

viewpoint of the news. Mr. Higgins stated that Mr. Agnew or anyone else has a perfect right to speak out against the press.

Mr. Jonathan Marshall, editor of the *Scottsdale Progress*, stated that there is a new executive agency headed by Mr. Whitehead who have instituted some tight regulations on the broadcasting industry and they are using scare tactics on the broadcasters.

Senator Swink moved the bill with a DO PASS recommendation. The bill failed  
*SENATE BILL 1303—Reporter's Privileged Communication*

Mr. Jonathan Marshall stated that with the provisions in this bill a reporter could not have a subpoena served against him if he were to leave the employ of a media service. Senator O'Connor asked Mr. Marshall what would have happened in the case of the Kennedy and Wallace shootings if the reporter did not wish to turn over the films of these shootings to the authorities. After a brief discussion, Senator O'Connor moved the bill and proposed amendments to the bill. The amendments pass. The bill was moved with a DO PASS recommendation as amended and passed.

*SENATE BILL 1267—Implied Consent—License Suspension*

This bill had been in subcommittee chaired by Senator Roeder. John Jones of the Attorney General's Office spoke to the committee in regard for the need for the implied consent legislation. Senator Roeder introduced amendments that had been prepared in the subcommittee. Senator Roeder moved the bill with a DO PASS recommendation as amended. His motion passed.

*SENATE CONCURRENT RESOLUTION 1022—Recall Election*

Senator O'Connor moved this bill stating that this was a companion bill to House Bill 2020, initiative, referendum and recall. Without any discussion, the bill was moved with a DO PASS recommendation. The bill passed.

*HOUSE BILL 2194—Destruction of State Property*

Senator O'Connor moved this bill with a DO PASS recommendation. The motion passed.

The meeting was adjourned at 10:10 a.m. with the committee having completed their agenda.

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INTERNATIONAL COUNCIL OF CHRISTIAN CHURCHES,  
*Collingswood, N.J., August 11, 1981.*

President RONALD REAGAN,  
*The White House,*  
*Washington, D.C.*

DEAR MR. PRESIDENT: Your nomination of Judge Sandra Day O'Connor to the Supreme Court has projected afresh the question of broadcasters' First Amendment rights into the entire religious broadcasting world. The First Amendment guarantees, or it should, the protection of all religious activity and the free speech of all radio broadcasters. This Amendment reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech. . . ."

No judge, who will take an oath to support the Constitution, should ever sit on the Supreme Court of the United States who has not been in favor of, and who does not have an unbroken record of full support of the rights of radio broadcasters in the free exercise of religion, including their programming.

This Judge O'Connor has been guilty of, tragically guilty, at a moment when the whole question of broadcaster's rights to the full protection of their speech and religious activity has been before the country. In presenting this judge for the high bench, you have invaded an area of religious life and free speech in our country which has caused untold controversy, suffering and loss, and even the right of the people to know has been limited.

I am enclosing a copy of a Memorial to the President and Congress of April, 1973. This passed the lower house in Arizona and it was Judge O'Connor's leadership that defeated it in the Arizona Senate. The committee to which it was referred for approval and recommendation, voted 4 against it, 3 for it, and one abstained. She led the opposition to this, and was one of the four. Had her vote been in the affirmative, this resolution would have been approved. You will see it is actually headed "House Concurrent Memorial 2003. A concurrent Memorial relating to American broadcasting; urging Congress to enact legislation extending First Amendment freedoms of the Constitution to broadcasting." Its request is: "1. That the President and the Congress give their most earnest consideration to the prompt

enactment of legislation prohibiting government or any of its agencies from dictating, influencing or regulating in any way programming or content of news broadcasts on radio and television stations licensed to operate in the United States."

The controversy that stirred the radio world at that time was the decision of the FCC to remove from the air radio station WXUR, owned by Faith Theological Seminary, of which I am the president. There was not a radio station in this country that was not aware of what was happening. My broadcast, the 20th Century Reformation Hour, heard over 600 stations, was dropped by stations all over the land. This controversy began in 1965 when area groups under the leadership of the Greater Philadelphia Council of Churches, the New Jersey Council of Churches, a part of the National Council of Churches, sought to have the station's license denied. The battle went up through an examiner of the FCC, who gave the license to the station declaring that the charges against it by the religious leaders and the Broadcast Bureau itself could not be sustained.

Mr. President, the House of Representatives of the State of Pennsylvania passed Resolution 160, December 14, 1965. The House was controlled by the Democrats. The Resolution referred specifically to the 1964 Goldwater campaign, saying that his ideas had been repudiated by the country and specific references was made to my ideas which they equated to Goldwater's, saying that they were dangerous to the country.

The FCC under Dean Burch, chairman appointed by Mr. Nixon, reversed their examiner's decision on July 1, 1970. This was in the midst of all the conflict over the Vietnam War, and I had led the first March for Victory on April 4, and we were building for the second March on October 3, which Vice-President Ky had agreed to address. At the height of all this, when I was using my stations over the nation attacking Hanoi and exposing the yippies' and hippies' support of the Communist cause to the division of our country, this move was made by Dean Burch, Robert Lee, who wrote their decision, and Benjamin Hooks, who represented the NAACP and who has been so active recently against your program.

We then went to the United States Circuit Court of Appeals in Washington. This court threw out the major claims or the opponents of the station and the FCC itself. All that was left was the question of programming, that the station in its original application did not fully reveal its program so that the FCC could determine whether the station could be licensed or not. David Bazelon, the chief justice, claimed that there was violation of the First Amendment in requiring these program stipulations, and he declared that the station and the broadcasters had been denied their First Amendment rights. He wrote a magnificent decision in support of the First Amendment, specifically stating: "In this case I am faced with a Prima facie violation of the First Amendment. The Federal Communications Commission has subjected Brandywine to the supreme penalty: it may no longer operate as a radio broadcast station. In silencing WXUR, the Commission has dealt a death blow to the licensee's freedom of speech and press. Furthermore, it has denied the listening public access to the expression of many controversial views."

This was specifically over the FCC's requirement in its application of the knowledge of the program of the station. The Arizona Memorial to the President and Congress specifically identified the question of programming, with the request that it be protected and kept free. O'Connor's opposition was against the exact issue and almost the same language as the WXUR case—the FCC had to approve programming before a license could be renewed.

The Supreme Court, Mr. President, refused to review the case and on July 5, 1973, the station died. The whole radio world was shaken. Our defenders in the Senate were Sam Ervin, who gave a 6,000-word speech, Jesse Helms, Strom Thurmond. They all declared that the First Amendment rights of the station were denied in their speeches recorded in the Congressional Record. See Congressional Record, November 14, 1973, for Ervin; March 12, 1974, for Thurmond; and February 21, 1974, for Helms.

Letters immediately reached me from all over the country from radio stations cancelling my broadcasts. In Washington, D.C., I was heard every morning at 8 a.m. on WFAK, Falls Church, VA. The owner, Mr. Lamar Newcomb, immediately removed my program, though he had supported my position. He said he could not take the risk of losing his station or becoming involved in expensive litigation. The WXUR litigation took 7 years.

It was station WFAK that so many in high places in Washington listened to, including the State Department and the Defense Department, and it was this one station that L. Mendel Rivers, chairman of the House Armed Services Committee, listened to.

He personally contributed to the broadcast. He was the one who called me to organize the marches for victory in the war in Vietnam. This I did with the help of thousands in the country.

I was broadcasting every day in Phoenix, Arizona, and other stations in the state. It was out of this conflict in Arizona that I spoke in Phoenix a number of times, and here there arose this very resolution from the state legislature. The Pennsylvania legislature had taken its stand against the First Amendment rights. Arizona was taking its stand for First Amendment rights for broadcasters.

I can assure you that this issue was so acute in the State of Arizona that, at the hands of the fundamental preachers, there were very few people who were unaware of the issues involved. Judge O'Connor was in the State Senate at this time. This was before she went into the court. There she was the leading opponent and fought the enclosed Memorial to the President and the Congress of the United States that the First Amendment rights be guaranteed to us broadcasters. This pertained directly to religious broadcasters such as myself. With me was Mr. Jim Nicholls, of KAYE of Puyallup, Washington. The same religious groups that led the fight against me and the Faith Seminary station led the fight against him. He, too, lost everything.

It has been my custom to attend every meeting of the National Council of Churches since the days when it was the Federal Council of Churches back in the early 30's. The chief spokesman for the NCC in this whole area is and has been the United Church of the Christ Office of Communications, Dr. Everett Parker in charge. Dr. Parker has prepared the studies, distributed the literature throughout the churches of the country concerning how they can have objectionable broadcasts removed, intimidate stations, threatening them with even the loss of their license, using the death of WXUR as their costly exhibit. Dr. Parker maintained a booth at the Detroit meeting of the NCC and we were out there with a counter rally opposing their Modernism and socialism. At their booth they were distributing their literature and telling the people that this was the way they could have Dr. McIntire's broadcast removed from their local stations.

Thus here comes Judge O'Connor, if confirmed to the Supreme Court, who also lived through those tumultuous days of battling for First Amendment rights for broadcasters. The denial of freedom became a routing matter and a formula was devised by the FCC and its liberal companions to destroy speech and to inhibit the free exercise of religion for the Fundamentalists. Congress cannot make a law, but it can make bureaus, and the bureaus' regulations have the force of law.

The Supreme Court is the last bulwark of freedom in the protection of the First Amendment rights of religious minorities. Mr. President, a minority can never become a majority unless it can speak and promote its position. The condition of our country as far as speech on the radio is concerned is that it is not possible to expose the National Council of Churches for what it is doing in this area of socialism, its aid to the Communists and its misrepresentation of Christianity.

H. Gifford Irion, the original hearing examiner for the FCC, who after nine months of hearings wrote a 116-page opinion, predicted what would happen. In favoring the station, he said that WXUR-AM and WXUR-FM "performed what would normally be considered a wholesome service in providing an outlet for contrasting viewpoints on a wide variety of subjects. To impose the fell judgment of removing WXUR from the air . . . could only have the consequence of admonishing broadcasters everywhere that they would act at their peril in allowing robust discussing because penalties would be meted out in rigid compliance with the exactions of the rules."

For eight years the station has been preserved with its four towers lighted. We have been praying and believing that this great injustice to speech and to a religious minority would be reversed and the station returned to the air. Sam Ervin said outside political pressures did it. The prayers of thousands is that some day God will bring to life, perhaps on the Nixon tapes, what these pressures were from the highest level of government. God knows it all. God is also a protector of liberty for His people.

This generation of fear did exactly that to my broadcast, and others dared not enter this field to enlighten the American people. As the prophet Hosea said, "My people are destroyed for lack of knowledge."

Men like myself who have come up out of the Christian churches and have a duty before God to preach what the Bible says and expose what we believe is evil, not only in the country but in the churches, find it cannot be done. I am here in Collingswood, New Jersey, and I have been pastor of this one church for 48 years. My record is clean. I am of the opinion that this country cannot be saved unless we are free to expose what we believe are forces inimical and destructive not only to Christianity but to liberty.

You are placing a judge on the Supreme Court who opposed a beautiful, clean resolution. You, yourself, could not have written a better one. None can mistake the "Whereases" that are here.

The fight for freedom of speech and free exercise of religion on radio is still the major battle under the Constitution today, and you are having placed on the Supreme Court a judge who in this particular field has made clear where she stands and the FCC still has a canopy of control over programming today. With these views the FCC will have a judge on the court to their liking, and so will Dr. Everett C. Parker and the National Council of Churches.

Mr. President, you have come up the hard and difficult road to see this nation turned about, but to place on of the nine judges on the court, in a day when the court itself is ideologically divided as you yourself recognize, who did not support the First Amendment rights of broadcasters in this nation, requires that we request that you withdraw this nomination. I am confident that you are unaware of this question concerning her attitude which has come to light as a result of the special investigation Mr. Nicholls made in Phoenix, Arizona.

If we had had our First Amendment rights, free exercise or religion, and could have used it to warn and instruct this country by radio and television, the country could have been turned about a number of years back. The failure to have this freedom has contributed to the havoc that the liberals have wrought in our national life in the economic sphere, the military sphere, and in the whole realm of our spiritual and moral standards and necessities.

This fight for our First Amendment rights has taken a terrific toll. The tragedy is that men in political life, too few to them, are willing to get up and fight for the rights of a religious minority and even for those with whom they differ but whose rights are the same as theirs under that blessed Constitution.

I cannot believe that you yourself are unaware of this major battle for free speech and religious liberty that has been raging in this country over radio programming since the early 60's, but I am confident that you were unaware of her opposition and her part in defeating this Memorial calling for the First Amendment rights of broadcasters. It was headed, "House Concurrent Memorial 2003." It is interesting that the Congressional Record, July 31, contains the statement by Senator Barry Goldwater, introducing "House Concurrent Memorial 2001 to the President and Senate of the United States of America. Your memorialist respectfully re represents . . ." this Memorial, which was adopted, commends Judge O'Connor. The one dealing with First Amendment rights was never fully approved. The Senator maintains that since 2001 was adopted in the Arizona House on July 23, with 51 ayes: only 2 nays and on July 24; in the Senate, there were 29 ayes and 1 nay, that here is an indication "that the single-issue opposition to Mrs. O'Connor's nomination has virtually disappeared."

The "single-issue" refers to the abortion issue. Aside from the fact that this has not disappeared in the country, the issue that I am raising here is new, is real, and indeed is of such weighty importance that as a single issue alone it should disqualify her from a lifetime position on the Supreme Court of the United States.

Now you, Mr. President, in your inauguration January 20, took the oath of office required by the Constitution to maintain and defend it. Here comes the question of the opposition of Judge O'Connor to the full First Amendment rights of broadcasters, and you are in the position of not knowing that she let the battle against a resolution calling for full First Amendment rights for all broadcasters. This is not right. Surely I am bringing to your attention a situation that calls for action before the conscience of the entire nation.

Last Saturday Senator Strom Thurmond, who has spoken for us over the years at our Bible Conference in Cape May, N.J., addressed around 500 people. In the question-and-answer period, has was asked concerning Judge O'Connor's confirmation. He announced that they would begin on September 9 and said that there were 20 men on his committee and that she would be confronted with every conceivable relative question. He told the congregation that he would personally see that Dr. McIntire would have the opportunity to appear before the committee. I had previously filed my request to be there as a representative of the International Council of Christian Churches. I will, of course, raise this very question and expect to make it known to the Senate.

I poured out my life over a period of 16 years fighting for our religious liberty on the radio as a broadcaster. At the time of the death of station WXUR I went out on the Atlantic Ocean, beyond our territorial limits, opposite our Bible Conference in Cape May, and erected a 10,000 watt transmitter on a ship on a wave length not used by American stations and broadcast from Maine to North Carolina. I called the station Radio Free America on the ship "Columbia." The story made the front pages of papers all over this country. We wanted the world to know that the most precious

rights a human being has were being denied by the FCC and the Supreme Court. We made the mistake of not securing a ship under foreign registry. We obtained a former mine sweeper from Florida and brought it up the east coast. Because of its U.S. registry, the FCC took us to the federal court in Camden, N.J., and had the judge issue an injunction against me.

This country cannot survive without free speech, and we are losing the battle today because men like myself cannot talk as we believe God wants us to speak as His chosen servants to preach the whole counsel of God as found in the Holy Bible.

Speeches made by the prophets Jeremiah, Amos, Isaiah, Hosea, and even our blessed Lord would have brought them before the FCC of Jerusalem and the license of their radio broadcasts would have been denied.

I was in addition to this issue also hoping that in the appointments that you make, especially in the FCC, that these matters could be taken into consideration, I am certain now that they were not, since we have received a present pronouncement of the Federal Communications Commission on WXUR.

I propose to write you another letter dealing with the FCC setup. Mr. President, we have to have the Constitution honored by the United States Government, by every official, every representative, every agency, including the FCC. The Constitution is the supreme law of this land. It is the greatest possession of the American people, and the most important part of it is the First Amendment. The most important of that has to do with religion and with speech which is outside the domain of government, the executive, the legislative, and the judicial branches.

It is in this area that Judge O'Connor's actions in dealing with the Memorial from Arizona invaded and transgressed. Again I request that by God's grace you may withdraw her nomination.

You have our earnest prayers.

Very truly yours,

CARL MCINTIRE,  
*President, International Council of Christian Churches.*

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INTERNATIONAL COUNCIL OF CHRISTIAN CHURCHES,  
*Collingswood, N.J., August 19, 1981.*

President RONALD REAGAN,  
*The White House,  
Washington, D.C.*

MY DEAR MR. PRESIDENT: I wrote you August 11 concerning the free exercise of religion, protected in the Constitution, against which Congress is in no way to legislate or prohibit according to the First Amendment. The instance which I presented was Judge O'Connor's opposition which led to the defeat of a memorial from the State of Arizona to the President and the Congress in April of 1973. It called for action by both parties to restore full First Amendment rights to broadcasters.

I now come with another major issue concerning First Amendment rights of a religious minority of which I am definitely a part. It has to do with current litigation initiated by the State of New Jersey in a state chancery court against Shelton College, Cape May, N.J., of which I am chancellor and which is an agency of the denomination of which I am a part, the Bible Presbyterian Church. That First Amendment rights are involved, the courts we have been in all concede. These are the New Jersey Superior Court, the United States District Court [District of New Jersey], the United States Third Circuit Court of Appeals and then back again to the U.S. District Court.

The state court maintains that the state has an overriding interest because of the degree Shelton gives, and had ordered the College closed December 22, 1979.

The State of New Jersey, through its Department of Higher Education, under instruction from its Governor to its Attorney General on one day's notice, entered a chancery court in Atlantic City on November 15, 1979, and asked that a temporary injunction be granted to close the College down that day without even a hearing. The court actually enjoined the College that day from advertising and recruiting and said it had to close December 22. This judge then did not issue his final decision until November, 1980, a whole year minus three days.

The only thing that saved the College and allowed it to exist, was the intervention of the U.S. District Court in Trenton under Civil Rights Act, section 1983.

I give you this brief statement because Judge O'Connor's opinion in this area is well defined and there can be no question about the position she will hold on the Supreme Court in the years to come. Her William and Mary Law Review article has been widely heralded in the press as a basis for claiming that she "understands