

# RIPON FORUM

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## POLITICS: NEW JERSEY

THE TARNISHING OF MR. CLEAN

New Jersey Gov. Brendan Byrne is no longer on the ropes. He is on the canvas—less than one and a half years after he took office on the heels of an unprecedented Democratic landslide.

Some of Byrne's problems can be ascribed to bad luck, but most are attributable to ineptitude. After claiming during the 1973 election campaign that he didn't see the need for a state income tax for "the foreseeable future," he proceeded to propose an income tax a few months after taking office. The overwhelmingly Democratic legislature elected on Byrne's coattails proceeded to humiliate the governor and demean itself by repeatedly rejecting Byrne's various tax plans while failing to come up with an alternate program its own. The inaction occurred despite a \$450 million budget deficit and a State Supreme Court decision mandating an overhaul of the state's antiquated method of school financing. Convulsed by the tax controversy, the legislature legislated little of consequence.

Byrne's failure as a legislative leader is only partially attributable to the income tax quagmire, which was also the curse of his two predecessors. The governor has proved himself to be astonishingly unskilled as a politician. His defeats in the legislature were foreordained when he permitted the old-line Democratic Party leadership to capture the key positions in the legislature. His fate was sealed by his own political style, marked by a reluctance to tangle with legislators over matters of principle and a tendency to delegate political decisions to arrogant and abrasive members of his palace guard.

Byrne's inept leadership style was amply demonstrated by his handling of Secretary of State J. Edward Crabel, who was recently cleared of conspiracy charges regarding road construction bid rigging because of the state's five year statute of limitations. Crabel, a powerful former state senator, announced his intention to continue in office. Byrne, unable constitutionally to fire Crabel, called him to the governor's mansion to ask him to resign. As Trenton Sunday Times Advertiser reporter Jim Goodman characterized the meeting: "Those who have dealt with Gov. Byrne over the last [one and a half years] are not surprised that he could meet with Crabel for nearly two hours for the purpose of asking the secretary to quit for the good of the state and that the meeting could end with the governor believing he had made that request and the secretary not realizing the request had been made. It is what is know as 'Brendan's style,' his judicial temperament, his way of trying to get things done by suggestion, his avoidance of doing the unpleasant thing." Later, without checking the state's constitution, Byrne suggested Crabel's post should be abolished in order to oust him. Such suggestions were received with extreme displeasure by Crabel's former colleagues in the State Senate.

Despite his concessions to party leaders in matters of policy and patronage, Byrne has still managed to alienate the big-county Democratic chairmen. In a typical incident, he refused to appear at a meeting of Democratic county chairmen because the chairman of tiny Gloucester County, with whom he has a feud, was in attendance. Although Byrne has not captured the hearts of New Jersey's old-line Democratic leaders, he has gotten close enough to them to badly tarnish his prime political asset—his reputation as an effective corruption fighter. As a result of his appointment of hack Democrats to key positions without adequate background checks, serious charges of corruption and conflict of interest have been brought against a Waterfront commissioner and the chairman of the state Public Utilities Commission.

One of Byrne's former law partners has been accused of offering a state job to a local official in exchange for a lucrative government contract. Another former Byrne law partner now in the State Senate, Martin L. Greenberg(D), introduced a bill to abolish the State Commission of Investigation, which by coincidence has been giving a hard time to a client of the senator's present firm, reputed Mafia figure Antonio "Tony Bananas" Caponigro. Byrne, who had originally been recep-

tive to the effort to abolish the investigation commission, admitted that his position had been made as a result of "hearsay" reports. Byrne, a former judge, backed off amid a hail of press criticism. His former law partner meanwhile admitted the proposal had been "politically naive."

More recently, Byrne fired his executive secretary, who immediately charged the Administration with a number of improprieties and promptly began a series of debriefing sessions at the U.S. Attorney's office. The aide charged that Byrne had a "special list of fat cat contributors" for use in awarding state jobs. Although the aide had reportedly been a long-time sore spot in the governor's office whose official diligence was questionable, he was not terminated until the list of accusations was made public. Asked about his campaign promises of openness, reform, and honesty, Byrne told reporters, "Yeah, but I never guaranteed it."

With Byrne's public popularity at a phenomenally low level, Republicans are looking for dramatic gains in this year's State Assembly elections. Under the worst of circumstances, the GOP could expect a healthy rebound from the 66-14 Democratic sweep of 1973. But now there is reason to anticipate an outright Republican majority in next year's Assembly. The State Senate, with a 3-1 Democratic majority, is not subject to reelection until 1977.

Nevertheless, there will be fewer Republican faces than might be expected in the new Assembly. One potentially beneficial effect of the GOP's 1973 drubbing was the defeat of a number of veteran mossback Republicans. But instead of nominating younger and more progressive legislative candidates this year, the GOP has tended to give the victims of 1973 another shot in 1975. Among the old faces running for the Assembly will be former State Sen. Frank X. McDermott, the manager of the disastrous 1973 gubernatorial campaign of U.S. Rep. Charles Sandman, and former Assembly Speaker William Dickey, another staunch conservative.

No matter what the outcome of this year's legislative elections, leading Republicans will be angling for the nomination to run against Byrne in 1977 (assuming Byrne dares to run and gets past his own primary.) State party leaders have been touting U.S. Treasury Secretary William Simon for the job and Simon seems interested. The other leading contenders are primarily moderates or progressives. They include former State Senate president Raymond Bateman of Somerset County, a moderate Republican with a reformist image; U.S. Rep. Matthew Rinaldo of Union County, New Jersey's most liberal Republican congressman who has amassed impressive majorities in a normally swing district; State Sen. James Wallwork, a maverick from suburban Essex County with a knack for staying in the headlines; Assembly Minority Leader Thomas H. Kean, best known as an effective environmentalist who barely lost last year's congressional primary to U.S. Rep. Millicent Fenwick; and Bergen County Prosecutor Joseph Woodcock, a former state senator whose investigative talents have also kept him in the headlines.

Although there are precious few conservatives left in office after the back-to-back 1973 and 1974 Democratic sweeps in the state, the party's right wing will doubtless be pushing a candidate of its own (conceivably Simon, perhaps McDermott or even Sandman, though the latter has pledged never again to run for governor). The dormant conservatives surfaced in April to host a series of New Jersey appearances by Ronald Reagan. If they gain sufficient momentum in 1976 delegate fights, they will be in a strong strategic position for 1977. ■

## POLITICS: STATES

Former U.S. Rep. William H. Hudnut (R-Ind.) will be the GOP candidate to succeed Indianapolis Mayor Richard Lugar. In the May 6 primary which nominated businessman Robert V. Welch to oppose Hudnut, 15 Indiana mayors (12 Democrats) were denied renomination.

**LOUISIANA** Gov. Edwin B. Edwards (D) appears to have a clear shot at reelection to a second term next January. Edwards' predecessor, John McKeithen (1964-72) has decided not to run, citing difficulties in raising sufficient support. There are two announced Democratic opponents to Edwards: State Sen. Robert Jones of Lake Charles, son of a former governor; and Secretary of State Wade Martin, who has served in that post since 1944 and appears to be bowing out of statewide politics with a last hurrah. Edwards, having survived adverse personal publicity during the past year, is a safe candidate for reelection—without superfluous enthusiasm. Politicians who would ordinarily support an insurgent campaign find their resources slim as a result of the economy. There is no compelling reason to dump Edwards; the GOP has decided to concentrate on local races rather than the governorship. A black Republican, Roy Cormier, has announced, but he is not regarded seriously by GOP leaders. Republicans expect to "come in hard" on 15-20 seats in the legislature's lower house, where they now hold four of 105 seats. In the Senate, they expect to seriously contest one-four seats in the 39-member body.

**MONTANA** Montana has a Democratic legislature, two Democratic senators, two Democratic congressmen, and a Democratic governor who is in real political trouble. "I think that the governor is finished," is the way Montana GOP Chairman Kenneth Neill summarizes

Gov. Thomas Judge's situation. His problems stem from a continuing investigation into the Montana Workmen's Compensation Division. Attorney General Robert Woodahl has indicated that as much as \$20,000 of Judge's 1972 election contributions may have been generated by persons involved in fraudulent workmen's compensation claims. Former Gov. Forrest Anderson(D) allegedly passed along contributions to Judge which had been collected by Workmen's Compensation Administrator James L. Carden. The investigation is a complicated one, and it has necessitated an unusual (for Montana) grand jury probe and out-of-state prosecutors. It has also revealed the tip of Judge's 1972 campaign financing irregularities, namely about \$70-80,000 in unreported campaign contributions. Republicans suspected the irregularities in 1972, but were unable to prove them. A proposal to audit all 1972 statewide campaigns died in the state legislature; Judge himself has made no effort to disclose the undisclosed financing. Once the wonder boy of Montana politics, Judge is quickly becoming its dirty old man. He cannot effectively disassociate himself from the campaign financing because some of the unreported contributions were checks personally endorsed by him. As a result of his troubles, Judge may face primary opposition in 1976 from Lt. Gov. Bill Christiansen(D)—if the governor decides to seek reelection. Judge's secrecy has been compared to Richard Nixon's and it is upsetting Democrats. Great Fall Tribune reporter Frank Adams suggests that one Democratic view is that "the only hope for the party to pull its gubernatorial chestnuts out of the fire is for the governor to resign now. That would move Lt. Gov. Bill Christiansen to the governor's office, and possibly allow him to become established enough to withstand an assault by Republican Attorney General Woodahl." The other imponderable in the 1976 lineup is Sen Mike Mansfield(D), who has indicated he intends to run but whom many politicians persist in believing may not. If he does not, Woodahl might seek the Senate seat and U.S.Rep. John Melcher(D-2nd) most definitely would run. Then Christiansen might chase Melcher's congressional post.

#### NEW HAMPSHIRE

New Hampshire Gov. Meldrim Thomson(R) has finally won control of the Republican State Committee with the election of auto dealer Gerald P. Carmen to succeed former Sen. Norris Cotton as GOP state chairman. Cotton was elected chairman in January at the behest of moderates and Manchester Union-Leader Publisher William Loeb. The ultraconservative Thomson had favored businessman John A. Clements for the post; Clements had to settle for the new post of deputy chairman when he lost the party leadership vote. Clements resigned, however, in early March, saying, "...if the state committee, 400 strong, does not rid itself of the petty, self-serving minority that does more to lose elections than win them, there will be no GOP victories in 1976, and perhaps no GOP at all in the years ahead." The election of Cotton and Clement was fraught with built-in conflict; ironically, the net result was the resignation of both and the election of Carmen, who is even closer to Thomson. On a recent David Susskind television shown, Carmen admitted he would support Thomson if he ran as a favorite son presidential candidate. Carmen came close to even endorsing George Wallace as presidential material. At the state committee meeting May 25, the strongest swipe at Carmen was taken by an ultra-conservative former governor, Wesley Powell: "I'm opposed to the selecting of a Republican state chairman by a Republican governor who is going around the country kicking hell out of our Republican President and Republican Party." (e.g., Thomson said at Vermont GOP fundraising dinner in April that the GOP was "bereft of principles" and, "When voters look at the record, they will find that in Alice's wonderland of politics, the Republicans were the biggest spenders of all.") By three votes, Carmen defeated State Senate president Alf E. Jacobson, whom moderates had backed for the chairmanship. "It was a crooked election," said one Republican official. Moderates had grounds to complain. Three more votes were cast than there were certified voting members. In addition, Cotton ruled that 11 Manchester delegates could vote in the election; the "11" had allegedly been elected that morning. Manchester was, of course, solid for Carmen. Jacobson did not contest the count "in the interests of the party," and Carmen has pledged to be neutral as party chairman. Pressed, Carmen has said he would support "any Republican nominee for President." Thomson, however, has made no such pledge. He is on record, in fact, as saying, "If it's Ford and Rockefeller, I certainly will be supporting Wallace as an independent."

#### OKLAHOMA

Paula Unruh, who coordinated many of former U.S.Rep. Page Belcher's reelection campaigns, was elected Oklahoma GOP chairman over three men at the GOP State Convention in March. Mrs. Unruh defeated her closest opponent, State Sen. Phil Watson, by a margin of better than 2-1 despite Watson's support from outgoing GOP Chairman Clarence Warner and State Sen. James Inhoff, the 1974 gubernatorial candidate. Watson ran as a Reagan Republican while Unruh ran as an organization Republican with the backing of Sen. Henry Bellmon's organization. Although a conservative, Unruh was the most moderate of the four contenders. Warner, meanwhile, is reportedly planning on a 1976 congressional race against freshmen U.S.Rep. Glenn English(D), who beat Oklahoma's lone Republican congressman, Happy Camp, in 1974. (Since that time, U.S.Rep. John Jarman in the 5th C.D. became a Republican.) Camp's 1974 primary opponent, Tim Leonard, is also planning on the race. A bloody primary between the two men could drain the GOP and ensure the reelection of English, who already has strengthened his hold on the district. If Warner should decide not to run for Congress, he has an offer from the Reagan forces to join up as a salaried field man.

# COMMENTARY: HOUSING

TOWARD A NATIONAL HOUSING STRATEGY

by Albert A. Walsh

Past and present housing programs tend to reinforce, if not create, patterns of economic segregation. The Housing and Community Development Act of 1974, while in many ways a landmark piece of legislation, falls far short of structuring a national housing program that will actually work, much less one that will accomplish the kind of "dispersed economic integration" that Robert Patricelli, Anthony Downes and many other housing experts think is necessary. (See Summer, 1974 Ripon QUARTERLY.)

The 1974 act lacks a basic financing mechanism for housing production and HUD-imposed administrative delays and complexities have thus far stymied its effective implementation. Still, Section 8, the key housing assistance program of the 1974 act, is conceptually much simpler and cleaner than the Section 236 and rent supplement programs that it replaces and should provide a degree of economic integration within individual housing projects. Theoretically, it can serve families from the very lowest income to the moderate-income level. In contrast, the Section 236 and rent supplement program developed artificial "gaps" between the income eligibility levels of the two programs. (Section 236 provided a mortgage interest subsidy for developers of low- and moderate-income housing.)

Unfortunately, however, as a result of congressional compromise or timidity, the new Section 8 program lowers maximum income levels by 13 to 30 percent from levels established for the 236 program, thereby sharply limiting the "applicability of the program to moderate-income families. As if to emphasize that this was intentional, the term "moderate-income" families is not used in the statute; instead, the term "lower-income" families is introduced. Thus, gains in economic integration made by eliminating "gaps" in income eligibility are lost by removing the top level of the moderate income spectrum. Despite rhetoric about "promoting economically-mixed housing" (Section 8a), this objective was severely weakened with the decision to restrict Section 8 assistance to families whose incomes "do not exceed 80 percentum of the median income for the area." This definition restricts eligibility for this program to about 39 percent of the nation's households; only about 14 percent of that number are above the poverty level in the low-moderate income category. This is hardly a mixture that can contribute much in the way of "economic integration."

Many European and Asian nations have adopted a much wiser approach, having a broad eligibility for government-assisted housing covering about 80 percent of the population. Thus, these nations get a wide income mix in their projects, which are not stigmatized thereby as poor people's housing or so dominated by multi-problem families that they become non-viable. Any society that concentrates its lowest income families together in large projects is bound to create insoluble social problems.

Nevertheless, the 1974 act does constitute an important legislative first step toward the kind of a comprehensive and rational national housing program that is necessary and workable. It does provide a relatively well-funded community development program based on achievement of the national priority objective that federal assistance be used (a) to eliminate slums and blight and (b) to assist low- and moderate-income families, rather than to serve merely as a broad-ranged public works program aimed at whatever objective might be the political option of the locality. It does mandate a strong linkage between local community development/housing programs and a coordinated effort to improve housing conditions and opportunities as part of the total urban environment. It does focus strongly on physical development with supporting social programs, rather than a program that could be dominated by social programs for which other federal assistance is available. It does offer significant opportunities for increased public ownership and public management of "social housing" through local housing authorities and other public agencies. It does provide for improved management operations in traditional public housing through an increased level of operating subsidies, a minimum rent provision, a welfare rent provision, a modernization program, and a method to deal with obsolete housing developments. And finally, it does increase the viability of the Section 236 rental housing program by authorizing additional federal operating assistance to meet increasing taxes and utility costs.

Now it remains for this session of Congress to go back to the legislative drawing boards, get rid of the hodge-podge of confusing, conflicting, and contradictory laws and programs that have built up over the years and, based on the admirable principles of the 1974 act, enact a single, comprehensive national housing program for all families who cannot afford safe and decent housing at market rents. Such a program would recognize the absolute necessity of producing new housing at affordable rents depending on the size and income level of the tenant families. It would thus combine the best features of the old construction-financing mechanisms with the new housing al-

lowance concept. Various types of sponsorship would still be possible: local housing authorities, municipalities, states, regional organizations, cooperatives, non-profit and limited dividend corporations. (If the sponsor was a public agency, it could issue its own bonds, which would be paid off by the income received from rents (after deducting operating costs) plus a federal, guaranteed contribution to cover deficits. This is essentially the present public housing formula. A private group could either obtain a private mortgage or development loan from the federal government as well as an annual federal deficit subsidy.)

As in the Section 8 program, the federal subsidy would not be limited to mortgage interest or even to debt service, but it would cover the difference between net income received from a project and the income required to pay the financing, management, taxes and operating costs of the project. With the approval of HUD, local agencies would establish initial income eligibility maximums based on income levels in the community. In my opinion, this should be the only eligibility requirement. Likewise, communities would establish rent/income ratios consistent with current local ratios and adequate living standards for families of various size and circumstances. With certain exceptions at the lowest end of the income scale, a family would pay a greater absolute amount of rent as income increased, but the ratio would be smaller. Under no circumstances would the family pay a rent greater than the economic rent for the unit. Nor would any family be forced to move because of increased income; it would merely pay the economic rent and no longer receive a subsidy.

The federal government would establish a single minimum (but not maximum) construction standard for the entire program and would regulate costs in accordance with current regional cost indices. The result would be a universality of product standards which would gradually reduce the identification and stigma associated with subsidized housing. Local communities outside the center city would be willing to participate in such a program because all of the housing built under the program would pay full taxes. These would not be passed on to the low-income family but would be absorbed by the federal government as part of the federal subsidy. Not only would this provide local governments with needed revenue; it would also minimize local opposition to the construction of such projects.

As an additional incentive, public service grants could be made to each community on the basis of the number of families that were residing in such federally-assisted housing, thereby compensating the community for the additional public services the increased population would require. After a statutory period of time, the grant could be reduced and finally eliminated as new families were integrated in the local community. This incentive grant and the payment of full local real estate taxes are justifiable national expenditures; the patterns of national migration and the goal of de-ghettoization of our central cities require it. The federally-assisted project built in a California suburb may house families from Alabama, New York, Iowa and Hawaii. It is only fair that the national tax base be tapped to cover the initial expenses this suburb will incur in housing such families.

There are numerous identifiable advantages to this proposal:

\* First, this one program can serve all income groups from the poorest to those of middle income who cannot afford existing rent levels. The actual subsidy given to families would be determined by their respective needs rather than the vagaries of a particular program. Based on our experience to date with various rent supplement programs, I am confident that the average cost per family would be far below the present public housing subsidy level.

\* Second, this is a national program, the first all-out effort to house all of those in need of housing. Our present programs with their income and population gaps would be replaced by a single program whose sole eligibility requirement would be economic need and the unavailability of reasonably-priced housing in the community.

\* Third, its basic simplicity and lack of cumbersome requirements should make it attractive to local sponsors, builders, and developers. The lack of red tape, countless reviews and needless administrative requirements should also result in quicker production. It would, therefore, act as an inducement to achieve our national housing goals.

\* Fourth, the program will be attractive to the middle class who, during a housing cost crisis such as we are now experiencing, would be eligible for these units and receive a modest initial subsidy.

\* Fifth, the complete absence of income limitations on continued occupancy would encourage economic advancement and promote responsibility and leadership among tenants.

\* Sixth, the program would foster economic and racial integration since the units would not be limited to a small income range. As the program developed, it would aid in the deghettoization of our cities.

There is no simple answer to our nation's complex and often contradictory housing problems. This proposal is not a total solution nor an inexpensive one. However, with its much broader range of eligibility and variable subsidy, this proposal will cost less per unit than the Section 8

program (where HUD itself estimates an annual cost of \$3,300 per unit). At the same time, it will provide a means to relieve the pressure on inner cities, open opportunities in the suburbs to low- and moderate-income families and allow our nation's housing programs to reflect for the first time the needs and conditions of local communities.

Of course, the cost of broader eligibility is failure to provide complete "equity" (i.e., identical treatment) to all families with the same income because the nation will not pay the full cost of creating and maintaining enough units to serve everyone who is eligible. However, I believe that is far better to face up to such "inequity" (with the normal geographic and political priorities and allocations determining who gets what in any given year) than to concentrate aid only in the poorest segment as HUD has recommended. That simply creates more slums and ghettos and makes everyone mad at the whole idea, particularly the non-poor who are paying for the program. If some members of nearly all income groups were sharing in the benefits and the resultant housing developments were physically and socially attractive, the others who weren't would be far more willing to accept the whole arrangement. With at least 70 percent of the country's population not able to afford new housing at today's costs, the Congress and the American people may just be ready for such a program. ■

## COMMENTARY: ABORTION

UNRESOLVED ISSUES IN ABORTION

by Robert G. Stewart

In a 2-1 decision, the Federal District Court of Massachusetts recently struck down a Massachusetts statute requiring parental consent to an abortion performed on a minor. The decision, Baird v. Bellotti, has been seen by some abortion advocates as closing the last "loophole" of Roe v. Wade, the Supreme Court's abortion decision. A closer look, however, reveals that states still have a wide range of legislative options open to regulate in the abortion area.

In Roe v. Wade, the Supreme Court ruled that states may not regulate abortions in any way in the first trimester of pregnancy, and may only regulate the health and safety aspects of the procedures used in the second. In the third trimester, after "viability" of the fetus, the state may prohibit "abortion" altogether. The Supreme Court had specifically refrained from deciding whether in the case of a minor, the state had different more compelling reasons to interfere with the abortion decision. The federal court in Baird ruled that the state did not, at least had no reason sufficient to give a "veto" to both parents. (The Massachusetts statute required consent of both parents, or failing such consent, a court order.) The statute, according to the court, gave parents rights in the child's abortion decision, independent of and adverse to the child's rights, and found it "difficult to think of any self-interest that a parent would have" that compares with the minor's interest--having to bear the child and assume responsibility for it, financially and otherwise after birth.

The dissenting judge found six such interests: the protection of the family relationship, the right and duty of parents to bring up their child, the right and duty of parents to inculcate moral standards in their children, the right and duty of parents to make reasonable decisions for the family unit, the opportunity to guide and counsel the child and play a supportive role during and after the pregnancy, and the right of the parents to due process of law in decisions abrogating these rights. (The parents were not advised of this lawsuit nor given an opportunity to intervene.) To this can be added the right to protect the minor from making irreversible decisions by herself which could have severe adverse effects, physically and psychologically (i.e., the right to ensure informed consent.)

The court majority could well have concluded that these interests could have been satisfied by a less restrictive statute, such as one requiring that parents be notified or that the minor's informed consent be verified by parents or a court. The Massachusetts statute instead shifted the absolute decision process away from the minor to the parents or a court. This, the majority felt, was too much of an infringement of the personal rights of the minor.

It is abundantly clear that the Massachusetts abortion statute, of which the parental consent requirement was part, was an attempt to prohibit abortions up to and beyond the Supreme court limits. It prohibited abortions even in the first two trimesters unless they were "necessary under all attendant circumstances," and required all abortions to be conducted in general hospitals even in the first trimester, thus limiting abortion for poor women. It was a statute passed out of emotion rather than out of an attempt to balance competing policy interests within constitutional limits.

But states still have several legislative options open to them within the bounds of Roe and Baird. Whether they choose to frame their future laws with an eye to policy and constitutional limits, or, as the Massachusetts legislature is prone to do, with an eye to emotion and resistance, will determine the fate of future laws.

What are the limits after Roe and Baird? In the first trimester of pregnancy, even though the Supreme Court said no regulations can be imposed, it also said that the decision to abort is one of the woman and her doctor. The language suggests that the court would uphold a restriction that abortions be performed by a physician or other licensed practitioner, provided such a restriction is consistent with restrictions imposed for other medical procedures of comparable complexity and does not discriminate against the poor.

With respect to minors, Baird left open the possibility that parental notification may be required so parents may be allowed to give counsel and guidance. This policy ought to be examined in the light of the minor's right to privacy and reluctance to inform her parents. In addition, the state can probably require a procedure to assure informed consent, either through parental or court confirmation that the minor understands the physical and psychological results of an abortion. If any medical procedure is performed without informed consent (except in an emergency), a physician can be held civilly liable for battery under most, if not all, state tort laws. Given the severe emotional after-effects, no less of a requirement should exist in abortion legislation.

In the second trimester, in addition to these restrictions, the state can go further, according to the Supreme Court, and regulate the abortion procedure for the safety of the mother. This could include requiring performance in a general hospital, a more reasonable restriction in the second trimester since non-surgical procedures may not suffice. Since the Baird ruling was apparently limited to the first trimester, and since a surgical procedure may be required, a stronger case for parental consent can be made in the case of a minor, and surely parental consent can be made in the case of a minor, and surely parental notification or a court order should be required to assure informed consent.

Complicating the second trimester situation is the recent conviction of Dr. Kenneth Edelin for manslaughter in connection with an abortion. There, the court ruled that if the aborted fetus was "viable" and lived outside of the mother's body, and if the attending physician, through wanton or reckless conduct allowed it to die, the physician could be found guilty of manslaughter. Such a prospect looms even more ominously in states such as New York, where homicide convictions can be sustained for grossly negligent conduct. One can hardly imagine a more effective deterrent to the performance of abortions in the late second trimester.

The situation is perplexing and anomalous. Can a state, not allowed to prohibit abortions, deter them through potential homicide liability? And when an abortion, a procedure to dispose of an unwanted child, is a constitution right, can a state constitutionally require a physician to save the life of the fetus if it turns out to be capable of sustaining life, and if so, require the mother to support and care for it? On the other hand, if the fetus is viable, albeit less than six months into gestation, does not the Supreme Court's logic give the state the right to preserve life? Since the Edelin ruling does not prohibit abortion, but only requires that steps be taken to preserve the fetus' life if it happens to be alive outside the mother's body, this ruling may well be upheld.

Any state which chooses to adopt this homicide standard ought to be willing to assume responsibility for supporting and raising the child. On the other hand, a state wishing to create certainty in rights and obligations for pregnant women and physicians should consider using the 24-week rule of Roe in its homicide laws as well as its abortion laws.

In the third trimester, abortion can be prohibited altogether, although in the obstetrical sense, there is no "abortion," but rather a premature birth, and few doctors perform it except to save the life or health of the mother. States prohibiting abortion in the third trimester have no need to resort to homicide laws. States choosing not to prohibit abortions in this period should consider, however, the applicability of their homicide laws to the live birth situation.

Thus, the guidelines exist for constitutional and policy considerations in the formation of abortion laws. It is time legislatures began dealing with the serious issues involved in these terms and stopped engaging in emotional attempts to "beat" the Supreme Court. ■

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## DULY NOTED: STATES

Liberal action groups have had considerable success in the last two elections by targeting congressional incumbents---such as the environmentalists' "Dirty Dozen"---for political extinction. Now the Committee for Survival of a Free Congress, sponsored conservatives, has targeted ten Democrats for defeat in 1976. All are freshmen except for U.S.Rep. Robert Drinan(D-Mass.).

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● "Byrne Floats A 'Two-Newark' Remap Plan," by Robert W. Maitlin. Newark Star-Ledger, May 15, 1975. With the exception of U.S.Rep. Peter Rodino(D), New Jersey's congressional delegation would like district lines left well enough alone. State Sen James Dugan(D) has been pushing a remap plan which would pit U.S.Rep. Andrew Maguire(D-7th) against U.S.Rep. Robert Roe(D-8th) and U.S.Rep. Millicent Fenwick(R-5th) against U.S.Rep. Helen Meyner(D-13th). Gov. Brendan Byrne(D), apparently not satisfied with the 12-3 Democratic slant to the congressional delegation, has suggested a plan which would pit Fenwick against U.S.Rep. Matthew J. Rinaldo(R-12th). The plan would combine Rinaldo's suburban district with part of urban Newark. Commenting on the plan, Fenwick said, "If politicians are despised by the public, it is because of things like this."

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● "Fannin's Announcement Averts A Damaging Primary Collision," by Bernie Wynn. Arizona Republic, April 13, 1975. Sen. Paul Fannin(R-Ariz.) has announced he will seek reelection, thus effectively setting the stage for an intense campaign against U.S.Rep. Morris K. Udall(D-2nd). According to Wynn, Udall "has not changed his mind about seeking the Senate nomination, even if it means running against Fannin. To do so, he'll have to abandon the House seat he's held since he succeeded his brother, Stewart, in the 2nd District in 1961. That's a lot of seniority to give up. There was some speculation that in the final analysis Udall would file for his House seat while running for the Democratic nomination for President." Fannin's decision effectively blocks Senate tries by two Republican congressmen, Sam Steiger(R-3rd) and John Conlan(R-4th), but the two men are apparently content to postpone their senatorial ambitions for a few years.

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● "If Muskie Doesn't Run, Cohen, Curtis Race Seen," by Jim Brunelle. Maine Sunday Telegram, April 27, 1975. "If Big Ed [Sen. Edmund Muskie] decides against running for his fourth six-year term, the birdwatchers have already picked their top choices for the Democrat and Republican most likely to wind up competing for his seat in the fall of 1976: Former Gov. Kenneth M. Curtis and 2nd District Rep. William S. Cohen. In fact, one rumor last week had Curtis running against Muskie in the Democratic primary next year. Intriguing though the idea may be, the rumor is not true. According to a reliable source who knows both men, Muskie has pretty much decided to run for reelection and Curtis has agreed to play a major role in the senator's campaign effort," writes Brunelle.

NOTICE TO READERS: The Winter and Spring issue of the Ripon QUARTERLY were not published as a result of the sad state of the American economy, which has hurt the Ripon Society as well as the auto industry. The Ripon Society regrets these omissions but with the coming upturn in the economy this summer, it hopes to publish the first of two issues of the Ripon JOURNAL. In order to express consumer confidence in the Ripon Society, the Society's Finance Committee suggests that readers consider investing their income tax rebate check in the Ripon Society. It is an investment, the Finance Committee suggests, that will pay a good political return.

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