preserving life (or potential life) and doing no harm dictate that the use of fetal tissue should not be allowed to encourage abortions that would not otherwise take place. Similarly, conception should not be undertaken for a purpose other than bearing children. The use of fetal tissue must not be allowed to encourage pregnancies that would not otherwise occur. These points have two important consequences.

First, patients should not be allowed to derive any benefit from the use of tissue from fetuses they have elected to abort. To allow otherwise would raise all the ethical problems of organ selling, with the additional problem of paying someone for preventing or ending a life. Federal regulations currently prohibit federally funded research projects from offering women "inducements" to participate in fetal-tissue research. More generally, the National Organ Transplantation Act prohibits any sale, purchase, or brokerage of certain human organs for transplantation, but these do not include fetal tissue.¹⁷ (The revised Uniform Anatomical Gift Act contains a similar ban on the commercialization of human organs.¹⁸)

These legal constraints should be expanded. The National Organ Transplantation Act's prohibition of organ transactions should be extended to include the direct use of fetal tissue. The act should then be amended to exclude from the reimbursement it permits any expenses associated with induced abortions. Whatever one's position on access to abortions, providing free abortions only on the condition that the fetal tissue be used for medical purposes is unjustifiable. The act should also be extended beyond transplantation and the federal regulations extended beyond research to reach all medical uses of human fetal tissue.

Second, patients are not the only parties whose possible incentives can raise ethical problems. Those performing abortions should not be allowed to benefit from the subsequent use of the fetal tissue. Physicians and other medical personnel may have great influence over their patients' decisions concerning abortion. If they have direct personal interests in the resulting fetal tissue, they may, consciously or not, encourage their patients to have abortions.

Under current federal regulations, physicians who perform induced abortions cannot participate in federally funded research that uses tissue from these abortions. To avoid the ethical problems of conflicting interests, this limit should be broadened. Medical personnel who participate in an abortion should not receive any direct benefit from the subsequent use of

fetal tissue from that abortion. Everything from direct payments to the special availability of fetal tissue to their patients should be prohibited. If the tissue is to be used within the institution where the abortion is performed, the institution should neither reward the doctors performing the abortion for providing it nor discipline them for failing to provide it.

THE ETHICAL USE OF FETAL TISSUE IN THREE SPECIFIC SITUATIONS

Induced abortions remain intensely controversial in the United States. In the application of the general principles we have discussed, three types of induced abortions must be distinguished: those induced because of risk to the woman's life, those induced for the purpose of obtaining fetal tissue, and those induced for other purposes.

Abortions Induced because of Risks to the Woman's Life

Inducing abortion when a woman's life is at risk from the continuation of her pregnancy is widely approved. Before *Roe v. Wade*, state law generally allowed abortion when the mother's life was threatened. Today, the federal government continues to assist in financing such abortions for women who cannot afford them, and few political opponents of abortion object to them. Under the doctrine of double effect, usually attributed to St. Thomas Aquinas,¹⁹ even the Roman Catholic Church permits "indirect" abortions in some life-threatening situations, such as ectopic pregnancy and cancer of the uterus.²⁰ It seems very unlikely that the possible use of the fetal tissue will strongly influence women facing a risk of death in their decision on abortion. These abortions are ethically unobjectionable to almost everyone. The use of fetal tissue from them raises no more issues than does the use of tissue from spontaneously aborted fetuses.

Abortions Induced for the Purpose of Contributing Fetal Tissue

According to several widely circulated reports, women have offered to have abortions in order to provide fetal tissue for specific recipients.^{21,22} Physicians and medical centers should not use the human fetal tissue from such abortions. To use that tissue is to treat the fetus as nothing but a medical product and the uterus as a factory. It would demean the potential or actual humanity of the fetus.

Under existing regulations, the designation of a recipient for the tissue from such an abortion might be barred in federally funded research as constituting an inducement to a woman to participate in the research. The Uniform Anatomical Gift Act, however, allows organ donations to specific persons for medical purposes.²³ The act should be amended to bar the designation of a recipient of fetal tissue.²⁴ Under existing law, a woman may have an abortion for any purpose or none at all, but physicians and medical centers should not encourage pregnancies and abortions that would not otherwise have occurred, by using designated donations.

This problem of designated recipients does not arise with spontaneous abortions, because the possibility of designation does not lead to the abortion. Current law allows designated donations of tissue from children and adults, although there is continuing debate about the justice of the practice. The ethics of designated donations of tissue from clearly spontaneous abortions should be treated as part of that debate; the fetal source of the tissue raises no special questions when the abortion is not intentional.

Abortions Induced for Other Purposes

With respect to other abortions, the crucial ethical issue is whether the medical use of fetal tissue encourages induced abortions. If it does not, the propriety of the abortion itself seems irrelevant to the subsequent use of the fetal tissue.

In general, the cause of a death that makes organs or tissue available for medical use should be irrelevant as long as the potential medical use did not contribute to the death. We as a society have already decided that the medical use of cadavers is not inherently disrespectful to the deceased. Indeed, beneficial use of the cadaver allows some good to be salvaged from a death.

The conditions we propose for the ethical use of fetal tissue try to ensure that the subsequent use of tissue from an induced abortion provides no benefit to the woman undergoing it or to those performing it. It is possible of course that even with these restrictions, the mere knowledge that a beneficial use may be made of the fetal tissue could influence some women considering abortions. In the light of the deeply personal and powerful physical, emotional, economic, and religious concerns of women considering abortions, it seems implausible that this knowledge would have any marked effect.

Not all physicians and medical centers will draw the same conclusions. Some may feel that the incentive created by a beneficial use of aborted fetal tissue would have a substantial effect on women contemplating abortions. Others may believe that abortion, although legal, is so wrong that they should take no part in it under any circumstances. In the absence of empirical evidence, the first argument cannot be definitely resolved; by its nature, the second argument can never be definitely resolved. Given these legitimate differences, a physician or medical center should never feel ethically obligated to participate in research or therapy involving human fetal tissue.

Our discussion has drawn a sharp distinction between the use of fetal tissue from spontaneous abortions and from induced abortions. Our concern is to prevent the subsequent use of the tissue from encouraging induced abortions. It is possible that this distinction would lead women and physicians to break the law by pretending that abortions are spontaneous when they are in fact induced. Any law can be broken, but physicians performing abortions and physicians using human fetal tissue seem unlikely to create together a criminal black market. If future experience under our suggested guidelines showed that disguised

induced abortions were a great problem, we would seriously consider extending the guidelines to spontaneous abortions as well.

THE PROPOSALS

The issue of induced abortion bitterly divides many in our society. The emotional depth of that division necessarily affects the medical use of fetal tissue from induced abortions. A careful analysis of the relation between fetal tissue and abortion, however, reveals useful ground that all or almost all can share and leads to the proposals that follow.

Human fetal tissue should generally be treated with the respect given cadavers, and its use should be governed by the same legal rules.

Women who undergo induced abortions should not be allowed to benefit directly from the subsequent medical use of the fetal tissue, through payment for it, through the reimbursement of expenses connected with the abortion, or in any other manner. The National Organ Transplantation Act should be amended to cover human fetal tissue — whether used for transplantation or any other medical purpose — and to exclude abortion-related expenses from its definition of permissible reimbursement.

Because of the possibility that a conflict of interest might affect their advice to patients about abortion, medical personnel who perform induced abortions should not be allowed any direct benefit from the subsequent use of the fetal tissue.

The proper medical use of fetal tissue from spontaneous abortions and from abortions induced because of risk to the mother's life is ethically unobjectionable.

The use of tissue from fetuses aborted for the specific purpose of donating that tissue seems ethically impermissible. The Uniform Anatomical Gift Act should be amended to bar the donation to specific persons of human fetal tissue from induced abortions.

Subject to these conditions, human fetal tissue can be used ethically for medical research and treatment.

HENRY T. GREELY, J.D.
THOMAS HAMM, D.V.M., Ph.D.
RODNEY JOHNSON, J.D.
CAROLE R. PRICE, J.D.
RANDY WEINGARTEN, M.D.
THOMAS RAFFIN, M.D.
THE STANFORD UNIVERSITY
MEDICAL CENTER
COMMITTEE ON ETHICS

Stanford University Medical Center
Stanford, CA 94305

The members of the Stanford University Medical Center Committee on Ethics were as follows: Diana Akiyama, associate dean, Memorial Church; Ronald Ariagno, M.D., professor (clinical) of pediatrics; Carol Bernhardt, community representative; Helen Blau, Ph.D., associate professor of pharmacology; Cynthia Cannady, J.D., community representative; Ari Cartun, director, B'nai B'rith Hillel Foundation; Ruth Cronkite, Ph.D., research health science specialist, Palo Alto Veterans Administration Medical Center and senior lecturer in sociology; Lawrence Crowley, M.D., professor of surgery; Julian Davidson, Ph.D., professor of physiology; Leslie Dorfman, M.D., associate professor of neurology; John

Dupre, Ph.D., assistant professor of philosophy; Brad Dyer, medical student; A.T. Ganesan, Ph.D., professor of genetics; Michael Gilfix, J.D., community representative; Henry Greely, J.D., associate professor of law; George Gulevich, M.D., professor of psychiatry; Thomas Hamm, D.V.M., Ph.D., director of the Division of Laboratory Animal Medicine; Peter Hammond, Ph.D., professor of economics; Timothy Jackson, Ph.D., assistant professor of religious studies; Rodney Johnson, J.D., managing attorney for medical affairs; Richard Kelly, medical student; Jeanne Kennedy, director of community and patient relations, Stanford University Hospital; Sheldon King, president, Stanford University Hospital; David Korn, M.D., vice president and dean, School of Medicine; James Mark, M.D., chief of staff, Stanford University Hospital; David Maurice, Ph.D., professor (research) of surgery; Margaret McAfee, dean's office staffperson, School of Medicine; Bruce McAuley, M.D., medical staff (internal medicine), Stanford University Hospital; Mary Millar, director of publications, Stanford University Hospital; Joyce Miller, R.N., assistant director of nursing, Stanford University Hospital; Nicholas Ney, Ph.D., Alcohol and Drug Treatment Center staffperson; Carole Price, J.D., director of physician services and risk management, Stanford University Hospital; Donna Pronko, M.P.H., patient relations coordinator, Stanford University Hospital; Thomas Raffin, M.D., associate professor and assistant chief of medicine (chairperson, Stanford University Medical Center Committee on Ethics); John Ruark, M.D., medical staff (psychiatry), Stanford University Hospital; Michael Stephanides, medical student; Susan Stevens, M.D., resident in diagnostic radiology; David Stevenson, M.D., associate professor of pediatrics; Edward Stinson, M.D., professor of cardiovascular surgery; James Thomas, medical student; Kent Ueland, M.D., professor and chairman, gynecology and obstetrics; Vera Waechter, R.N., director of clinic nursing; Randy Weingarten, M.D., medical staff (psychiatry), Stanford University Hospital; Lewis Wexler, M.D., professor of radiology; Robinetta Wheeler, Ph.D., R.N., clinical nursing coordinator; Charles Whitcher, M.D., professor (clinical) of anesthesia; Ernie Young, Ph.D., chaplain to the medical school; and James Zehnder, M.D., chief resident in internal medicine.

The results of the committee's vote were as follows: approve, 44; disapprove (*), 2; abstain (*), 2.

Address reprint requests to Dr. Raffin at Rm. C-356, Stanford University Medical Center, Stanford, CA 94305.

REFERENCES

1. Specter M. NIH told to stop use of aborted fetuses. *Washington Post*. April 15, 1988:A1.
2. National Institutes of Health. Special notice: moratorium on certain fetal tissue research. Bethesda, Md.: National Institutes of Health, May 9, 1988.
3. Ruark JE, Raffin TA. Stanford University Medical Center Committee on Ethics. Initiating and withdrawing life support: principles and practice in adult medicine. *N Engl J Med* 1988; 318:25-30.
4. Lehrman D. A summary: fetal research and fetal tissue research. Washington, D.C.: Association of American Medical Colleges, 1988.
5. McCune JM, Namikawa R, Kaneshima H, Shultz LD, Lieberman M, Weissman IL. The SCID-hu mouse: murine model for the analysis of human hematolymphoid differentiation and function. *Science* 1988; 241:1632-9.
6. 45 C.F.R. § 46.201 (a) (1987).
7. 45 C.F.R. §§ 46.206(a)(3), (b) (1987).
8. 45 C.F.R. § 46.210 (1987).
9. Uniform Anatomical Gift Act ("UAGA"), 8A U.L.A. 30-60. In: Uniform laws annotated. St. Paul: West, 1983.
10. Revised Uniform Anatomical Gift Act, 1987, 8A U.L.A. 2-18. In: Uniform laws annotated. St. Paul: West, 1988.
11. Baron C. Fetal research: the question in the states. *Hastings Cent Rep* 1985; 15(2):12-6.
12. Terry N. "Alas, poor Yorick": I knew him ex utero: the regulation of embryo and fetal experimentation and disposal in England and the United States. *Vand Law Rev* 1986; 39:419-507.
13. Ariz. Rev. Stat. Ann. §36-2302(A). In: Uniform laws annotated. St. Paul: West, 1986.
14. Margaret S. v. Edwards, 794 F.2d 994 (5th Cir. 1986).
15. UAGA, §§2(b), 2(c), U.L.A. 34; Revised UAGA §§ 3(a), (b), 8A U.L.A. 9. In: Uniform laws annotated. St. Paul: West, 1988.
16. UAGA, § 7(b), 8A U.L.A. 59; Revised UAGA §§(b), 8A U.L.A. 14-15. In: Uniform laws annotated. St. Paul: West, 1988.
17. National Organ Transplantation Act, §301, P.L. 98-507, codified at 42 U.S.C.A. §274e (1987 Supp.).
18. Revised UAGA § 10(a), 8A U.L.A. 16. In: Uniform laws annotated. St. Paul: West, 1988.
19. St. Thomas Aquinas. *Summa theologiae*, II-II, Q. 64, Art. 7. (Gilby T, ed.) Cambridge: Blackfriars, 1966.
20. Beauchamp T, Childress JF. *Principles of biomedical ethics*. 2nd ed. New York: Oxford University Press, 1983:113.
21. Gorman C. A balancing act of life and death. *Time*. February 1, 1988:49.
22. Thorne E. Trade in human tissue needs regulation. *Wall Street Journal* August 19, 1987:3.
23. UAGA, §3(4), 8A U.L.A. 41; Revised UAGA §6(a)(3), 8A U.L.A. 13. In: Uniform laws annotated. St. Paul: West, 1988.
24. Note. Fetal tissue transplants: restricting recipient designation. *Hastings Law J* 1988; 39:1079-107.

features — a midsystolic click and a late systolic murmur that shift in timing with posture and other maneuvers — are detected. The diagnosis can also be made on the basis of prominent late systolic prolapse on an M-mode echocardiogram or clear-cut billowing of the leaflets in the parasternal long-axis view on a two-dimensional echocardiogram.^{1,3,4,6} Antibiotic prophylaxis for dental or other invasive procedures should be given to patients with mitral-valve prolapse and mitral regurgitation detected by auscultation or Doppler echocardiography and possibly to other high-risk patients with the disease in view of the known intermittency of mitral murmurs in this condition.^{1,6} The presence and severity of associated mitral regurgitation appear to be the best guides to the frequency of clinical and laboratory follow-up of patients with mitral-valve prolapse.⁶ The identification by two-dimensional echocardiography of patients with mitral-valve prolapse and mitral valvular enlargement and thickening confirms the findings of other methods, and may someday supplant them.

New York Hospital—
Cornell Medical Center
New York, NY 10021

RICHARD B. DEVEREUX, M.D.

REFERENCES

1. Devereux RB, Kramer-Fox R, Shear MK, Kligfield P, Pini R, Savage DD. Diagnosis and classification of severity of mitral valve prolapse: methodologic, biologic and prognostic considerations. *Am Heart J* 1987; 113:1265-80.
2. Warth DC, King ME, Cohen JM, Tesoriero VL, Marcus E, Weyman AE. Prevalence of mitral valve prolapse in normal children. *J Am Coll Cardiol* 1985; 5:1173-7.
3. Levine RA, Stathogiannis E, Newell JB, Harrigan P, Weyman AE. Reconsideration of echocardiographic standards for mitral valve prolapse: lack of association between leaflet displacement isolated to the apical four chamber view and independent echocardiographic evidence of abnormality. *J Am Coll Cardiol* 1988; 11:1010-9.
4. Levine RA, Triulzi MO, Harrigan P, Weyman AE. The relationship of mitral annular shape to the diagnosis of mitral valve prolapse. *Circulation* 1987; 75:756-67.
5. Devereux RB, Brown WT, Kramer-Fox R, Sachs I. Inheritance of mitral valve prolapse: effect of age and sex on gene expression. *Ann Intern Med* 1982; 97:826-32.
6. Devereux RB, Kramer-Fox R, Kligfield P. Mitral valve prolapse: etiology, clinical manifestations and management. *Ann Intern Med* (in press).
7. Pini R, Greppi B, Kramer-Fox R, Roman MJ, Devereux RB. Mitral valve dimensions and motion and familial transmission of mitral valve prolapse with and without mitral leaflet billowing. *J Am Coll Cardiol* 1988; 12:1423-31.
8. Devereux RB, Hawkins I, Kramer-Fox R, et al. Complications of mitral valve prolapse: disproportionate occurrence in men and older patients. *Am J Med* 1986; 81:751-8.
9. Wilcken DEL, Hickey AJ. Lifetime risk for patients with mitral prolapse of developing severe valve regurgitation requiring surgery. *Circulation* 1988; 78:10-4.
10. MacMahon SW, Roberts JK, Kramer-Fox R, Zucker DM, Roberts RB, Devereux RB. Mitral valve prolapse and infective endocarditis. *Am Heart J* 1987; 113:1291-8.
11. Nishimura RA, McGoon MD, Shub C, Miller FA Jr, Ilstrup DM, Tajik AJ. Echocardiographically documented mitral-valve prolapse: long-term follow-up of 237 patients. *N Engl J Med* 1985; 313:1365-9.
12. Duran DR, Becker AE, Dunning AJ. Long-term follow-up of idiopathic mitral valve prolapse in 300 patients: a prospective study. *J Am Coll Cardiol* 1988; 11:42-7.
13. Pini R, Devereux RB, Greppi B, et al. Comparison of mitral valve dimensions and motion in mitral valve prolapse with severe mitral regurgitation to uncomplicated mitral valve prolapse and to mitral regurgitation without mitral valve prolapse. *Am J Cardiol* 1988; 62:257-63.
14. Marks AR, Choong CY, Santilippo AJ, Ferre M, Weyman AE. Identification of high-risk and low-risk subgroups of patients with mitral-valve prolapse. *N Engl J Med* 1989; 320:1031-6.

SOUNDING BOARD

THE POLITICS OF TRANSPLANTATION OF HUMAN FETAL TISSUE

RESEARCH involving human fetal tissue has been the subject of intense political debate in this country for almost two decades, and the use of fetal tissues in transplantation continues this controversy in another forum. Since *Roe v. Wade*,¹ the landmark decision on abortion by the U.S. Supreme Court in 1973, the federal government has focused public attention on fetal research by creating panels of experts. For example, in 1974 Congress created the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research and made the formulation of regulations on fetal research the first item on its agenda. The resulting regulations were reasonable, but no federally funded research on either fetuses or in vitro fertilization was ever done, primarily because of the Reagan administration's view of the moral status of the human embryo.

Current federal regulations permit the use of tissue from dead fetuses in experimental transplantation when it is conducted in accordance with state law.² All states but eight (Arizona, Arkansas, Illinois, Indiana, Louisiana, New Mexico, Ohio, and Oklahoma) permit such experiments.² Nonetheless, ethical concerns remain, and there has been continued political resistance to funding such research with public money. Ethical issues cannot be resolved by a vote of experts, but they can help to define and clarify issues publicly and to build a consensus. They also serve to take the political heat off elected officials with respect to controversial issues, and this is a relevant factor in whether public funding is approved.

The most recent series of disputes began in October 1987, when the National Institutes of Health (NIH) submitted a request to the assistant secretary for health in which the NIH sought approval to fund the transplantation of human fetal tissue into the brain of a patient with Parkinson's disease. In March 1988, Assistant Secretary Robert Windom asked that the NIH establish a special advisory panel to study 10 questions about fetal-tissue research. And in May a moratorium was announced on the use of fetuses from elective abortions in federally funded research.

The 21-member Human Tissue Transplant Research Panel subsequently created by the NIH invited more than 50 people, including the representatives of 16 groups, to present their views in public sessions. On December 5, the panel finalized its report,³ and on December 14 the advisory committee to the NIH director adopted it unanimously. Wisely, the panel separated questions concerning the use of fetal tissue from those involving abortion — a legally and ethically appropriate move, but perhaps ultimately a politically untenable one. While the panel was still deliberating, the White House sent draft regulations to the secretary of health and hu-

man services that proposed a prohibition of the use of federal funds in any research involving fetal tissues.⁴ Nonetheless, the new secretary, Louis Sullivan, has told Congress that the issues could be separated, and he will study the panel's report before making a decision.⁵ The final decision will provide an early signal of President Bush's willingness to let the politics of abortion dictate the course of the research that is done by government scientists and funded with federal money.

The panel's task was somewhat simplified by its decision to limit discussion to the use of tissue from dead fetuses and its rejection of any intrafamilial donations or payment for fetal tissue — rulings consistent with an October 1988 amendment to the National Organ Transplant Act. The panel concluded that although it was of "moral relevance" that the fetal tissue be obtained from an induced abortion (rather than a spontaneous abortion or an interrupted ectopic pregnancy), the use of the tissue in research was "acceptable public policy" because "abortion is legal and . . . the research in question is intended to achieve significant medical goals."³ This conclusion was accepted on a vote of 15 to 2, and included recommendations that the decision to abort be kept independent of the decision to retrieve and use fetal tissue, that recipients be informed of the tissue's fetal origins, and that fetal tissue be accorded the same respect given other cadaveric human tissue.³ In answer to the remaining questions, the panel adopted the following recommendations: the decision to abort must be made before the use of the tissue is discussed; anonymity should be maintained between donor and recipient; the timing and method of the abortion should not be influenced by the potential use of the fetal tissues; and the consent of the pregnant woman is necessary and sufficient for the use of tissue unless the father objects.³ The panel also concluded that "there is sufficient evidence from animal experimentation to justify proceeding with human clinical trials in Parkinson's disease and juvenile diabetes."³

Many of these recommendations were adopted unanimously, and no more than two panel members dissented from any of them. The most illuminating part of the report, however, was not its bland prose, but the dissent and the responses it evoked, because these exchanges encapsulated the national debate.

In their dissent, attorney James Bopp and Professor James Burtchaell argued that research with fetuses aborted electively is "ethically compromised" by the lack of authentic informed consent, the incentives it offers for more abortions, and its complicity with the abortion.³ The consent issue involves the standard argument that a woman who decides to abort her fetus forfeits all rights and interests in the fetus and its remains.^{3,6} The incentive argument posits that many women are ambivalent about abortion, and that such ambivalence may be tipped in favor of abortion if the women are informed that some good may come of it.^{3,7}

The complicity argument, as stated by the dissenters, is primarily an emotional appeal based on an analogy to Nazi experimentation.

Professor John Robertson's response was joined by nine other panel members. He noted that a woman does not lose or forfeit all interest in an aborted fetus simply by choosing abortion. If she did, he said, this "would lead to a policy of using fetal remains without parental consent or to a total ban on fetal transplants."^{2,3} The assertion that the number of abortions will increase is "highly speculative," and Robertson argued that even "some" increase in the number of abortions would not make fetal transplants unacceptable, because such logic would assume "that even a marginal increase in abortion should bar fetal tissue transplant research."^{2,3} Robertson rejected the complicity argument completely, noting first that society's mere willingness to use the organs of persons killed in automobile accidents or murdered does not mean that society or transplant surgeons are accomplices in automobile accidents or murder. Finally, the Nazi analogy fails because those experiments were conducted on live, unconsenting patients, who suffered greatly from them, whereas research on fetal tissue involves only the dead remains of lawfully aborted fetuses, which cannot be harmed, and such research is done only with consent.^{2,3}

The dissenters' primary argument was that federal funding of fetal research would "institutionalize" governmental complicity with the "abortion industry"^{2,3} — a superficially appealing claim, perhaps, except that the federal government already profits directly from those who perform abortions, by taxing their earnings.

Those with serious misgivings about the use of dead fetal tissue are surely correct when they point out that dead fetuses cannot be equated with dead hamsters or human kidneys. Nonetheless, it is difficult to justify the use of the organs and tissues of dead children in transplantation without permitting the transplantation of tissue from dead fetuses. Some who object may be reacting not to the use of the fetus, but to the role of the not-to-be mother, and it can be argued that the panel did not address this role adequately. Kathleen Nolan has argued that the image of the "devouring mother" is an especially powerful and destructive one in our view of women as mothers. In her words,

by allowing tissue retrieval, [these women] seem to "fail to protect" the dead fetus, letting it fall prey to the needs of others. Subliminally this threatens unconscious beliefs about the role of women as mothers. . . . No matter that the fetus is dead — mothers should still fend off the scavengers.⁸

The images of research physicians as scavengers and of mothers as indifferent to the fate of their deceased children are disturbing to many. But the fetus lacks the status of a child⁹ and, after death, has no protectable interests of its own.² At the same time, like a dead adult, the dead fetus is not abandoned property and should be treated with respect because of what it

is and what it symbolizes. The mother's real role, like that of any surviving relative, is not to "consent" to burial or the use of body parts in transplantation. Rather, as the next of kin, she has the legal authority to dispose of the body in the customary manner (usually burial or cremation) and to object to any use of the body inconsistent with such customs, because of the mental anguish that such untraditional or disrespectful use of the body may cause her.¹⁰ Treating fetal remains with "respect" may mean not putting the fetus on public display, but when the choices include burial, incineration, or use in legitimate research, the third can be as respectful of the remains as the first two.

The report of the Stanford University Medical Center Committee on Ethics, which appears elsewhere in this issue of the *Journal*,¹¹ is fundamentally consistent with the report of the NIH panel. Together, these documents show wide agreement in the medical community on the major issues involved in the use of fetal tissue. One troubling difference must be noted, however. The Stanford report attempts to sidestep the question of elective abortion by recommending that "if tissue from spontaneous abortions can satisfy the medical demands for both quantity and quality of tissue, it would be preferable to avoid the ethical problems of using induced abortions." The use of tissues from fetuses aborted spontaneously is particularly problematic. It is now well established that about half of such fetuses aborted in the first trimester and 20 percent of those aborted in the second trimester are chromosomally abnormal.¹² Moreover, a variety of microorganisms have been associated with spontaneous abortions, including cytomegalovirus, herpes simplex types 1 and 2, rubella, toxoplasma, and *Ureaplasma urealyticum*.¹³ It would be indefensible to transplant abnormal or infected fetal tissue that could increase both the risk of a transplant failure and that of infection in the recipient. Tissue from spontaneously aborted fetuses should not be used for transplantation into a human subject.

The primary objection to the use of fetal tissues from elective abortions appears to be a political one: if it were therapeutically successful, such use would create a new constituency — sick people who would benefit from such transplants, and their families — that would be opposed to the prohibition of elective abortion. Of course, from a scientific and ethical standpoint, the central issue is whether it is reasonable to perform transplant experiments with fetal tissue at this time — a question neither panel attempted to examine in any depth. The politics of abortion have thus led us to focus on the tangential question of the tissue's source rather than the central question of its benefits to sick people. The subjects of the proposed transplant research are not the fetuses (which are dead), but the tissue recipients.

The first transplantations in patients with Parkinson's disease, in which the patient's own adrenal tissue

was used, attracted tremendous press coverage, and approximately 100 such procedures were performed in the United States on the basis of initial reports of success in Mexico.¹⁴ This experience indicates that local institutional review boards provide inadequate protection to the subjects of such research, just as they failed to protect the subjects of recent experiments with artificial hearts and xenografts.¹⁵ Adrenal-tissue transplantations have had very disappointing results,^{16,17} and serious questions have been voiced about the original Mexican cases.¹⁴

Fetal tissue is thought to have unique properties, and its use in patients with Parkinson's disease also subjects the patient to one less surgical procedure. Such transplantation for Parkinson's disease was first performed in Mexico and Sweden, with the Swedish researchers reporting "no improvement of therapeutic value" in their two patients to date.¹⁸ In December 1988 the American Academy of Neurology urged "great caution in expanding the current human experience except as research conducted in highly specialized centers."¹⁹ Nonetheless, at least two U.S. centers went ahead with fetal-tissue transplantation for Parkinson's disease (using private funds) before the NIH panel issued its report. Obviously, national panels of experts can be effective in setting guidelines only if privately funded researchers refrain voluntarily from conducting their own experiments while deliberations are proceeding.

There is no current method of regulating the clinical trials of new surgical procedures (as there is of trials of new drugs) and no effective way to regulate experiments financed privately, but the irresponsible proliferation of fetal-tissue transplantation procedures may persuade the White House and the public that such regulation is needed. It would be most beneficial to science and the public if such experimentation could be confined to a few centers of established excellence, where careful research could be pursued until the safety and efficacy of such transplantations are demonstrated. The NIH panel has given us an excellent beginning. But it is only a beginning, and should not be taken as a signal to proceed with trials that use fetal tissues for transplantation in patients. We have more scientific work to do, including work with animals, to help determine such things as cell survival, growth curves, and graft-host immunology.²⁰

Both panels also skipped lightly over some practical issues, including how the abortion is performed. It is feasible, in fact, to remove the fetus whole with the concurrent use of ultrasound to aid in directing instruments within the uterine cavity. If the use of fetal tissue proves therapeutic, there will be women willing to consent to such a procedure. If the abortion can be performed in a way that enhances the potential usefulness of the fetal tissue, without additional risk to the woman, there will also be tremendous pressure to adopt this technique. More discussion is needed of the

choices a woman should be given with respect to the abortion procedure itself, as well as its timing.

The relationship between the physician performing the abortion and the researcher also requires additional discussion. We believe that the woman should be asked about the use of her fetus as a source of tissue after she has decided to have an abortion but before the abortion has taken place. Afterward, she should be given an opportunity to withdraw her consent. When the physician has performed the standard inspection of the tissue to make sure that the abortion is complete, the tissue should be taken from the operating room and turned over to the researcher. The dissection of the tissues should be performed in a restricted facility designed to optimize the success of the procedure (e.g., a sterile environment and proper dissecting instruments). We would go beyond the recommendations of the Stanford report to suggest that to avoid any conflict of interest there should be no academic incentive (such as coauthorship of publications or grant support) or other incentive for the physician performing the abortion or anyone else involved in the woman's care, to obtain her agreement for the use of fetal tissue.

Transplantation challenges our ethical precepts, and traditionally ethics have taken a back seat to the temptations and incentives to perform transplantations that are the first of their kind. Despite this, the public has generally applauded such transplantation, at least when it is seen as an attempt to save a life that otherwise would certainly have been lost. Transplantation involving fetal tissue is much more problematic, and the public may be less forgiving of ethical shortcuts. Saving a life is usually not at issue, and the source of the tissue, although not illicit, is troublesome to many. The world is watching, and this opportunity to demonstrate good science, good ethics, and compassionate patient care should not be wasted.

Boston University Schools of
Medicine and Public Health
Boston, MA 02118

GEORGE J. ANNAS, J.D., M.P.H.

University of Tennessee
Memphis, TN 38163

SHERMAN ELIAS, M.D.

REFERENCES

1. Roe v. Wade. 410 U.S. 113 (1973).
2. Robertson JA. Fetal tissue transplants. *Washington Univ Law Q* 1988; 66:443-98.
3. Consultants of the Advisory Committee to the Director of the National Institutes of Health. Report of the human fetal tissue transplant panel. Washington, D.C.: National Institutes of Health, 1988.
4. Boffey PM. Aides at White House draft ban on use of fetal tissue. *New York Times*. September 9, 1988:A10.
5. Tolchin M. Bush choice back for health chief after an apology. *New York Times*. February 24, 1989:12.
6. Burchaell JT. University policy on experimental use of aborted fetal tissue. *IRB* 1988; 10(4):7-11.
7. Bopp J. Use of fetal tissue will increase the number of abortions. *National Right to Life News*. November 17, 1988:4.
8. Nolan K. *Genug ist genug*: a fetus is not a kidney. *Hastings Cent Rep* 1988; 18(6):13-9.
9. Freedman B. The ethics of using human fetal tissue. *IRB* 1988; 10(6):1-4.
10. Strachan v. John F. Kennedy Memorial Hospital. 538 A.2d 346 (N.J. 1988).

11. Greely HT, Hamm T, Johnson R, et al. The ethical use of human fetal tissue in medicine. *N Engl J Med* 1989; 320:1093-6.
12. Warburton D, Stein Z, Kline J, Susser M. Chromosome abnormalities in spontaneous abortion. In: Porter IH, Hook B, eds. *Human embryonic and fetal death*. New York: Academic Press, 1980:261-87.
13. Sever JL. Infectious cause of human reproductive loss. In: Porter IH, Hook B, eds. *Human embryonic and fetal death*. New York: Academic Press 1980:169-75.
14. Lewin R. Cloud over Parkinson's therapy. *Science* 1988; 240:390-2.
15. Annas GJ. Death and the magic machine: informed consent to the artificial heart. *West N Engl Law Rev* 1987; 9:89.
16. Embryos and Parkinson's disease. *Lancet* 1988; 1:1087.
17. Goetz CG, Olanow W, Koller WC, et al. Multicenter study of autologous adrenal medullary transplantation to the corpus striatum in patients with advanced Parkinson's disease. *N Engl J Med* 1989; 320:337-41.
18. Lindvall O, Rehncrona S, Gustavii B, et al. Fetal dopamine-rich mesencephalic grafts in Parkinson's disease. *Lancet* 1988; 2:1483-4.
19. Lewin R. Caution continues over transplants. *Science* 1988; 242:1379.
20. Sladek JR, Shoulson I. Neural transplantation: a call for patience rather than patients. *Science* 1988; 240:1386-8.

CORRESPONDENCE

Letters to the Editor are considered for publication (subject to editing and abridgment), provided that they are submitted in duplicate, signed by all authors, typewritten in double spacing, and do not exceed 40 typewritten lines of manuscript text (excluding references). Submission of a letter constitutes permission for the Massachusetts Medical Society, its licensees, and its assignees to use it in the *Journal's* various editions (print, data base, and optical disk) in anthologies, revisions, and any other form or medium. Letters should not duplicate similar material being submitted or published elsewhere, and they should not contain abbreviations. Financial associations or other possible conflicts of interest should always be disclosed.

Letters referring to a recent *Journal* article must be received within six weeks of the article's publication. We are unable to provide pre-publication proofs, and unpublished material will not be returned to authors unless a stamped, self-addressed envelope is enclosed. Receipt of letters is not acknowledged, but correspondents will be notified when a decision is made.

MORALITY FOR THE MEDICAL-INDUSTRIAL COMPLEX

To the Editor: Engelhardt and Rie (Oct. 20 issue)¹ declare that the profit motive in medicine is not itself evil. "Medicine is not an endeavor of amateurs nor usually of mendicant friars." As a member of a mendicant order, the Order of Friars Minor (Franciscans), and a practicing physician, I write to offer a different perspective on the morality of corporate profit-making by the "medical-industrial complex."²

Making a living is certainly not immoral. St. Francis himself, in writing the Rule for his mendicant friars, alluded to Luke 10:7, where it is written, "the worker is worth his wage."³ While it is true that the history of medical ethics is littered with controversies regarding fees and the economic concerns of physicians, these examples do not justify the notion that profit-making is central to medicine. Instead, they serve to warn us that physicians, like all human beings, may succumb to the urge to take more than the wage that is due them.

The covenant between patient and physician is based on the understanding that a sick person is especially vulnerable to such exploitation.⁴ A sick person must trust that the physician's first interest is to serve the needs of the sick, before serving the goal of personal profit. The medical profession must zealously guard that trust. The mass marketing of medicine for profit endangers it.⁵

Flexner included altruism among the characteristics that define a profession.⁶ Can genuine altruism be marketed, as Engelhardt and Rie suggest? They propose a strange sort of altruism, which dumps the poor and is achieved only by an appeal to the profit motive,

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Memo	From Tony Schall to David Q. Bates Re: Article in Washington Post on Abortion Cases (3 pp.)	9/21/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [4]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 5/12/05

Date Closed:	12/1/2004	OA/ID Number:	29135-004
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information



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

THE CHIEF of STAFF
has seen

September 21, 1989

To: General Sumner
D. H. Darman
Boydell Gray
Roger Porter
Martin Fitzmaurice

MEMORANDUM FOR DAVID Q. BATES

ASSISTANT TO THE PRESIDENT
AND SECRETARY TO THE CABINET

FROM:

TONY SCHALL *Tony Schall*
ASSISTANT TO THE ATTORNEY GENERAL

SUBJECT:

Article in the Washington Post on Abortion Cases

The attached article appeared in today's Washington Post. A reading of the article could leave one with the impression that the Administration is "backing off" of its position on the abortion issue. As a result, advocacy groups may contact your Office about the article. The purpose of this memorandum is to provide you with background on this matter. We request that any inquiries that you receive be referred to David Runkel, Assistant to the Attorney General (633-2107).

By way of introduction, there are three abortion cases before the Supreme Court this term: Hodgson v. Minnesota; Ohio v. Akron Center for Reproductive Health; and Turnock v. Ragsdale. The Government is not a party in any of these cases. We will file an amicus brief in Hodgson, although we will not request time for oral argument. We are not participating in Akron Center for Reproductive Health or Turnock. As explained below, there are good reasons for this approach, and it does not represent any change in the Administration's position on abortion. The approach simply reflects the fact that the circumstances of these cases are markedly different from those of Webster v. Reproductive Health Services, the case that was decided by the Court last term and in which we submitted a brief and presented oral argument.

In Hodgson, the Eighth Circuit held that Minnesota's requirement that both parents be notified before a minor obtains an abortion is constitutional so long as it includes an alternative procedure by which the minor can request court approval of an abortion. The plaintiffs sought certiorari to challenge the general parental notice requirement; the state cross-petitioned, challenging the court's decision that the

parental notice requirement is unconstitutional if it does not include a judicial bypass procedure. In Akron Center for Reproductive Health, the Sixth Circuit invalidated Ohio's requirement that the physician notify one of the minor's parents prior to performing an abortion. The state has appealed. In Turnock, the Seventh Circuit held that Illinois laws establishing standards that facilities performing minor surgery must satisfy in order to obtain a license are unconstitutional as applied to facilities that perform first trimester and early second trimester abortions. Here, too, the state has appealed.

The Government will be participating in Hodgson instead of the other two cases because, in our judgment, it presents an important issue (indeed, the most fundamental arising in these cases) in the arena of abortion regulation. Minnesota (Hodgson) has sought to provide that parents must be involved in the decision of their minor daughter to have an abortion, at least in all cases where the parent can be located without undue difficulty. Ohio (Akron Center for Reproductive Health), in contrast, has provided that notice may be avoided upon following specified judicial bypass procedures. Illinois (Turnock) is arguing that health and safety regulations that apply to all outpatient surgical facilities, including those that perform abortions, should be subject to a less demanding standard of review than Roe prescribed for abortion-specific regulations. Significantly, however, Illinois is not contesting the proposition (based upon Roe) that abortion-specific health regulations are subject to the strict compelling state interest standard in the first trimester.

In Hodgson, we will be reiterating our opposition to the standard of review imposed by Roe. We cannot, in conscience, however, say that the Court must overrule Roe v. Wade in order to sustain the Minnesota statute. Indeed, like Akron Center for Reproductive Health and Turnock, a resolution of the case does not require the Court to address the fundamental holding of Roe. Also, as noted above, unlike Missouri in Webster, neither Minnesota, Ohio, nor Illinois is challenging Roe. Thus, unlike the situation last term (Webster), we do not have a friendly party with whom we can join for an attack on Roe. For these same reasons, it is best for us to abstain from oral argument. In our brief in Hodgson, we will, however, point out our continuing disagreement with Roe.

The Washington Post

DATE: 9-
PAGE: 1

U.S. May Forgo Request for Abortion Review

Administration Faces Friday Deadline for Action in Minnesota Case

By Ruth Marcus
Washington Post Staff Writer

The Bush administration, which has vowed repeatedly to overturn the 1973 Supreme Court decision establishing the right to abortion, may not ask the court to reverse *Roe v. Wade* this term.

Solicitor General Kenneth W. Starr, the administration's advocate before the high court, has recommended against requesting time for oral arguments to urge the justices to overturn *Roe*, as former Solicitor General Charles Fried did last term in *Webster v. Reproductive Health Services*.

Justice Department spokesman David Runkel said no final decision has been made on whether to seek permission to present oral arguments in *Hodgson v. Minnesota*, one of three abortion cases the justices will hear this term and the only one the administration plans to enter. The deadline for making that request is Friday.

In addition, the brief the administration will file in *Hodgson* may not directly ask the justices to overrule *Roe*, but may be framed on narrower grounds. Attorney General Dick Thornburgh said in an interview Tuesday that the final content of the brief, due Oct. 14, has not been determined.

"Those are decisions that the solicitor largely makes and those decisions in that posture depend upon what the facts of the case are and what the issues are before the court," Thornburgh said. "But the president and I and the department remain committed to seeking that [reversal of *Roe*] in the appropriate case, and I've always said that."

Conservatives are closely watching the abortion cases and expressed chagrin yesterday that the administration might not attack *Roe* itself in the brief.

James Bopp, general counsel of the National Right to Life Committee, said he would be "surprised and

disappointed" if the administration does not renew its call to overrule *Roe*.

The justices are "obligated either to overrule it or reaffirm it or modify it or narrow it in some way," in the Minnesota case, Bopp said. "I don't think they can avoid the question of whether or not there is a constitutional right to abortion in these cases."

The abortion issue is a politically difficult one for Republicans, who are trying to hold on to younger voters while not offending the anti-abortion activists who have made up their conservative wing. The issue has also been troublesome for Bush, who has shifted his views on abortion several times in the last decade and who sent surrogates out to comment on the Webster ruling when it was announced in July.

In the *Hodgson* case, the court will rule on the constitutionality of a Minnesota law requiring that both parents be notified when a minor is seeking an abortion.

Sources familiar with the case said Starr is considering drafting a brief that would argue only that the constitutional right to abortion established in *Roe* does not justify interfering with the parent-child relationship.

One source said the factors in the Minnesota case that suggest it

might not be a good vehicle for overturning *Roe* are the fact that the state attorney general is not seeking reversal; that it may not be necessary to overrule *Roe* in order to uphold the law; and that there is not a clear federal interest in the case, as there was in *Webster* last term.

In ruling in that case, the court signaled its willingness to uphold an array of abortion restrictions, and the three abortion cases the court will review in the term that starts next month were expected to pose a critical test to the future of abortion rights.

However, one senior department official said, "We have not been viewing these cases as appropriate

vehicles to really challenge or seek a revisiting of *Roe*."

The time has already expired for the administration to file a brief in what may be the most significant abortion case this term, *Turnock v. Ragsdale*, which involves Illinois statutes that impose an array of licensing requirements on abortion clinics. Sources said the administration decided not to file a brief in the case because the Illinois attorney general contends that the regulations are "abortion-neutral."

The third case the court will hear, *Ohio v. Akron Center for Reproductive Health*, also involves a challenge to a parental notification statute.

Staff writer Al Kamen contributed to this report.

CHRISTOPHER H. SMITH

4TH DISTRICT, NEW JERSEY

COMMITTEES:

FOREIGN AFFAIRS

SUBCOMMITTEES:

EUROPE AND THE MIDDLE EAST

HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS

VETERANS' AFFAIRS

SUBCOMMITTEES:

HEALTH AND HOSPITALS

EDUCATION, TRAINING AND
EMPLOYMENT—Vice Chairman

COMMISSIONER:

COMMISSION ON SECURITY AND

COOPERATION IN EUROPE

SELECT COMMITTEE ON AGING



Congress of the United States

House of Representatives

Washington, DC 20515

September 19, 1989

WASHINGTON OFFICE:

2440 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3765

CONSTITUENT SERVICE CENTERS:

1720 GREENWOOD AVENUE
TRENTON, NJ 08609
(609) 890-2800

427 HIGH STREET
ROOM 1

DUNELSON CITY, NJ 08016
(609) 386-5534

655 PARK AVENUE, SUITE 30
FREEHOLD, NJ 07728
(201) 790-0707

Governor John Sununu
Chief of Staff
The White House
Washington, D.C. 20500

Dear Governor Sununu:

Thank you for speaking to me today about recent developments in the area of pro-life legislation. Pursuant to your request, I am enclosing a summary of these concerns and a letter that was sent by President Reagan on September 7, 1988. A letter sent by President Bush on May 5, 1989 is also enclosed for your perusal.

1. HYDE AMENDMENT: The Senate Appropriations Committee has voted to weaken the Hyde Amendment to the FY 1990 Labor/HHS Appropriations bill by adding new language which would mandate federal funding of abortion in cases of rape and incest.

The language adopted by the Committee makes no distinction between forcible rape and statutory rape. It does not contain a requirement that the assault be reported to law enforcement authorities and is, therefore, subject to widespread abuse.

When the full Senate approved identical rape/incest exceptions last year, President Reagan responded with a letter explicitly promising to veto the bill unless it contained the House-passed Hyde Amendment (which permits funding of abortion only to save the mother's life).

It would be very helpful if President Bush would immediately send such a letter to congressional leaders. Among other benefits, it would buttress the position of pro-life Rep. William Natcher (D-Ky.), the chairman of the House conferees on the bill, who is strongly opposed to the rape/incest exceptions.

2. FOREIGN AID: Senator Mikulski offered an amendment in the Senate Appropriations Committee on Monday, September 14, which would earmark population funds for the U.N. Population Fund (UNFPA). The Mikulski Amendment would reverse current Administration policy which prohibits U.S. funds from going to UNFPA so long as UNFPA supports China's coercive program.

The current policy was endorsed by President Bush in a May 5 letter (enclosed), and has also been defended by Secretary Baker.

Governor John Sununu
September 19, 1989
Page Two

Senator Kasten plans to offer an amendment on Wednesday, September 20 to reassert the Administration's position. My amendment to ratify the Administration's anti-coercion and pro-Mexico City policies was adopted on June 22 by a 66 vote margin (229-163). A strong veto message from the White House would greatly assist our efforts in Congress to defend these important pro-life policies.

Governor Sununu, I appreciate your ongoing support for the pro-life cause. Thank you for your consideration of this request.

Sincerely,



CHRISTOPHER H. SMITH
Member of Congress

CHS/mjd
Enclosures

THE WHITE HOUSE
WASHINGTON

September 7, 1988

Dear Mr. Speaker:

The committee of conference on the Labor, Health and Human Services, and Education Appropriations bill for fiscal year 1989 (H.R. 4783) reported a bill that I could sign if it does not contain the Senate's proposed abortion provisions. I understand that the conferees did not reach agreement on the abortion issue and the two Houses will vote on it again.

The House passed the Hyde Amendment language that provides:

"None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

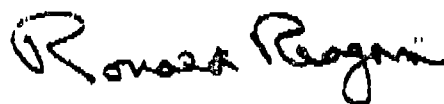
The House provision protects the lives of America's unborn children and I strongly support it.

The Senate amended the bill to permit use of funding for abortions in cases in which the life of the mother would not be endangered if the fetus were carried to term. The Senate language would permit the use of Federal funds for the slaughter of unborn children, depriving the innocent of the most basic of civil rights -- the right to life.

I will veto the bill if it is presented to me with the Senate language. If it is instead presented to me only with the House language, the bill will merit my approval.

I urge the Congress to vote to protect the lives of America's unborn children.

Sincerely,



The Honorable Jim Wright
Speaker of the
House of the Representatives
Washington, D.C. 20515

THE WHITE HOUSE
WASHINGTON

May 5, 1989

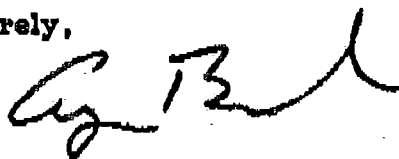
Dear Henry:

Thank you for your letter of April 18 on pro-life issues which my Administration will face in the coming months.

I do support the Mexico City Policy as it relates to abortion. As you noted, this Policy allows funds to organizations which agree to provide contraceptive services but refrain from promoting abortion. I also agree that there should be no funding for the United Nations Fund for Population Activities (UNFPA) so long as it supports programs involving compulsory abortion.

However, at the same time, let me reaffirm my strong support for family planning programs which do not condone or encourage abortion.

Sincerely,



The Honorable Henry J. Hyde
House of Representatives
Washington, D.C. 20515

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04. Memo	From Darla St. Martin to John Sununu Re: UNPF (2 pp.)	9/27/89	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [4]

Open on Expiration of PRA
(Document Follows)

By JP (NLGB) on 5/12/05

Date Closed:	12/1/2004	OA/ID Number:	29135-004
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Determined to be administrative
marking
CONFIDENTIAL

To: Gov. Sununu c/o JACKI KENNEDY (fax 456-2397)
From: Darla St. Martin 626-8826
Douglas Johnson 626-8820, 439-9087
Re: United Nations Population Fund
Date: Wednesday, Sept. 27, 1989

As you know, on Sept. 20 the Senate narrowly (52-48) accepted Sen. Mikulski's amendment to mandate renewed funding of the United Nations Population Fund (UNFPA). Mikulski's effort can be blocked by transmission of a prompt veto threat to Congressman David Obey.

In a May 5 letter to Congressman Henry Hyde (since circulated nationwide), President Bush said, "I agree that there should be no funding for the UNFPA so long as it supports programs involving compulsory abortion." That is a principled, pro-life, pro-human-rights policy-- indeed, the very policy embodied in law since 1985 via the Kemp-Kasten Amendment. Based on intelligence, diplomatic, and journalistic sources, as well as the U.S. Census Bureau's China Desk, the Agency for International Development has annually formally declared that China's program is "systematically coercive" and that the UNFPA's involvement there violates the Kemp-Kasten Amendment. The most recent such determination was announced by AID on June 7, 1989.

Mikulski would gut the Kemp-Kasten provision by exempting the UNFPA from its requirements. The result would be precisely what President Bush told Mr. Hyde he opposes: the U.S. would once again be part of the UNFPA, notwithstanding the UNFPA's continuing enthusiastic support for China's population program.

There is nothing "moderate" about Mikulski's amendment. Mikulski's requirement that the UNFPA keep the U.S. funds "segregated" from China is a mere bookkeeping sham. Under Mikulski's amendment, the UNFPA would have it both ways: remaining a full partner in China's population program, while enjoying U.S. funding and tacit U.S. acquiescence in its support for China.

Congressman Obey, the chairman of the House conferees, is pro-UNFPA, but he has supported retention of the Kemp-Kasten Amendment since 1986 because he knows that the House as a whole supports that position (as was again demonstrated by adoption of the Chris Smith amendment to the foreign aid authorization bill on June 22, by a 66-vote margin), and because of President Reagan's support for Kemp-Kasten. In our view, if Mr. Obey promptly receives an unequivocal veto threat on the Mikulski language, he will probably drop it in conference (or if he does not, our chances of defeating the conference report on the House floor would be enhanced by the veto threat). However, if Obey does not receive such a credible veto threat, he will likely accept Mikulski, or some other language to achieve the same end.

(more)

2

In the unlikely event that both Obey and the full House disregard a veto threat, and the President actually vetoed the bill, you can be assured the veto would be sustained. In the letter sent to President Bush on June 13, 154 House members explicitly promised to sustain a veto on "barring U.S. funding of any organization, including the United Nations Population Fund, that in any way participates in or supports programs of coercive abortion." The actual number who would vote to sustain a veto on the UNFPA issue alone is surely well in excess of 154, and would include more than a few pro-abortion House members who will vote against any foreign aid bill on general principles.

Thank you for your attention to this request.

[Attachments]

THE WHITE HOUSE

WASHINGTON

May 5, 1989

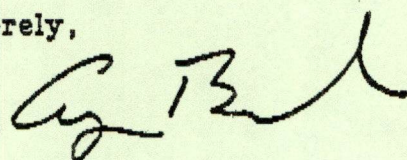
Dear Henry:

Thank you for your letter of April 18 on pro-life issues which my Administration will face in the coming months.

I do support the Mexico City Policy as it relates to abortion. As you noted, this Policy allows funds to organizations which agree to provide contraceptive services but refrain from promoting abortion. I also agree that there should be no funding for the United Nations Fund for Population Activities (UNFPA) so long as it supports programs involving compulsory abortion.

However, at the same time, let me reaffirm my strong support for family planning programs which do not condone or encourage abortion.

Sincerely,



The Honorable Henry J. Hyde
House of Representatives
Washington, D.C. 20515



National RIGHT TO LIFE

committee, inc.

Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-6800

September 26, 1989

The Honorable James Baker III
Secretary of State
2201 C Street, Northwest
Washington, D.C. 20520

VIA MESSENGER

Dear Secretary Baker:

In a May 5 letter to Congressman Henry Hyde, President Bush said, "I agree that there should be no funding for the UNFPA so long as it supports programs involving compulsory abortion." That principled pro-life, pro-human-rights policy is now jeopardized by the Mikulski Amendment, narrowly approved by the Senate on September 20.

I am writing to urge that you advise the President to inform the upcoming conference committee on the foreign operations appropriations bill (HR 2939) that he will not sign the bill if it mandates U.S. participation in the United Nations Population Fund (UNFPA), while allowing the UNFPA to continue to support China's coercive population program.

As you know, since 1985 the annual foreign operations bill has carried the "Kemp-Kasten Amendment" (sometimes referred to as the Kemp-Helms-Inouye Amendment), which denies U.S. population assistance funds to "any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization." Each year, the Agency for International Development has carefully reviewed evidence from diverse sources and has determined that the UNFPA's role in China violates this prohibition. The most recent such AID determination was issued less than four months ago.

Despite massive evidence that a compulsory abortion policy remains in force in China (enforced with special brutality in Tibet), top officials of the UNFPA continue to defend China's program against all critics, and to hold China up as a model for other developing nations [see enclosures]. As recently as May 24, UNFPA Executive Director Nafis Sadik, at a Capitol Hill luncheon organized by the Population Institute, made the incredible statement that China's program is "entirely voluntary." Current UNFPA activities in China include participation in the State Family Planning Commission and training of the officials who enforce the "one child" policy.

The Mikulski Amendment, approved 52-48, would exempt the UNFPA from the

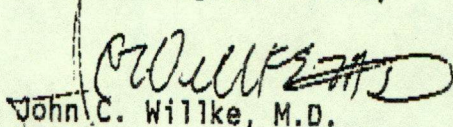
THE HONORABLE JAMES BAKER III, PAGE TWO

Kemp/Kasten Amendment. The Mikulski Amendment would mandate U.S. participation in the UNFPA regardless of the extent to which the UNFPA supports coercive programs such as China's-- provided merely that the UNFPA undertakes the simple bookkeeping task of "segregating" U.S. funds from China. Clearly, the amendment would destroy the fundamental human-rights principle embodied in the Kemp-Kasten law and embraced by President Bush-- that an organization which supports a coercive population control program such as China's renders itself unworthy of U.S. participation.

If the President informs the conferees that he would veto a bill which weakens the Kemp-Kasten Amendment, the offensive language would likely be dropped in conference. However, in the unlikely event that an actual veto is required, it would certainly be sustained, since over 155 House members recently signed letters to the President explicitly promising to sustain his veto to preserve current law on the UNFPA (see attached).

Thank you for your attention to this important pro-life issue.

Respectfully submitted,


John C. Willke, M.D.
President

enclosures

7TH DISTRICT, WISCONSIN

DAVID R. OBEY

DISTRICT OFFICE:
FEDERAL BUILDING
317 FIRST STREET
WAUSAU, WI 54401
PHONE: 715-842-5606

DISTRICT REPRESENTATIVE:
JERRY MADISON

FIELD REPRESENTATIVE:
MARTIN HANSON

Congress of the United States
House of Representatives
Washington, DC 20515

May 13, 1987

CHAIRMAN:
JOINT ECONOMIC COMMITTEE

CHAIRMAN:
FOREIGN OPERATIONS
APPROPRIATIONS SUBCOMMITTEE

MEMBER:
HOUSE APPROPRIATIONS COMMITTEE
SUBCOMMITTEES: LABOR-HHS-EDUCATION
LEGISLATIVE

WASHINGTON OFFICE:
2217 RAYBURN HOUSE OFFICE
BUILDING
PHONE: 202-225-3365
EXECUTIVE ASSISTANT:
LYLE STITT

Ms. Bernadette Tolan
Rt. 3, Box 70
Luck, Wisconsin 54853

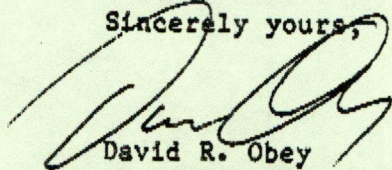
Dear Ms. Tolan:

Thank you for contacting me concerning the UNFPA.

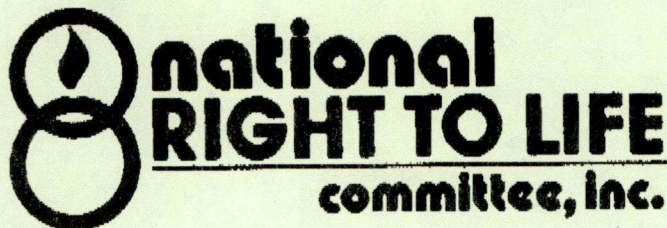
I'm the Chairman of the Subcommittee that oversees this program, and I've made it quite clear to the Administration that I think that we shouldn't be supporting population programs in China so long as they are following a policy of forced abortion. We adopted language in our bill originally sponsored by Senator Helms which said that no funds in the bill may be used to pay for the performance of abortion or involuntary sterilization as a means of family planning. It was amended by me to give the President the authority to determine when population funding should or should not be provided to any organization. Certainly, I would think you can trust Ronald Reagan's judgment on this.

Thank you again for getting in touch with me.

Sincerely yours,


David R. Obey
Your Congressman

DRO/rs



Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-8800

POINTS IN OPPOSITION TO RESTORING U.S. FUNDS
TO THE UNITED NATIONS POPULATION FUND (UNFPA)

September 26, 1989

- On Sept. 20, the Senate voted 52-48 in favor of an amendment to the foreign operations appropriations bill (HR 2939), sponsored by Sen. Mikulski, to mandate funding of the United Nations Population Fund (UNFPA). The UNFPA has received no U.S. funds since 1985 because of its heavy involvement in China's coercive population-control program.

- Since 1985, all funds denied to the UNFPA have been re-directed to other family-planning projects. Thus, the issue is not whether family planning should be funded, but rather, whether the U.S. should support an agency which participates in, and applauds, China's population policies.

- The Mikulski Amendment would have the substantive effect of gutting the "Kemp-Kasten Amendment" (also known as the Kemp-Helms-Inouye Amendment), first enacted in 1985 and extended in the House-passed HR 2939. The Kemp-Kasten Amendment provides that no population assistance funds

may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.

- The Mikulski Amendment exempts the UNFPA from the Kemp-Kasten law. Under the amendment, the UNFPA would receive \$15 million even while continuing to support China's program-- provided that the UNFPA engages in a simple bookkeeping exercise to "segregate" U.S. funds from China.

- Until 1985, officials of the Agency for International Development (AID) accepted at face value, and transmitted to Congress, the UNFPA's assurances that the UNFPA was not supporting coercive activities in China. AID documents from that era are still being quoted by defenders of the UNFPA. They neglect to quote more recent AID reviews, based on extensive information from diplomatic, intelligence, and journalistic sources, and the U.S. Census Bureau, which have concluded that China's program is "systematically coercive" and that the UNFPA's extensive involvement violates the Kemp-Kasten Amendment.

- The most recent such determination was issued by AID on June 7, 1989. AID Deputy Administrator Jay Morris said, "Unfortunately, no significant changes in the nature of the China population program or in UNFPA's assistance to China have occurred which would warrant resumption of U.S. support for UNFPA."

(please turn over)

- The UNFPA's top officials continue to strongly defend the PRC's population program. As recently as May 24, 1989, UNFPA Executive Director Nafis Sadik said at a Capitol Hill luncheon that China's population program is "entirely voluntary."

- In June, the governing council of the U.N. Development Programme approved a five-year, \$57 million extension of the UNFPA program in China. However, U.S. delegate Nyle C. Brady stated that "we strongly oppose the program as currently formulated and dissociate ourselves unequivocally from any interpretation of this body's consensus that suggests we approve of the family planning program in the People's Republic of China."

- In a letter to Congressman Henry Hyde, dated May 5, 1989, President Bush wrote: "I also agree that there should be no funding for the United Nations Fund for Population Activities (UNFPA) so long as it supports programs involving compulsory abortion."

- AID's original determination that the UNFPA is not in compliance with the Kemp-Kasten Amendment was challenged in a lawsuit filed by the UNFPA-funded Population Institute. In 1986, a three-judge panel of the U.S. Court of Appeals for the District of Columbia unanimously ruled that the evidence presented by AID "amply supports" the AID cutoff of UNFPA.

- Despite claims that the UNFPA "does not support abortion," the UNFPA this year admitted that it is funding clinical testing of the drug RU-486, the "abortion pill" used in France to induce abortions between the fourth and seventh week of pregnancy.

For further information, or copies of documents referenced above, contact Douglas Johnson, NRLC Legislative Director, (202) 626-8820.

300 PHILADELPHIA, NEW JERSEY


 2440 RAYMOND HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515
 (202) 225-2769

CONSTITUENT SERVICE CENTERS

 1720 GATEWOOD AVENUE
 TRENTON, NJ 08603
 (609) 890-2600

 427 HIGH STREET
 ROOM 1

 BURLINGTON CITY, NJ 08016
 (609) 386-6634

 855 PARK AVENUE, SUITE 33
 PRINCETON, NJ 07728
 (201) 780-0707

COMMITTEES

FOREIGN AFFAIRS

SUBCOMMITTEES

EUROPE AND THE MIDDLE EAST

HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS

VETERANS' AFFAIRS

SUBCOMMITTEES

HEALTH AND HOSPITALS

EDUCATION, TRAINING AND
EMPLOYMENT--VICE CHAIRMAN

COMMISSIONER

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE

SELECT COMMITTEE ON AGING

Congress of the United States

House of Representatives

Washington, DC 20515

COERCIVE ABORTION--A GROWING TRAGEDY

"... The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences. . . . The women who refused were taken by force, operated on, and no medical care was given. Women nine months pregnant had their babies taken out. . . . We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible. . . . Since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad area."

"Witness to China's Shame", Washington Post, Blake Kerr, February 26, 1989, p. C1.

"... During 1987 and 1988 central demands for strict enforcement of family planning requirements escalated sharply and the escalations have continued into 1989. New measures have been devised to bring pressure on the whole administrative chain of command down to the grassroots level. . . . Tactics once condemned as coercive are once again advocated. Mandatory IUD insertions, sterilizations and abortions continue."

"Is China's Birth Control Program Still Coercive?", John S. Aird (former Senior Research Specialist on China at the U.S. Bureau of the Census), February 1989, p. 106."

"... Many gynecologists and nurses on the mainland are forced to kill the babies against their conscience. Sometimes they have to kill several tens of them in a day. It is a great pressure on them mentally and psychologically. Several gynecologists whom this writer is acquainted with often had nightmares because of this. Some laboratory technicians, because they had to dissect the bodies for organs to be use as specimens and occasionally when the babies were brought in from the hospitals still crying and breathing and had to be put to death by the same methods [injecting alcohol into the brain, injecting an overdose of ether, or stuffing gauze into the mouth to stop breathing] were also under mental and psychological stress."

"Live Babies Are Put to Death Under Communist Chinese One-Child Policy", Washington China Post, Ge Hua, January 27, 1989, p. 11.

"... No government program has cut so deeply into Chinese society nor inspired such strong resistance in 35 years of Communist rule as the struggle to trim China's population."

the struggle to trim China's population. . . . Publicly, they claim to rely on the powers of persuasion and education, exercising a policy of voluntary consent. . . . But a closer and longer look reveals a very different picture. China, to be sure, is curbing population growth, but its success is rooted in widespread coercion, mass abortion and intrusion by the state into the most intimate of human affairs." "Abortion Policy Tears at China's Society", Washington Post, January 1, 1985, Michael Weisskopf, p. 1.

"... The Chinese program is at present actually becoming more coercive, not because of local deviations from central policies but as a direct, inevitable, and intentional consequence of those policies. Foreign organizations and individuals that indiscriminately laud the Chinese program or provide financial or technical assistance for any aspect of it place themselves in the position of supporting the program as a whole, including its violations of human rights."

"Is China's Birth Control Program Still Coercive?", John S. Aird (former Senior Research Specialist on China at the U.S. Bureau of the Census), February 1989, pgs. 106-107.

"... China's Tibetan birth control policy includes forced abortion, sterilization, and even infanticide. . . A Tibetan woman who desires a second child must wait for four years before becoming pregnant again. Women who violate these rules are forced to have an abortion, often accompanied by sterilization and economic sanctions."

"Witness to China's Shame", Washington Post, Blake Kerr, February 26, 1989, p. c4.

"... We should justly and forcefully say that we must punish those who have turned a deaf ear to dissuasion from having additional children and from unscrupulously having additional children and that suitable coercion and control should be implemented in China's family planning. . . Only if the country adopts effective and compulsory policies and at the same time, carries out propaganda and education, can the consciousness of the society be aroused."

"There is No Route of Retreat", JINGJI RIBAO (Chinese National Economic Newspaper, transcribed by the Foreign Broadcast Information Service), Xie Zhenjiang, January 24, 1989, p. 3.

"... 'My wife (Ping Hong) is seven months pregnant,' Li told me. 'Even though we are living in the United States, the Chinese government has been trying to force us to return to China for an abortion. We hope that you can help us to stay in the United States, at least until our baby is born'. . . (When Ping Hong failed to respond to the abortion directive, she received a very blunt letter from the Population Control Office at her place of employment in China. The letter in part reads:). . . The punishment for this kind of violation [having a second child] is very severe, and we strongly advise you not to risk it. If you cannot have this abortion done abroad, then the factory director orders you to return to China immediately. Any further delays, and you will be punished according to the law. There is nothing ambiguous about our order! Make up your mind immediately! To your health!"

"The Long Arm of 'One-Child' China", Washington Post, Steven W. Mosher, April 10, 1988.

"... The new Chinese society is not merely displacing Tibet's ancient culture. It is actively destroying it. . . The harsh face of Chinese rule includes thousands of forced abortions and sterilizations of Tibetan women each year. The common method for both procedures. . . is by injection. In Chamdo, Tibet's third largest city, there have been numerous reports of fetuses thrown out in the storm drains and garbage bins of the People's Hospital. In Lhasa, many Tibetan women have heard their newborns cry, only to be told later that the infants died at birth."

"The Rape of Tibet", Washington Post, John F. Avedon, March 29, 1987, p.C 7.

"... Some of the provincial governments appear to be unconcerned with the detrimental effects that forced abortion has on women. All that seems to matter, if the press is any guide, is keeping down the number of births each year in the province through any means," China's Changing Population, Stanford University Press, Judith Banister, 1987, p. 207.



Office of the General Secretary

3211 4th Street N.E. Washington, DC 20017-1194 (202)541-3100 FAX (202)541-3166 TELEX 7400424

Most Reverend John L. May, D.D.
Archbishop of St. Louis
President

Monsignor Robert N. Lynch
General Secretary
Francis X. Doyle
Sister Sharon A. Euart, RSM
Reverend Dennis M. Schnurr
Associate General Secretaries

October 26, 1989

Honorable John H. Sununu
Chief of Staff to the President of the United States
The White House
Washington, D.C.

Dear Governor Sununu:

I wish to inform you of three actions which have been taken since President Bush vetoed the Labor/HHS Appropriations Bill for 1990.

First, a press release (attached) was issued indicating that Archbishop John L. May in his capacity as President of the National Conference of Catholic Bishops was "heartened" by the Presidential veto. It can reasonably be expected that most of the diocesan press in the United States will carry this story.

Secondly, a letter has today been sent from Archbishop May to President Bush thanking him for his courageous action. I am also enclosing a copy of this letter. It also will be given publicity.

Thirdly, as promised by Cardinal Law in his phone conversation with you following upon your visit to him in Boston on Monday, October 16, 1989, both Archbishop May's final Presidential Address to be delivered at the General Meeting of Bishops beginning on November 6, 1989 in Baltimore as well as a general discussion of the present abortion situation post-Webster will attempt to elevate the consciousness of Catholics to new threats to the sanctity of human life.

This Conference of Catholic bishops take very seriously its role in defending the sanctity of all human life.

With every best wish, I am

Sincerely yours in Christ,

Monsignor Robert N. Lynch
General Secretary

file
abortion



Office of the President

3211 4th Street N.E. Washington, DC 20017-1194 (202)541-3100 FAX (202)541-3166 TELEX 7400424

*Most Reverend John L. May, D.D.
Archbishop of St. Louis*

October 26, 1989

President George H. Bush
The White House
Washington, D.C.

Dear Mr. President:

On behalf of the nation's three-hundred and five active Roman Catholic bishops and the faithful we are privileged to serve, I wish to thank you for your courageous veto of the Labor/H.H.S. Appropriations bill which would have expanded federal funding of abortion.

Our commitment to human life, from birth through life to death, is so strong and so unfailing that we must recommit all of our energies once again to this important issue. The Catholic bishops of the United States will never give up their support of human life and we will support you and your Administration as well as those in Congress in all that is done on behalf of defending the principles to which we adhere so strongly.

With appreciation and esteem, I am

Sincerely yours,

Most Reverend John L. May
Archbishop of St. Louis
President



NEWS

DATE: October 20, 1989

FROM: William Ryan

O -202-541-3200

H -202-686-1824

FOR IMMEDIATE RELEASE

**CATHOLIC CHURCH PRAISES PRESIDENT FOR ABORTION VETO
DECISION; CALLS BILL A TOOL TO END ALL ABORTION RESTRICTIONS**

WASHINGTON - The President of the National Conference of Catholic Bishops said he is "heartened" by President George Bush's decision to veto the Labor/HHS appropriations bill for 1990 which would have expanded federal funding of abortion.

Saying that "pro-abortion groups will not rest easy until they have forced pro-life Americans to support their agenda by subsidizing the violence of abortion," Archbishop John L. May of St. Louis urged Congress to "strike a blow for defenseless life and for Americans' rights of conscience" by restoring the Hyde amendment to the bill.

Archbishop May said pro-abortion advocates will use the current campaign to get federal funding of abortion in cases of rape and incest as a tool to end all restrictions on abortion funding.

"In the face of a well-funded media campaign by abortion advocates, pro-life citizens must now stand up and be counted, so that their elected representatives in Congress will hear many voices raised in defense of life," Archbishop May said.

"Pro-abortion forces imply that they hold an exclusive claim on compassion for women," he stated. "But their compassion is selective, because it excludes concern for the innocent child killed in an abortion."

/more

2/Veto

Archbishop May spoke in the wake of a recent vote by the House of Representatives to resume federal funding of abortions in cases of rape and incest. The 216-206 House vote came during action on a \$156.7 billion Health and Human Services and Labor spending bill, which since 1981 has included the Hyde Amendment banning federal Medicaid funding of abortion except in cases where the mother's life is endangered. President Bush on October 17 announced his decision to veto the bill because it broadened the grounds for taxpayer-funded abortion.

Archbishop May noted that abortion advocates have admitted the campaign to require federal funding of abortion in cases of rape or incest will not stop there. "Their goal is to nullify all restrictions and force taxpayers to subsidize elective abortions," he said.

In this connection, Archbishop May cited the "vague language" of the Boxer amendment, which sets no clear standard for prompt reporting of the crime of rape. "Such a policy has the potential of undermining the credibility of women who file rape reports," he charged. "Once such problems surface, pro-abortion forces would try to persuade the public to solve those problems by eliminating all restrictions on abortion funding."

The Boxer amendment would also preempt the funding policies of 30 states that provide abortion funding only in cases of a threat to the mother's life. "As they have in the past, abortion advocates will urge courts to use the conflict between federal and state law to invalidate all restrictions and require immediate state funding of abortion on demand," the Archbishop said.

The Archbishop noted that in more than 10 years experience with the Hyde amendment there has been no groundswell of protest by low-income women; "in fact," he said, "most Americans oppose public funding of abortion except to save the mother's life, and

/more

3/Veto

low-income women are more opposed to abortion than other Americans."

Numerous polls have indicated public support for current law. A Newsweek poll published July 17 found a margin of 61% to 34% in opposition to "the use of public money...to terminate a pregnancy unless a mother's life is endangered."

"Moreover," Archbishop May continued, "pregnancy from rape or incest is so rare that pro-abortion groups could easily fund all abortions requested in these cases, using a fraction of the money they are spending to try to force the rest of us to pay for these abortions. These facts help to clarify what is really at issue--namely, that pro-abortion groups will not rest easy until they have forced pro-life Americans to support their agenda by subsidizing the violence of abortion."

The full text of the statement by Archbishop May appears below.

STATEMENT OF ARCHBISHOP JOHN L. MAY

I am heartened by President Bush's decision to veto the current Labor/HHS appropriations bill which expands federal abortion funding. In the face of a well-funded media campaign by abortion advocates, pro-life citizens must now stand up and be counted, so that their elected representatives in Congress will hear many voices raised in defense of life.

Abortion advocates admit that the current campaign to require federal funding of abortion in cases of rape or incest will not stop there. Their goal is to nullify all restrictions and force taxpayers to subsidize elective abortions.

This is particularly apparent in the case of the Boxer amendment now added to the Labor/HHS bill. Some abortion supporters have long argued that a policy allowing abortions only in cases of alleged rape "would force women to lie" to obtain an abortion (USA Today, May 20, 1985, Page 11A). The vague language of the Boxer amendment aggravates this problem, for it allows a woman to report rape after she learns she is pregnant and decides she wants a publicly funded abortion. Such a policy has the

4/Veto

potential of undermining the credibility of women who file rape reports. Once such problems surface, pro-abortion forces would try to persuade the public to solve those problems by eliminating all restrictions on abortion funding.

The Boxer amendment would also preempt the funding policies of 30 states that provide abortion funding only in cases of a threat to the mother's life. As they have in the past, abortion advocates will urge courts to use the conflict between federal and state law to invalidate all restrictions and require immediate state funding of abortion on demand.

Pro-abortion forces imply that they hold an exclusive claim on compassion for women. But their compassion is selective, because it excludes concern for the innocent child killed in an abortion. Moreover, women and their children are now stepping forward with personal stories to tell: children conceived under the very worst of circumstances, who grew up to be beloved children and admirable citizens; women who thought abortion was the only solution to a pregnancy from rape or incest, only to find that the abortion had more devastating effects on them than the original attack. Stories like these must be heard by Congress.

In over a decade's experience with the Hyde amendment there has been no groundswell of protest by low-income women; in fact most Americans oppose public funding of abortion except to save the mother's life, and low-income women are more opposed to abortion than other Americans. Moreover, pregnancy from rape or incest is so rare that pro-abortion groups could easily fund all abortions requested in these cases, using a fraction of the money they are spending to try to force the rest of us to pay for these abortions. These facts help to clarify what is really at issue--namely, that pro-abortion groups will not rest easy until they have forced pro-life Americans to support their agenda by subsidizing the violence of abortion.

Congress should strike a blow for defenseless life and for Americans' rights of conscience by restoring the Hyde amendment.

###

A,X,AB,SCD



Office of the General Secretary

3211 4th Street N.E. Washington, DC 20017-1194 (202)541-3100 FAX (202)541-3166 TELEX 7400424

Most Reverend Daniel E. Pilarczyk, D.D.

Archbishop of Cincinnati

President

Monsignor Robert N. Lynch

General Secretary

Francis X. Doyle

Sister Sharon A. Ewart, RSM

Reverend Dennis M. Schnurr

Associate General Secretaries

November 20, 1989

The Honorable John J. Sununu
Chief of Staff
The White House
Washington, D.C. 20500

Dear Governor Sununu:

The Catholic Bishops of the United States urgently request the President to veto the District of Columbia Appropriations bill.

The D.C. Appropriations bill eliminates the Dornan Amendment by permitting the local tax revenues to be used to pay for the approximately 4,000 abortions per year. The restriction on federal funding in the bill is meaningless, because every requested abortion for any reason will be paid for with district funds.

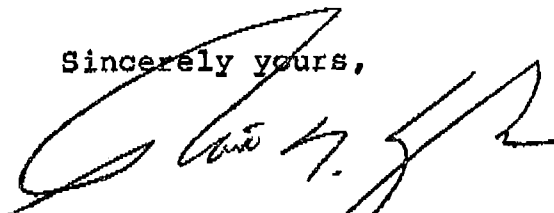
The President earlier vetoed the D.C. Appropriations Bill. If he will veto it again, it has already been conceded that the current law will be maintained that prohibits any public funds (federal or local tax revenues) from being used for abortions in D.C.

We are deeply grateful for all the President and you continue to do in behalf of the unborn. The veto of the Labor/HHS Appropriations bill and the Foreign Operations Appropriations bill will result in the Hyde Amendment and the Kemp/Kasten Amendment being maintained in the Law.

The Honorable John J. Sununu
November 20, 1989
Page Two

It is in the President's power now to maintain the Dornan Amendment in the law by vetoing the District of Columbia Appropriations bill.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Robt N. Lynch", written over a large, stylized, and somewhat illegible scribble or flourish.

Reverend Msgr. Robert N. Lynch
General Secretary



Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-8800 (FAX) 737-9189 or 347-5907

To: Governor John Sununu (fax 456-2397)
From: Douglas Johnson, NRLC, 626-8820, 439-9087
Date: Friday, November 17, 1989, 1 p.m.

Pro-abortion leaders in Congress are today holding two press conferences to announce introduction of a statute which would impose an abortion on demand policy on all 50 states, and on the District of Columbia.

In our press release (attached), we welcome this opportunity to discuss the reality of legal abortion on demand instead of the 1% rape/incest cases, and we challenge Foley and Mitchell to allow votes on the bill before the 1990 elections.

Perhaps Mr. Fitzwater could point out the absurdity of Rep. Schroeder, et al, bashing the President for "imposing" a ban on government-funded abortions in D.C., although D.C. is a federal enclave, while simultanously proposing to impose an abortion-on-demand policy on all 50 states, and on D.C. to boot.

Thank you for your consideration of these points.



Suite 500, 418 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-8800 (FAX) 737-9188 or 347-5907

FOR IMMEDIATE RELEASE:
Friday, November 17, 1989

FOR FURTHER INFORMATION:

Douglas Johnson, Legislative Director
Susan A. Smith, Associate Leg. Director
(202) 626-8820, (301) 439-9087

**National Right to Life Welcomes Today's Introduction of Federal
Abortion-on-Demand Bill; Calls for Votes in House and Senate Before 1990 Elections**

WASHINGTON-- A spokesman for the National Right to Life Committee (NRLC), the nation's major pro-life organization, welcomed today's introduction in Congress of "The Freedom of Choice Act of 1989," and called for votes on the bill in both houses of Congress prior to the 1990 congressional elections.

"In recent months, the pro-abortion movement has contrived to focus media attention on pregnancies resulting from rape and incest, although both sides agree that these account for no more than one percent of all abortions," said NRLC Legislative Director Douglas Johnson. "This bill would require every state to permit abortion for absolutely any reason until the seventh month, and in the final three months whenever a woman says that her emotional health would be enhanced by an abortion."

"NRLC challenges Speaker Foley and Majority Leader Mitchell to permit votes on the abortion-on-demand bill before the 1990 elections," Johnson said. "But we predict they will not do so, because they know that very recent polls show that an absolute majority of Americans favor prohibiting abortion except in extreme circumstances which account for only a few percent of all abortions."

The bill adopts the framework of the 1973 Roe v. Wade and Doe v. Bolton decisions, under which states may not restrict reasons for abortion prior to "viability" (although minimal standard-of-care regulations of abortion clinics are theoretically permissible during the second trimester). Even after viability, the states may not restrict abortions which would, in the abortionist's opinion, enhance a woman's "health." In Doe v. Bolton (1973), the Court explicitly stated that "health" includes "all factors--physical, emotional, psychological, familial, and the woman's age--relevant to the well-being of the patient." In subsequent decisions, the Court repeatedly affirmed that the "responsible attending physician" has unlimited discretion in determining whether a woman's "health," as earlier defined, would be enhanced by a third-trimester abortion.

That is why when the Pennsylvania Senate this week approved a bill to ban abortions after 24 weeks except "those necessary to avert the death of the mother or to avert substantial and irreversible impairment of major bodily function," the press reported (accurately) that this will be the strongest anti-abortion restriction in the nation. But even the Pennsylvania restriction would conflict with the proposed federal bill.

Johnson said it was ironic that pro-abortion advocates are currently arguing that it is outrageous for Congress to prohibit public funding of abortion on demand by the government of the District of Columbia, although D.C. is a federal jurisdiction, but are simultaneously proposing in the new bill to impose an abortion-on-demand policy on 50 sovereign states, and on D.C. as well.

The National Right to Life Committee is the nation's major pro-life group, consisting of some 3,000 local chapters.

231011A66

S.L.C.

*Metzenbaum, Cranston,
Packwood, Wilson*101ST CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Introduced the following bill; which was read twice and re-
ferred to the Committee on _____

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assem-*
3 *bled,*

4 **SECTION 1. SHORT TITLE.**

5 This Act may be cited as the "Freedom of Choice Act
6 of 1989".

7 **SEC. 2. RIGHT TO CHOOSE.**

8 (a) IN GENERAL.—Except as provided in subsection

9 (b), a State may not restrict the right of a woman to choose
10 to terminate a pregnancy—

11 (1) before fetal viability; or

11-16-89 04:24 PM FROM METZENBAUM D. C.

P04

221011.A66

2

S.L.C.

1 (2) at any time, if such termination is necessary
2 to protect the life or health of the woman.

3 (b) MEDICALLY NECESSARY REQUIREMENTS.—A State
4 may impose requirements medically necessary to protect
5 the life or health of women referred to in subsection (a).

6 SEC. 3. DEFINITION OF STATE.

7 As used in this Act, the term "State" includes the
8 District of Columbia, the Commonwealth of Puerto Rico,
9 and each other territory or possession of the United States.