

November 29, 1974

SUBJECT:

ABORTION

What is the President's position on abortion?

GUIDANCE: The President favors an amendment that would let each state enact its own laws on this subject. President Ford believes in abortions for limited situations such as rape or illness. However, the President opposed a 1972 Michigan referendum that would have permitted abortion on demand. The President feels that there must be a remedy for persons where abortion becomes necessary because of serious illness or in a case of criminal attack of some kind.

It is my understanding that my predecessor, Mr. Jerald terHorst, discussed this in some detail in a September 5 briefing here at the White House.

Just to bring me up-to-date, what precisely was the Supreme Court ruling on abortion?

GUIDANCE: January 22, 1973, the Court ruled 7 to 2, that states could not interfere with the decision of a woman and her doctor to terminate a pregnancy during its first three months. Further, while states could exercise some control over abortion in the second three months, they could constitutionally ban abortion only in the last trimester.

Does the President support the Buckley proposal on abortion?

GUIDANCE: It is my understanding that Senator Buckley's proposal would give constitutional rights to unborn offspring in every stage of their biological development, but allow abortion to save the life of the mother. As I just said, though President Ford does not believe in abortion on demand, he would agree for rape or illness.



February 3, 1976

What is your position on abortion?

I'm in a moderate position in that area. I do not believe in abortion on demand. I do not agree with the Court decision of 1971. On the other hand, I do not agree that a Constitutional amendment is the proper remedy. I think we have to recognize that

there are instances when abortion should be permitted.

The illness of the mother, rape or any of the other unfortunate things that might happen, so there has to be some flexibility.

I think the court decision went too far. I think a Constitutional amendment goes too far. If there was to be some action in this area, it's my judgement that it ought to be on a basis of what each individual state wishes to do under the circumstances. Again I should add, even though I disagree with the court decision, I have taken an oath of office, and I will, of course, uphold the law as interpreted by the court, but I think there is a better answer.

decision

Doesn't the Supreme Court/itself seem to move against any possibility that the state can take any local action?

That is correct, but if there is to be a Constitutional amendment and there are some suggestions in the Congress now that would permit each state on its own through a vote of the people or through its/^{state} legislative branch to adopt its own state regulations. If there is to be one, I think that's a preferable answer rather than the one that's recommended by others.

But under the Supreme Court decision, that would presumably
take a Constitutional amendment to let the states do that.

That is correct.

September 9, 1976

SUBJECT:

ABORTION

SITUATION: There seems to be confusion among reporters over the President's position on a Constitutional Amendment prohibiting abortion.

QUESTION: Has the President "flip-flopped" on the issue of abortion?

GUIDANCE: No, the President's position remains as it has always been. He is opposed to abortion on demand. He sees it as a remedy only in cases of serious illness or rape. But the President also believes that the decision on legality of abortion by demand should be left up to the States; it should not be mandated by the federal government. He was co-sponsor in 1973 of a proposed Constitutional Amendment which would have given the States that authority.

BACKGROUND: Many differing Constitutional Amendments have been proposed to overrule the 1973 Supreme Court decision which ruled that the states could not interfere with a woman's decision to have an abortion during the first three months of pregnancy.

1. The Right to Life Amendment - This type amendment would be a comprehensive prohibition against abortion. It would proclude state and private action. The President opposes this type of Constitutional Amendment.
2. A States' Rights Amendment - This type amendment would allow the States to establish their own laws regarding abortion. This is the type of Amendment the President supports, as he indicated in his news conference yesterday, and as witnessed by his co-sponsorship of the Whitehurst Amendment in 1973 while he was House Minority Leader.

CONSISTENCY: The President's statement yesterday is fully consistent with his previous positions.

1. While House Minority Leader, he co-sponsored a proposed amendment to the Constitution to permit individual states to enact legislation governing abortion. [H.J. Res. 468 of March 28, 1973.]

2. As President, he has maintained that position, and has so stated publicly (see attached statements, marked in yellow).

JBS

September 29, 1976

Revised

Although I am vetoing this legislation for the reasons I outlined above, I wish to state my general sympathy with those provisions applying to the use of Federal funds for abortions. These provisions, agreed to for the first time by both Houses, impress me as a reasonable and prudent interim measure pending completion of studies by the Executive Branch, which I have ordered and which are now underway, and hopefully by the appropriate committees of the Congress.

ABORTION
HYDE AMENDMENT

- Q. What is the Administration's position on the suits that have been filed to block implementation of the Hyde Amendment?
- A. Suits have been filed in three federal jurisdictions challenging the constitutionality of the Hyde Amendment to the HEW Appropriations Act. This amendment prohibits the use of any of the appropriated funds for the purpose of performing abortions "except where the life of the mother would be endangered if the fetus was carried to term."

The Justice Department and HEW are defending the constitutionality of the Hyde Amendment in court and have opposed in court the issuance of preliminary injunctions which would prohibit HEW from ending the funding of abortion services during the litigation of the suits.

Background

The Hyde Amendment would bar the use of funds appropriated by the Labor-HEW appropriations bill (H.R. 14232) for abortions, or for the encouragement or promotion of abortions, except to prevent the death of the mother. Among the programs administered by HEW, Medicaid would be the most affected. It is estimated that HEW currently finances between 250,000 and 300,000 abortions annually at a cost of \$45 - \$55 million. The preponderance of these abortions, and their funding, is through Medicaid.

I understand that one suit has been dismissed in Newark; however, Secretary of HEW David Mathews is under a Temporary Restraining Order prohibiting the termination of funding and he is respecting that Order. It is my understanding that a judge in the Eastern District of New York and a judge in the District of Columbia may decide by the end of the week whether or not to issue preliminary injunctions against HEW's implementation of the Hyde Amendment.

It is possible that the New York court will rule today. The Administration will abide by whatever decisions the courts reach. This case will ultimately be decided on its constitutional merits and since this issue is now the subject of litigation, I do not think it is appropriate for me to comment further.

Bobbie Kilberg
10/20/76

ABORTION

Q: What is your position on abortion?

A: My position on abortion has been consistent over the years. I had the same position on this issue when I was in Congress, when I was Vice President, when I first came to the White House, and I have the same position today.

My position on abortion is based on my overall ~~philosophy~~ ^{and personal} philosophy, which is that moral issues ~~such as pornography, the death penalty, regulations concerning alcohol, and legalized gambling,~~ ^{but} should not be subjects decided by a national policy, but rather should be determined by the people themselves in their own individual communities.

One of the strengths of our Federal system is that issues like abortion and other matters involving morality are prevented from becoming divisive on a nation-wide basis. Instead, under our federal system, these kinds of issues should be decided by the people within each state in line with the standards of that community.

It is because of my overall and long-standing belief in that philosophy that I have said that standards for abortion should be decided by the individual states and not by the Federal government. Therefore I

have consistently disagreed with the 1973 Supreme Court decision and I also disagree with proposals for a Constitutional amendment to ban all abortions.

The only role the Federal government should play in this moral issue, and the only action I would support, would be a Constitutional amendment giving the people of the individual states the authority to determine standards for abortions within their own state.

Stolus decision went too far toward abortion on demand. I also think a Constitutional amendment to ban all abortions goes too far. My view is that such moral issues, ^{as pornography} ~~such as abortion,~~ ~~pornography, alcohol, legalized gambling,~~ should not be decided at the national level, where they are likely to be divisive. Rather, under our federal system, these moral issues should be decided by the states.

ABORTION

Q: What is your position on abortion?

A: I'm in a moderate position in that area. I do not believe in abortion on demand, but I do recognize that there are cases when abortion should be permitted. I believe that any action to redefine limits on abortion should be left to the individual states.

Even though I disagree with the Supreme Court decision, I have taken an oath of office, and I will, of course, uphold the law as interpreted by the court.

The only Federal remedy I would support would be an amendment to the Constitution which would give the states more authority to restrict abortions.

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EFFECT OF ABORTION ISSUE

Q. What impact do you think the abortion issue will have upon the campaign between you and Reagan?

A. I don't know what impact the issue will have. I am taking a moderate position -- one which I have consistently held. I suppose I run the danger of criticism from those who would leave the present laws and rulings unchanged and those who would flatly prohibit all abortions. But my position is one of long and deep conviction and one which I would hope and expect most of the American people to respect if not to completely agree with.

ABORTION

Q. Do you agree with the Supreme Court's position that the right to abortion be left to a women and her physician?

A. Not entirely. As a matter of personal philosophy, I always have felt that such a remedy should be available only in cases of serious illness, incest or rape. I do not favor abortion on demand.

Q. Do you think states should have the power to regulate abortions?

A. Yes. I consistently have believed that abortion is a matter best decided at the state level. While House Minority Leader, I co-sponsored a proposed amendment to the Constitution that would permit individual states to enact legislation governing abortions.

Q. Do you favor a constitutional amendment to curb the Supreme Court's liberalized abortion ruling?

A. No. The so-called Right to Life Amendment would go too far in preventing all abortions. Because there appears to be no national consensus on this issue, I reiterate my position that the issue of abortion is best left to individual states.

That would be the kind of constitutional amendment that I would favor.

Let me add that as President I have an obligation that transcends whatever individual views I hold on this issue.

I am bound by my oath of office to uphold the law of the land as interpreted by the Supreme Court in its 1973 decision on abortion. In those decisions the Court ruled 7-2 that States could not interfere with a woman's decision to have an abortion the first three months.

However I may feel about that ruling and attempts to change it, my first responsibility as President is to uphold the law.

STATEMENT ON ABORTION

"As President I am bound by my oath of office to uphold the law of the land as interpreted by the Supreme Court in its 1973 decisions on abortion. In those decisions the Court ruled 7-2 that States could not interfere with a woman's decision to have an abortion the first three months.

"As a matter of personal philosophy, however, my belief is that a remedy should be available in cases of serious illness or rape. Personally I do not favor abortion on demand.

"I feel that abortion is a matter better decided at the State level. While House Minority Leader, I co-sponsored a proposed amendment to the Constitution to permit the individual States to enact legislation governing abortion."

Do Not

GIVE OUT

SUBJECT: ABORTION

Q: What are you doing about stopping abortions under the Hyde Amendment of the Labor-Hew Appropriations?

A: As soon as the veto was over-ridden, the President directed the Domestic Council group to see that the law is carried out promptly and effectively.

14. this thing, rather than wait for him to study it for
15. two or three weeks?
16. *Abortion*

17.
18. MR. NESSEN: I think it would be better ~~to~~ him
19. to study it and see what they say, Sarah, and see what the
20. ~~problem~~ is.

21.
22. Q He should have some reaction at once for
23. these three powerful agencies here.

24.
25. MR. NESSEN: This is the reaction.

26.
27. Q That is no reaction at all. That is out
28. of date before you could have read the words.

29.
30. MR. NESSEN: I say I suspect his reaction to
31. this latest report, when he has a chance to read it, will
32. be the same.

33.
34. Q If it is the same, that will be totally
35. inadequate.

36.
37. Q Ron, today is the second anniversary of the
38. Supreme Court decision on abortion. Since the President
39. has been President we have gotten only bits and pieces of
40. what he feels about this issue. He seems to disagree
41. with the courts.

42. * Could you ask him for a definitive answer on what
43. he feels about this decision, if we should have a Consti-
44. tutional amendment, and what that amendment should contain?

45.
46. MR. NESSEN: Do you want his position on the
47. ruling or do you want his opinion on abortion?

48.
49. Q The whole issue. Both on the ruling, on
50. the issue of abortion, whether he would ~~advise~~ somebody
51. in his own family to have one ⁶ or advise against it.

52. MR. NESSEN: I will ⁴ ask if he wants to do that.

53.
54. Let me say now that if you do run out of time
55. ~~he~~ -- and John is still on the phone -- I think ~~all of~~
56. you know John Carlson. He is extremely helpful in these
57. kinds of ~~of~~ details, and he will be available this afternoon
58. to tidy up these loose ends on gas rationing.

59. MORE

#129

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