

the HUMAN LIFE REVIEW



WINTER 2003

Featured in this issue:

James Hitchcock on . . . Catholic Liberals and Abortion

Frederick N. Dyer on A Physicians' Crusade

Constitutional Persons: An Exchange on Abortion

Nathan Schlueter & Robert H. Bork

Mary Meehan on Winning Friends *and* Saving Lives

Kathryn Jean Lopez on Women Deserve Better

Christine Rosen on Overcoming Motherhood

Also in this issue:

Ramesh Ponnuru • Candace Crandall • Fred Barnes • Mark Steyn

Peggy Noonan • Tom Walsh • Alan Close • Meghan Cox Gurdon

Clarke D. Forsythe • Terry Eastland • Eve Tushnet

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ABOUT THIS ISSUE . . .

. . . it's been awhile since we've produced such an abortion-centered issue as this one but of course the 30th anniversary of *Roe v. Wade*, which we observe this season, made that inevitable. It's also been awhile since Prof. James Hitchcock has produced an article for us, and we were so pleased we gave it the lead (see "Catholic Liberals and Abortion," page 7). A hearty welcome back to an old friend of the *Review*.

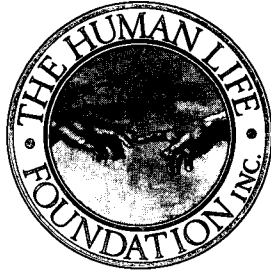
And a welcome-aboard to a new contributor, Dr. Frederick Dyer, who sent us "The Physicians' Crusade for the Unborn" (page 34) last fall. What crusade might that be?, we wondered on glancing at the manuscript. Though most physicians today decline to bloody their own hands performing abortions, not many are out there "crusading" for the rights of unborn babies. 19th-century physicians, Dyer shows us, were another story. Their eloquent testimony to the sanctity of human life, which Dyer has culled from letters and various dusty journals, stands as a harsh rebuke to their hands-off counterparts today.

While Dr. Dyer looks back with appreciation, Christine Rosen is looking forward—with trepidation. We thank *Policy Review* for permission to reprint "Overcoming Motherhood" (page 68), a disturbing look at tomorrow's reproductive technologies which reminds us we're still on the slippery slope of *Roe*, only now we're traveling at warp-speed.

Passing *Roe*'s 30-year mark sparked much commentary and we've gathered what we think is the best of it. Many thanks are in order: To *First Things* where Nathan Schlueter and Robert H. Bork first duked it out in "Constitutional Persons: An Exchange on Abortion" (page 17); to the *Weekly Standard*, for articles by Fred Barnes (page 89) and Eve Tushnet (109), and the *Wall Street Journal* for op-eds by Peggy Noonan (94) and Meghan Cox Gurdon (97). Mark Steyn's "Go Forth and Multiply" (page 91) originally appeared in Canada's *National Post* and Ramesh Ponnuru's "Abortion Now" (page 79) in *National Review*. Almost forgot: Thanks again to *First Things* for commentaries by Candace Crandall (page 84) and Clarke Forsythe (page 100).

And we must thank Dr. Tom Walsh's father for sending us a copy of "Lily," first published by *Latin Mass* magazine (page 105). He thought his son's beautiful evocation of mother-love deserved a wider audience and we do, too.

ANNE CONLON
MANAGING EDITOR



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INTRODUCTION

ANNIVERSARIES ARE A NATURAL invitation to reflect on the past, to relive memories as well as to ponder the changes that have taken place since the remembered event. The 30th anniversary of *Roe v. Wade* (January 22, 2003) is a prevalent theme in this issue of the *Review*, as our contributors join many in the pro-life movement in taking stock of our struggle.

Our lead article takes as its starting point, however, *another* anniversary—it has been twenty years since the unveiling of the Seamless Garment, the sanctity of life strategy, if you will, offered in 1983 by the late Cardinal Joseph L. Bernardin. James Hitchcock, prolific Catholic author and professor of history at St. Louis University, critiques the concept of the Seamless Garment and its effects, specifically on liberal Catholics. He confronts the liberal Catholic community with its own record on abortion—as chronicled in the weekly paper, the *National Catholic Reporter*, the “principal organ of American liberal Catholicism for almost forty years.”

Although the paper formally accepts the Catholic position on abortion, Hitchcock finds little evidence in its pages of pro-life commitment. Focusing on the January 17th issue, which was largely devoted to assessing thirty years of *Roe*, Hitchcock objects to the tone set by left-friendly pro-life activist John Cavanaugh O’Keefe, who pronounced the “pro-life movement a failure.” Hitchcock writes:

Although pro-lifers of course regret their failure to achieve their ultimate goals, the movement has had a profound effect on American society scarcely noticed by the *NCR*’s writers. The movement has successfully blocked most kinds of public funding of abortion and has finally achieved legislation to prohibit partial-birth abortions. . . . Above all the movement has kept the issue alive in the United States, in contrast to most other Western countries.

That last point resonates—when my late father, founding editor J.P. McFadden, began his anti-abortion campaign soon after *Roe*, he sought, at the very least, to keep the issue alive. He worked relentlessly, for the rest of his life, to do that, to keep the issue an *issue*, amidst the ups and (crushing) downs of the legislative struggles, believing the very worst thing that could happen to American society would be for abortion to cease being controversial.

My father was also among the anti-abortion activists whom Hitchcock remembers as being “sceptical, even dismayed” by Cardinal Bernardin’s Seamless Garment. Whatever good intentions there may have been—to transcend, for example, single-issue politics—critics of the approach feared the message of inclusivity would “distract Catholics from the primacy of the abortion issue,” and actually lend “legitimacy to the pro-abortion stance by broadening the definition of pro-life.” Hitchcock argues here that this is precisely what occurred.

Some of our readers may disagree with the severity of Hitchcock’s assessment

(though I have no doubt my father would find it on-target). The fact is, though many wish it were not so, there are substantial disagreements among those committed to the pro-life struggle, obviously not just within the Catholic community. Our next piece illustrates another such debate—about the Constitution. “Constitutional Persons: An Exchange on Abortion,” between Nathan Schlueter and Robert Bork, caught our eye—it appeared originally in one of our favorite journals, *First Things*. Schlueter begins by energetically objecting to a position held by many pro-life leaders, a position he calls the “restoration interpretation”: that “a proper reading of the Constitution would reject the concept of a privacy right to abortion, and thus return the nation to the pre-*Roe* status quo” in which abortion law would be “left to the states.” Against this position he posits what *he* believes is the “proper” interpretation—the “unborn person interpretation”: that is, “one which would extend the protections of the Fourteenth Amendment to unborn persons.” He argues that a new constitutional amendment which would extend the Fifth and Fourteenth Amendment due process protections to the unborn would be “constitutionally superfluous,” because “the issue of protecting the basic rights of persons” is *already there*. He sharply criticizes Justice Antonin Scalia for his arguments *re* abortion and the Constitution, charging him with “moral agnosticism”—his point being that whether or not the unborn are persons is not a “value judgment” but a critical question “definitively answered decades ago.”

Schlueter’s position is roundly opposed by Judge Robert Bork, who says Schlueter “belongs to the ‘heart’s desire’ school of constitutional jurisprudence.” Bork insists it is “clear that the Constitution has nothing to say about abortion,” and that Schlueter’s interpretation of the two Amendments, however “nobly inspired,” is “absurd”: “When the two amendments were proposed and ratified, abortion was known, had been known for millennia, and there had been arguments about whether life began at quickening or some other stage prior to birth.” Yet there is no reference to abortion in any records of the discussions leading to the amendments. Bork sees playing “word games with the text of the Constitution” as what brought us *Roe* in the first place, and he sums up with a stinging rejoinder to Schlueter’s criticism of Scalia. You won’t want to miss this lively exchange, which is an excellent example of how deep divisions can be, even among persons unequivocally devoted to the pro-life cause.

Our next article confirms Bork’s point that abortion was a controversial subject in 19th-century America. Opposing it was a cause taken up by some doctors, as first-time contributor Frederick N. Dyer tells us: “In 1857, while much of the nation was consumed with the issues that would soon lead to civil war, a young Boston doctor took action on another matter of life and death. Dr. Horatio Robinson Storer’s effort, dubbed the ‘physicians’ crusade against abortion,’ was wonderfully successful.” What follows is a fascinating account of nineteenth-century abortion mores (you may be surprised to read how prevalent abortions were, and among what class in society) and the launching of the doctors’ “crusade,” which resulted in anti-abortion legislation that remained in effect for over a hundred years. Though

this social activism saved many lives, Dyer explains that “the physicians’ crusade was largely forgotten until the 1970’s, when it was exhumed from the archives and cited in *amicus curiae* briefs submitted to the Supreme Court.” However, those citing the doctors’ activism “were not pro-lifers, but pro-choicers, and they used it in a most ingenious and disingenuous way,” making false claims about these doctors’ motivations in order to *do away with* abortion restrictions.

Another crucial question that causes divisions in the pro-life movement is: How should we talk to our opponents, and what are acceptable methods for convincing others of the unborn’s humanity? Our intrepid contributor Mary Meehan takes on this thorny subject, and reports on differing views of some of the most controversial activities of pro-lifers—for example, the use of bloody photos of aborted babies. While Meehan never lets up on the urgent need to persuade people to defend the unborn, she makes the case that it is possible not only to win over the undecided, but even “bitter adversaries—and save many lives—by thoughtful choice of words and tactics.” As she reminds us, passions run high when abortion is the subject because “abortion complicity is the great iceberg below the surface of the abortion debate”: an L.A. *Times* poll estimates that 52 per cent of the U.S. adult population has either had an abortion or knows someone who has. Guilt, repression, denial—these may all be factors lurking behind reactions in debates, and Meehan argues that some methods are more effective than others for getting past the defenses, to the place where minds and hearts can be changed.

Telling the truth ought to be an effective way to get people to listen. But one truth about abortion that advocates try desperately to hide is that it’s *dangerous* for women. In our next article, Kathryn Jean Lopez applauds a new advertising approach that aims to end the conspiracy of silence. The “Women Deserve Better” campaign is “designed to make women think about what they are doing to *themselves*, as well as to their unborn child.” It’s sponsored by a coalition which includes Feminists for Life and the “Silent No More” Campaign, a new group which has mobilized women who’ve had abortions (including national spokeswoman, the actress Jennifer O’Neill) to speak out publicly about abortion’s painful aftermath. The “Women Deserve Better” sleek promotional materials target “trendy” young women—a smart move, says Lopez, because college-age women are most likely to have abortions. And the timing is right: recent polls indicate (as reported in the *NY Times* 3/30/03) that “teenagers and college-age Americans are more conservative about abortion rights than their counterparts a generation ago”—and their mothers now!

Our final article is encouraging evidence that intelligent young women are questioning not just abortion, but the broader feminist movement’s agenda to “free” women from their biology. As is evident in her article “Overcoming Motherhood,” Christina Rosen, a young woman herself, has become proficient in the scientific facts and the philosophical theories behind reproductive technologies and “feminist bioethics.” And her knowledge has led her to conclude that “Pandora’s box of dark arts is an apt metaphor for human reproductive technologies. . . . the next

generation of these technologies offers us a power that could prove harmful to our understanding of what motherhood is.” Not only are countless women now suffering from infertility as the unintended effect of embracing “choice,” but, Rosen warns, the elevation of choice as “an unassailable right” is already starting to affect the way women view their offspring. New genetic technologies offer a different kind of “choice”: “one that inexorably pulls us toward making intentional decisions about the *kind* of children we have.” Running through Rosen’s bracing article is her indictment of a cardinal rule of feminism: that women’s “choices” in reproductive matters must be defended *because* they are made by women—which rests on the “feeble hope that women will not choose to do detrimental things,” a stance that has always struck us as opting out of common sense.

* * * * *

We have a full serving of remarkable appendices, with the first round being variations on the theme of “30 years after *Roe*.” Heading the list is “Abortion Now,” a clear-eyed overview of the prolife movement by the eminently eloquent Ramesh Ponnuru, a senior editor of *National Review*. He wraps up with an important challenge: “When pro-lifers began their campaign against partial-birth abortion, they knew that they ran the risk of legitimizing infanticide rather than delegitimizing abortion. In the courts and in the academy, that danger may be coming to pass. This is thus as important a moment as any in the last thirty years. . . . If they succeed in banning cloning, they can establish that human beings have a right to life regardless of their age, size, wantedness, location, stage of development, or condition of dependency.”

Ponnuru is followed by Candace Crandall’s “Thirty Years of Empty Promises,” which recalls the arguments used to push the legalization of abortion pre-*Roe*, and follows them up with abundant evidence that unrestricted abortion has greatly worsened the social and economic problems it was supposed to “solve.” She points out (as do several contributors) that support for abortion “rights” has been seriously eroding in the last decade, *and* that the yearly number of abortions has been dropping. As the *Weekly Standard*’s Fred Barnes writes in *Appendix C*, a great achievement of the pro-life movement has been to bring back the *stigma* attached to abortion. “The legal right to an abortion is one that almost no one boasts of exercising,” and even its *advocates* try not to speak its name.

In *Appendix D*, columnist Mark Steyn agrees Americans are becoming more pro-life, and just in time, because—aside from the immorality of the abortion “choice”—any society that “elevates ‘a woman’s right to choose’ above ‘go forth and multiply’ is a society with a death wish.” And Peggy Noonan, in “A Tough *Roe*” (*Appendix E*) wonders if the Democratic party will become “abortion’s final victim,” because “No party can long endure, or could possibly flourish, with the unfettered killing of young humans as the thing that holds it together.” *Appendix F* is a *Wall Street Journal* column in which Meghan Cox Gurdon shares a unique

personal reaction to *Roe*'s anniversary—she's convinced both she and her husband owe their lives to pre-*Roe* abortion restrictions. Clarke D. Forsythe, President of Americans United for Life, writes next (*Appendix G*) that the pro-life movement has succeeded in convincing the majority of Americans that the unborn are human beings, but now we need to counter the notion that, nonetheless, abortion is a "necessary evil." "It is now time for a coherent, sustained and concerted effort to demonstrate that abortion is 'impolitic'—bad for women as well as the unborn."

Our final appendices touch on real-life stories involving "choice" and its consequences. Life-giving alternatives to abortion have been sorely misrepresented in the mainstream, thanks to the efforts of the pro-abortion forces; that's part of Terry Eastland's message in a story he tells about adoption ("The Forgotten Option" *Appendix H*), in which a family ponders aborting a Down Syndrome baby until they learn that couples would line up for a chance to adopt their child. In "Lily" (*Appendix I*), Dr. Tom Walsh paints a poignant portrait of a teenage mother and her noble and heart-rending adoption decision. Next, in "Voyage Around my Fatherhood," Australian journalist Alan Close reveals the pain "choice" can inflict on fathers. He mourns his lack of children, though he has fathered several "terminations"; and he remembers with special regret the abortion of one—a baby he'd felt certain was "Jack," who "would have been 13 this month." In our final appendix, "Inside a Crisis Pregnancy Center," Eve Tushnet gives us a valuable look into the realities of the lives of typical clients she counsels at an inner-city center. One significant factor she's found repeatedly is a lack of a *father* in the life of the unwed mother—"Growing up fatherless affects how women view their own relationships and their pregnancies." (An interesting comment on the importance of *grandparents* to the lives of unborn children.)

We e-mailed Nick Downes that we needed more cartoons—he sent us a new batch that kept us giggling for hours. As always, we hope they ease the hearts of our readers as well.

MARIA McFADDEN
EDITOR

Catholic Liberals and Abortion

James Hitchcock

When the late Cardinal Joseph L. Bernardin of Chicago first articulated the concept of the “seamless garment of life issues” two decades ago, liberal Catholics embraced it enthusiastically, as requiring a heightened moral seriousness on the part of American Catholics, a transcending of single-issue politics to a recognition that a broad range of public issues involve the sanctity of human life. Not only was the proposal considered a moral advance on the anti-abortion movement, liberals also predicted that it would make the anti-abortion stance itself more credible, as it became apparent that Catholics genuinely revere human life in all its stages.

Many anti-abortion activists were sceptical, even dismayed, by the proposal, fearing that it was an attempt to distract Catholics from the primacy of the abortion issue, that it might even lend legitimacy to the pro-abortion stance by broadening the definition of “pro-life.” As these critics pointed out, there was no concrete political constituency for the “seamless garment.” As a guide to voting, it was useless, since there were few candidates for office who espoused the consistency which Cardinal Bernardin insisted was required.

In theory liberal Catholics have remained anti-abortion, even as they demand that the issue be considered in a larger context. But liberal Catholics’ response to the thirtieth anniversary of *Roe v. Wade* this year revealed that abortion is an issue which they can scarcely face in a forthright manner, that in effect they have to be counted as pro-abortion.

The *National Catholic Reporter* is the principal organ of American liberal Catholicism and for almost forty years has functioned as a battering ram against the full range of Catholic teachings, one of its fundamental premises being that the hierarchy of the Church is dishonest and addicted to power, protecting and defending doctrines and practices which the modern world has rendered untenable. Locked into that rigid stance, the paper’s formal acceptance of the Catholic teaching on abortion has always been an uneasy one. The paper devoted a good part of its January 17 issue to an assessment of the situation thirty years after *Roe v. Wade*.

The direction of the discussion was set by John Cavanaugh O’Keefe, a pro-life activist with long connection to the political left, who pronounced

James Hitchcock, a professor of history at St. Louis University, is a senior editor of *Touchstone* magazine. His two-volume work, *The Supreme Court and Religion*, will be published early next year by Princeton University Press.

the pro-life movement a failure. However, in the overall context of the *NCR*'s stance the point was not to urge pro-lifers to a renewed commitment to their cause but precisely to sound a retreat. In ostensibly friendly fashion, the paper warned pro-lifers that they were wasting their energies and ought to turn to other things.

Although pro-lifers of course regret their failure to achieve their ultimate goals, the movement has had a profound effect on American society scarcely even noticed by the *NCR*'s writers. The movement has successfully blocked most kinds of public funding of abortion and has finally achieved legislation to prohibit partial-birth abortions. Under the Bush administration the United States is practically the only Western nation strongly opposed to governments and international agencies promoting abortion throughout the world.

Above all the movement has kept the issue alive in the United States, in contrast to most other Western countries. One reader pointed out that the *NCR* itself had quoted pro-abortion activists warning that the "right" to abortion hangs on a slender thread in America, and the paper acknowledged that public opinion on the issue is deeply divided. Thirty years of officially sanctioned abortion, as well as unrelenting pro-abortion propaganda in the media, have not moved the public to a full acceptance of the practice.

Calling the movement a failure, however, relieves liberal Catholics of any lingering burdens of conscience, in that they can affirm their commitment to the cause while at the same time excusing themselves from what they pronounce to be an unrealistic struggle.

Why then has the pro-life movement failed, according to the *NCR*?

For O'Keefe it has not been radical enough. When the movement began, he said, he expected thousands of people to go to jail for civil disobedience, among them cardinals and bishops. Having shirked such stark moral witness, pro-lifers have lost the war, he asserted.

But *NCR*'s publisher, Thomas W. Roberts, offered a quite different answer—pro-lifers tried too hard. In his weekly letter to the readers, Roberts conveyed what he intended should be those readers' view of the movement, describing an occasion when he had witnessed an abortion demonstration in which both sides were "screaming maniacs," something he characterized as "a fitting image" of the whole debate, Roberts' implication being that those who care about the issue are so extreme and irrational that no responsible person would take them seriously.

This in turn revealed another cause of the defeat, according to Roberts—the leadership of American Catholicism allowed itself "to be sucked into this political faceoff, this national screaming match . . ." The bishops encouraged the extremists among the faithful, which discredited the entire movement.

Throughout the *NCR*'s abortion issue the claim was continually repeated that the bishops are totally, even fanatically, committed to the pro-life position, something which is by no means obvious. Many pro-lifers have long been dismayed, for example, at how pro-abortion politicians successfully exploit their Catholicism at election time, as did Governor Jennifer Grantholm of Michigan, who in the election last fall received warm endorsements from various Detroit priests. The bishops' attorneys habitually counsel restraint on the issue, on the grounds that the Church's tax exemption might be jeopardized, and many pro-lifers have been barred from distributing literature on church property. Most Catholics report that they seldom if ever hear abortion mentioned from the pulpit, and those bishops who take public stands sufficient to raise hackles are quite rare.

The bishops' gravest error, amounting to a kind of immorality, has been their alliance with the Republican Party, according to Roberts, a charge often repeated in liberal Catholic circles. But to many pro-lifers the Church, through its various bureaucracies, seems often to tilt in the opposite direction, in that the list of issues comprising the "seamless garment" almost entirely points to liberal Democrats.

Given the Democratic Party's fanatical commitment to abortion, the pro-life movement's preference for the Republicans can scarcely be faulted, which is why liberals have to insist that the movement has failed. Thus Roberts quoted two anonymous sources, one a bishop, as saying that the movement has been "badly used" by the Republicans, and the *NCR* reminded its readers that it was a Republican appointee to the Supreme Court, Justice Harry Blackmun, who wrote the *Roe* decision and that other Republican appointees, including Anthony Kennedy and Sandra Day O'Connor, have blocked any attempt to diminish the authority of that decision.

It was a stunningly hypocritical argument, implying that the liberal critics wish to see the appointment of pro-life justices to the Court and that they fault the Republicans for not delivering on their promises, when in fact it has been the liberals, including Catholic liberals like Senator Patrick Leahy of Vermont, who have systematically blocked or impeded the appointment of pro-life justices. The *NCR* triumphantly pointed to Republican nominees who concede that *Roe* is the "law of the land," without noting that such concessions are wrung from them by liberal Democrats and that a refusal to make such an admission would completely doom a nominee.

In a subsequent issue of the *NCR* (January 24), one of its regular stable of writers, Tim Unsworth, illustrated this hypocrisy as he contemplated the prospect of yet another Catholic's being named to the Court. Unsworth counted off the usual list of "seamless garment" issues, including abortion,

then regretted that the three Catholics currently on the Court, plus a man rumored to be the next nominee, are “too conservative”—Justices Antonin Scalia and Clarence Thomas dismissed with the cliché that they are “to the right of Attila the Hun.” The clear logic of Unsworth’s position was that pro-life Catholics should not be allowed to serve on the Court.

Subsequently (February 7) Jesuit Father Robert Drinan, who as a Congressman was implacably pro-abortion and has often castigated the pro-life movement, criticized the “judicial activism” of the present Court without mentioning abortion, except to charge that the “Rehnquist Court” threatens, among other things, “women’s rights.” Criticism of the Court, Father Drinan reminded his readers, is timely in that new appointments will probably soon be made and, like Unsworth, he implied that none of those should be in the mold of the justices who have dissented from the *Roe* decision.

The ultimate flaw in the pro-life strategy, according to Roberts, is that “many of the candidates the bishops implicitly endorsed had no inclination towards any of the other elements in the bishops’ social agenda,” an admission on his part that abortion itself is not a crucial issue and that it must be sacrificed to others. While ostensibly that was not Cardinal Bernardin’s intention, it has long been apparent that such was the inevitable result of his “seamless garment.”

In blaming the bishops and the Republicans for the alleged failure of the pro-life movement, the *NCR* was also notable for what it did not say, namely, its general failure to discuss, except in passing, the rigid pro-abortion stance of the Democrats. In the issue of the paper commemorating the *Roe* decision, the only mention of this inconvenient fact was a concluding editorial in which one of the proposals for altering the terms of the debate was “the Democratic Party must become open—really open—to those who do not favor abortion rights. . . . The national party is dogmatically pro-choice, a captive of single-issue interest groups. . . .”

Since the seamless garment was first proposed, Catholic liberals have continually condemned Republicans simply for being faithful to conservative social and economic principles, in effect blaming them for not becoming liberal Democrats. Meanwhile little energy has been expended to persuade liberal Democrats to become pro-life. Among Roberts’ “solutions” to the abortion stalemate were that Republicans support the Democratic economic and social agenda and that the bishops show greater respect for, and cooperation with, pro-abortion politicians. It was not clear how either effort would in any way help the pro-life cause, but it was very clear how they would ease the situation of pro-abortion liberals.

A week after its abortion issue, the *NCR* published a lengthy interview with Nancy Pelosi, the newly elected Democratic majority leader of the House of Representatives. The interview could have been a unique opportunity to press Pelosi on her abortion stand. Instead she was given a series of friendly questions which allowed her to present herself as a person of extraordinary integrity and moral sensitivity. The interviewer noted that Pelosi calls herself a “conservative Catholic,” and the Congresswoman justified that self-definition on the grounds that she was raised in a devout family where everyone was expected to take “full responsibility for their own beliefs,” which seems to be precisely the definition of a liberal Catholic. She went on to express her strong support for a married clergy and for women priests, so that, with the *NCR*’s cooperation, she was able to define dissenting positions, including abortion, as in reality affirmations of Catholic orthodoxy.

If, as the *NCR* asserts, the Democratic Party “must” become more open to the pro-life position, how is that to be achieved? Assuming that Cardinal Bernardin did hope to inspire a new coalition around all the “life issues,” from abortion to welfare and capital punishment, it soon became apparent that neither liberals nor conservatives were going to change their positions in such a way as to fit his definition. At that point, as they realized that the abortion issue could only help the Republicans, liberal Catholics had to jettison it. They seldom do so explicitly, but the *NCR* demonstrates various ways in which this can be achieved. At a minimum pro-abortion politicians are given repeated assurances that liberal Catholics will not hold them accountable for their position.

Pelosi perfectly illustrated this, lamenting to the *NCR* that the bishops, in giving priority to the abortion issue, hamper the liberal agenda and recalling that an archbishop of San Francisco once received a standing ovation from a liberal audience when he spoke on “disarmament issues.” Pelosi, like practically all liberal Catholic politicians, long ago ceased regarding the abortion issue as even posing any kind of moral dilemma and sees it solely as an unwarranted impediment to her own advancement.

Readers of the *NCR*, responding to this approach (January 31), further confirmed that the seamless-garment idea is inimical to the pro-life cause. Thus an English priest, Father Gerry Reilly, endorsed the seamless garment, condemned “blind anti-abortionism,” and urged that “such zealotry should be allowed to die and a new pro-life movement, closer to the gospel tenet of love be reborn from the ashes.”

An Illinois nun, Sister Regina Gniot, affirmed her support of the seamless garment, then lowered the dialogue to a new level of crudity by characterizing pro-lifers as “people out there who long for the good old days when you

could keep your women barefoot and pregnant and under male domination in a carefully regulated patriarchal society.”

Thus the very affirmation of the seamless garment confirmed pro-lifers’ suspicions that it is a ploy used by people hostile to the cause.

Subsequent responses confirmed this. A Connecticut reader, Mary Anne Janick (February 7), faulted the paper for being too cautious on an issue where the Church in fact has no right to speak at all, and James Zatlukal of Florida (February 14) defended Pelosi and other politicians as merely “fulfilling their duties,” an instance of the common pro-abortionists’ implication that it is somehow a violation of the Constitution to attempt to change court decisions. Pat Cervenka of the state of Washington (February 21) recounted her conversion from pro-life to “pro-choice” because many pro-lifers do not support liberal programs.

Most revealing was a letter from a Trappist monk, Father James Connor (February 21), objecting to the fact that some Catholic politicians have been denied communion for supporting abortion, whereas supporters of capital punishment have not been similarly penalized. Conspicuously using one of the pro-abortionists’ favorite terms—“freedom of choice”—the monk openly affirmed the partisan Democratic agenda, complaining that “If Catholics act on the single issue of abortion, then we will never get rid of President Bush” and managed to blame Republicans for President William J. Clinton’s veto of a partial-birth abortion law.

Having characterized both sides in the debate as “screaming maniacs,” Roberts found one hopeful development from thirty years of conflict—a group in Boston, comprising both pro-abortion and pro-life people, who have been engaged in dialogue for some time and have thereby achieved a new level of “respect” and “civility” towards each other. The *NCR*’s report on the dialogue (January 17) included few concrete results from the discussions, except that they may have prevented “another shooting” at an abortion clinic, based on an incident in which a man in Virginia allegedly informed pro-lifers in Boston that he intended to come to Boston to “commemorate” the murder of a staff member of an abortion clinic. Boston pro-lifers told him he would not be welcome and alerted abortionists to his possible visit. Altogether the *NCR*’s report on the dialogue served mainly to support the stereotype of pro-lifers as violent people, the chief exceptions being those whose priority is dialoguing with their opponents. There was no report of pro-abortionists doing anything concrete to help the pro-life movement.

The movement was also denigrated in a comment by theologian-lawyer M. Kathleen Kaveny, who said that “Pro-life groups have increasingly realized

that they can't just say don't kill. They have to provide assistance," a remark that seemed to endorse the charge pro-abortionists have long hurled at pro-lifers—that the latter care only about the unborn. In fact, beginning long before abortion became legal, religious groups in particular have provided most of the support available to pregnant women in need of help.

The *NCR's* approach to abortion was merely evasive, focusing on the violent fringe of the pro-life movement or on allegedly mistaken political tactics. Significantly, nowhere did the paper squarely confront the moral issue itself.

The "dialogue" which the *NCR* extolled in Boston was scarcely manifest in its own pages. A list of relevant web sites was exquisitely balanced, with three anti- and two pro-abortion organizations. In the articles themselves, however, there was no spokesman for any major pro-life group, no theologian expounding the Church's teaching, no bishop reaffirming it. On the other hand considerable attention was paid to Frances Kissling, director of a non-existent organization called Catholics for a Free Choice, which has been repeatedly exposed as a pro-abortion lobby funded largely by non-Catholic sources. Although Kissling is habitually savage in her attacks on both the pro-life movement and the Church, she was presented by the *NCR* as another example of wise moderation.

The Catholic teaching on the subject was confined mainly to an inconclusive discussion of whether those who obtain or abet an abortion can be excommunicated and to the highly misleading claim by Christine Gusdorf, a professor of religion and a pro-abortion Catholic, that the Church's "absolutist claim" concerning the practice is a departure from traditional teaching. She left unexplained the fact that the opinion of earlier theologians, such as St. Thomas Aquinas, that "ensoulment" does not occur until some weeks after conception depended on an understanding of the reproductive process which has long been scientifically untenable.

Sister Margaret Farley, an ethicist who once signed a pro-abortion manifesto and who dissents from Catholic teaching on a number of issues, offered the only other theological evaluation of the practice. But she had in fact already moved "beyond" the abortion question and informed readers that it is now morally permissible to use early-stage human embryos for medical research. Declaring the "uncertain moral status of the early fetus," Farley asserted that "women do have a right to bodily integrity" and urged that those who think abortion is wrong should simply learn to tolerate it. (Gusdorf's claim, and Farley's reference to the "early fetus," might seem to imply that restrictions should be imposed in the later stages of pregnancy. But neither writer said that, and the pro-abortion movement is adamant that

there should be no restrictions up to the moment of natural birth, possibly even beyond.)

The *NCR*'s paucity of philosophical or theological analysis of the issue was not accidental, since it chose to turn the question largely into a matter of social psychology, in which the morality of the practice was less important than the alleged "real" issues behind it. If the word "moral" seldom appeared in the paper, the word "perceptions" was almost ubiquitous, as in the reported ability of people in Boston to overcome their "stereotypes" of one another. Laura Chasin, who organized the Boston dialogue, found that the two sides simply had "different ways of expressing caring and respect for other people," a situation in which it would obviously be inappropriate to ask whether some perceptions are truer than others. Chasin characterized the abortion conflict as unnecessary and "wasteful," because it pits two different groups of women against each other.

Given this view, it follows that the primary purpose of the dialogue must be to make both sides realize that they misunderstand the issues and should cease hostilities. But, to the degree that the *NCR* is correct in claiming that pro-lifers have lost the war, that in turn would simply mean that abortion should remain not only legal but unopposed.

Gniot's characterization of pro-lifers as wanting to keep women "bare-foot and pregnant" repeated an ancient indictment of the movement, and the *NCR* seemed to endorse that indictment in subtler ways, as when Kaveny claimed that pro-lifers want to return "to a whole matrix of a way of understanding family life and structuring family values," a claim which is to some extent true but which to feminists is merely further evidence of social backwardness.

Gusdorf reported that the principal division is between pro-abortion women who are "adamant that the new possibilities open to women cannot be foreclosed" and pro-life women who "tend to be married homemakers who believe that they are increasingly viewed as anachronisms . . ." Sociologist Kristin Luker reported similar conclusions, including the claim that pro-abortion women are less educated than their opponents, although Luker expressed more respect for pro-life women than did the *NCR*'s other commentators. The sociological theory of "status anxiety" was systematically employed to deflect attention away from the moral issue itself.

Liberals often defend abortion by citing the cases of poor women without husbands, precisely the people whom numerous agencies and organizations are set up to assist, and Farley made the obligatory reference to "the terrible tragedies for women with an antiabortion policy."

Inadvertently, however, Luker revealed that the status of poor women is

not the heart of the issue. Women most likely to be “pro-choice,” she reported, are those who married somewhat late, married a highly educated man, and could be classified as upper-middle class, with pro-life women manifesting the opposite traits. Those in the first group are most likely to get an abortion, she said.

The degree to which the pro-abortion movement reflects the interests of privileged middle-class women is widely ignored, as it was by the *NCR*, despite the paper’s constant insistence that Christians must have a preeminent commitment to the poor. Polls show that poor people, especially racial minorities, are far more pro-life than are middle-class white people, and the terms of the discussion would change dramatically if the focus shifted from a poor woman unable to feed her offspring to a middle-class woman undergoing an abortion because the pregnancy comes at an inconvenient time, or because she and her husband are rigidly committed to having a small family. A critical analysis would reveal how the rhetoric of poverty is here used to further the interests of privileged people.

Luker also found that pro-lifers subscribe to “morality in a kind of rule-based way,” while pro-abortionists are “situational ethicists” who believe that “God has given humans the faculty of reason.” It was an evaluation once again intended to show that pro-abortionists are more rational than their opponents and one which fit with the *NCR*’s long and bitter fight against every aspect of Catholic teaching about sex.

However, it would be misleading to see Catholic liberals simply as moral relativists. In fact, depending on the issue, they can be as absolutist as any pro-lifer. Thus to the *NCR*, over a period of decades, the issues of war, capital punishment, the welfare state, and racial equality are as absolute as anything can be, not subject to doubt or compromise. Indeed, the Catholic liberal’s rejection of Catholic sexual teaching is itself absolute in a reverse sense—the morality of homosexuality is not an open question, nor are contraception, divorce, or sex outside marriage.

Thus when the paper defined for itself a position of caution, ambivalence, and nuanced complexity on abortion, it was actually departing from its own dominant spirit, which has always been one of shrill combativeness, absolute certainty about its beliefs, and slashing denunciations of those it disagrees with, especially those in authority. While at first the paper’s approach to *Roe v. Wade* might be thought of as evidence of its often repeated claim that it is addressed to “thinking Catholics,” the “thoughtfulness” it displayed about abortion was completely at odds with the dogmatic simplism it manifests on almost every other issue.

If the *NCR* were consistent it would, for example, caution the opponents of capital punishment not to be shrill, warn them that often they seem insensitive to the sufferings of the families of murder victims, recall that through most of its history the Church has supported capital punishment, and discuss the complex issues of deterrence, punishment, and restitution. The editors would deride liberals for supporting Democratic politicians, such as Clinton, who support capital punishment.

Opponents of capital punishment would be urged to enter into respectful dialogue with its supporters, with an aim to discovering the psychological and social assumptions which underlie the two sides of the debate. Approaching the issue in terms of moral absolutes would be deemed counter-productive and disruptive of civil peace, and activists would be reminded that they have failed to persuade a majority of their fellow citizens on the issue. Thus, the editors would point out, the number of people executed in the United States continues to increase, the movement is a failure, and its members should at least temporarily withdraw from the fray.

That the paper could never take such a course identifies precisely the self-destructive core of Catholic liberalism, which is that it cannot maintain a sustained commitment to any position not held by secular liberals. Many liberal Catholics are embarrassed to acknowledge that the Church's doctrine could be fully credible on any question, and they are profoundly embarrassed at finding themselves in serious disagreement with the Protestant and secular liberals from whom they have long taken their moral and political cues. Indeed, given the dominant outlook of the *NCR*, it is difficult to understand how the Catholic Church could be right, and secular liberals wrong, on any issue whatsoever.

Some of this is the mere desire to belong to the community of the enlightened. There is, however, a theological basis for it, which is the belief that finally there are no genuinely religious realities, certainly none which are not readily accessible to non-believers, that "the world sets the agenda for the Church." Convinced that throughout history the Church has usually been an enemy of progress, Catholic liberals have no way of even explaining how for the past thirty years it has stood on the moral high ground on abortion, as enlightened liberals have fallen into serious moral error.

Cardinal Bernardin may have intended to bring together an authentically liberal pro-life coalition. But at the end of the day most Catholic liberals can see no role for themselves except that of giving moral support and religious cover to currently orthodox secular liberal ideas.

Constitutional Persons:
An Exchange on Abortion

Nathan Schlueter & Robert H. Bork

Nathan Schlueter

Readers of *First Things* should by now be well-acquainted with the heated national debate—in part inspired by these very pages—over the role and legitimacy of the modern Supreme Court, armed with the power of judicial review, in a country that proclaims itself to be self-governing. Under the influence of a progressive jurisprudence the modern Court has issued controversial and innovative rulings on topics ranging from criminal due process to school prayer, rulings that often conflict with both the text and context of the Constitution, and with the history and traditional practices of our nation. But perhaps no issue better illustrates—and indeed magnifies—this conflict than abortion. *Roe v. Wade* and its progeny not only challenge the legitimacy of the Court, with their highly partisan and tendentious reading of the Constitution, they challenge the legitimacy of the entire government, a government that tolerates, and often even encourages, the mass destruction of those human beings who are most innocent and defenseless.

It is surprising, therefore, that on this most central constitutional and moral issue a preponderance of pro-life advocates and legal scholars continually misinterpret the Constitution. According to them, a proper reading of the Constitution would reject the concept of a privacy right to abortion, and thus return the nation to the pre-*Roe* status quo in which the decision of when, whether, and how to regulate abortion was left to the states. In offering this “restoration interpretation,” they ignore or reject the proper interpretation, which would extend the protections of the Fourteenth Amendment to unborn persons. This is what I will call in this essay the “unborn person interpretation.” They continue to do this despite the fact that both the majority in *Roe* and the appellants to the case conceded that if the personhood of the unborn could be established, “the appellant’s case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the Amendment.”

To gauge the pervasiveness of the restoration interpretation among life advocates, one need only consult these pages. Forty-five leading pro-life

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advocates, including Gary Bauer of the Family Research Council, James Dobson of Focus on the Family, Clarke Forsythe of Americans United for Life, Wanda Franz of the National Right to Life Committee, and Ralph Reed of the Christian Coalition, signed a much heralded joint “Statement of Pro-Life Principle and Concern” published in *First Things* in 1996 in which the primary legal complaint was made that *Roe* “wounded American democracy” by removing the issue of abortion from “democratic concern.” The statement suggested two legal remedies: first, the Supreme Court could reverse *Roe*, returning the issue to the states; second, the nation could pass a constitutional amendment that would extend Fifth and Fourteenth Amendment due process protection to unborn persons. The statement does not even hint at the possibility of a Supreme Court ruling that would extend due process and equal protection to unborn persons. The *First Things* statement seems to reflect the unanimous opinion of those Justices on the Supreme Court who have urged reversing *Roe*, not one of whom has attempted to make or even respond in their opinions to the unborn person interpretation.

However well-intentioned, the arguments of the restoration advocates are usually grounded in an epistemological skepticism that is alien to normal constitutional interpretation and harmful to the political morality on which free government is based. While I don’t object to a constitutional amendment that would extend special protection to unborn persons—especially since such an amendment would presumably lodge protection for the unborn beyond the discretion of partisan courts, and also dispose of any potential problems with respect to state action—such an amendment is constitutionally superfluous. The issue of protecting the basic rights of persons from hostile or indifferent state governments was constitutionally resolved almost one hundred and fifty years ago in the Fourteenth Amendment, purchased with the blood of hundreds of thousands of American lives in the awful crucible of the Civil War. The constitutional debate over abortion, then, is ultimately a rehearsal of the very same questions that shook the nation during the Civil War.

To see why the restoration argument, while certainly more honest and legally plausible than the opinion in *Roe v. Wade*, is both constitutionally flawed and politically problematic, we must first consider the arguments that have been made on its behalf. The core of the restoration argument consists of an attack on the contention that the right of a woman to terminate her pregnancy is a personal privacy right protected by the Constitution. Such a right is—to use the words of the Court—neither “implicit in the concept of ordered liberty,” nor is it “a principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental.” To the contrary,

there is a strong historical and legal tradition in America condemning and prohibiting abortion as a violation of the rights of the unborn. Moreover, the alleged privacy protected in *Roe* differs in kind from the other privacy precedents insofar as the right necessarily affects the interests of another human life, the fetus, and insofar as the abortion procedure has a decidedly public expression.

So far as it goes, this is an acceptable argument. But it leaves out of the equation the paramount question of the status of the unborn child. The Justices write as if this question can be ignored or constitutes merely a “value judgment” about which reasonable people can disagree. Justice Antonin Scalia himself explicitly asserts this latter position in his dissenting opinion to the *Casey* decision: “There is of course no way to determine that [i.e., whether the human fetus is a human life] as a legal matter; it is in fact a value judgment. Some societies have considered newborn children not yet human, or the incompetent elderly no longer so.” But if the status of the unborn child is merely a value judgment, then there is at least a plausible argument that the states have no right prohibiting abortion, especially when one considers the considerable burden an unexpected, unwanted, or dangerous pregnancy can place on a woman. Indeed, Justice Scalia’s arguments have a frightening moral and epistemological agnosticism at their center.

The states may, if they wish, permit abortion on demand, but the Constitution does not *require* them to do so. The permissibility of abortion, and the limitations upon it, are to be resolved like most important questions in our democracy: by citizens trying to persuade one another and then voting. As the Court acknowledges, “Where reasonable people can disagree the government can adopt one position or the other.”

By making the determination of human life a value judgment, Justice Scalia forecloses the possibility that any scientific proof or rational demonstration can establish that an unborn child is a human being. Indeed, he ultimately forecloses the possibility that there can be any rational discussion of the matter at all, insofar as values by their very nature are subjectively determined. Taken to an extreme, as Justice Scalia’s legal positivism in this matter seems to do, democracy becomes the simple exercise whereby the powerful define for themselves their “own concept of existence, of meaning, of the universe, and the mystery of life,” to use the famous words of the majority opinion in the *Casey* decision. In such a universe, constitutional government is superfluous. One is strongly reminded of Lincoln’s arguments with respect to slavery: “If [the Negro] is *not* a man, why in that case, he who *is* a man may, as a matter of self-government, do just as he pleases with him. But if the Negro *is* a man, is it not to that extent a total destruction of self-government to say that he too shall not govern *himself*?”

It cannot be too strongly emphasized that whether or not an unborn child is a human being is *the* critical question in this debate, and the question was definitively answered decades ago. Whatever might be said for an earlier time, today there can be no scientific disagreement as to the biological beginning of human life. Embryology, fetology, and medical science all attest to the basic facts of human growth and development, and medical textbooks for decades have declared that distinct and individual human life begins at conception. Contrary to Justice Scalia's assertion, this is not a value question any more than that of whether an acorn is an oak tree. It is indeed both telling and disturbing that while self-proclaimed postmodernist Stanley Fish can concede that the scientific evidence is clearly on the side of the pro-life movement, Justice Scalia continues to insist that this is a value judgment. The value decision only concerns whether we will protect all persons, or only those we have judged worthy of protection through the democratic process.

Perhaps even more disturbing is Justice Scalia's moral agnosticism, revealed in his pragmatic arguments against *Roe*. He rightly objects with scorn to the plea by the majority in *Casey* to the "contending sides of a national controversy to end their national division by accepting a common mandate rooted in the Constitution," as if the Court did not create the national controversy in the first place with its controversial ruling. And he quotes Lincoln's warning in his First Inaugural Address against deferring decisions of policy "upon vital questions affecting the whole people" to the Supreme Court, and thus resigning the power of self-government. Of course, Lincoln was referring to the ignominious *Dred Scott* decision in which the Court ruled not only that blacks were ineligible for national citizenship and thus had no legal access to federal courts, but also that slaves constituted property protected by the Fifth Amendment due process clause against congressional prohibition of slavery in the territories. It was in part in order to overturn this ruling that Lincoln pressed for, Congress passed, and the nation ratified the Thirteenth and Fourteenth Amendments to the Constitution extending due process and equal protection rights to all persons under United States jurisdiction.

According to Justice Scalia, the restoration argument would return the issue of abortion to the states, and thus remove it as a national issue. "As with many other issues, the division of sentiment within each state was not as closely balanced as it was among the population of the nation as a whole, meaning not only that more people would be satisfied with the results of state by state resolution, but also that those results would be more stable."

Stable for whom? Certainly not unborn children in states with permissive abortion laws. Couldn't Justice Scalia have added to these dicta some con-

demnation of the practice of abortion, despite his perceived constitutional obligations? One wonders whether restoration is Scalia's preference, and not merely his constitutional interpretation. In any case, the irony of Justice Scalia's position should not be lost: his argument sounds disturbingly similar to the "popular sovereignty" position of Stephen Douglas, Abraham Lincoln's bitter adversary, in both its professed agnosticism about the moral issue of abortion, as well as its proposed solution to the conflict. With Lincoln, we must see this argument for what it is: a dangerous threat to self-government insofar as it undermines the very public opinion that makes self-government possible, the belief in the transcendent dignity of all human beings from the moment of conception to natural death. Any attempt to define human worth or value with a smaller category than the general field of human beings, as Lincoln rightly saw, is necessarily arbitrary and sets forth a principle that itself undermines the principal foundation for self-government.

Not all advocates of the restoration argument, however, express Scalia's epistemological and moral skepticism so boldly. Christopher Wolfe, for example, attempts to make a similar argument while at the same time affirming the moral evil of abortion. His argument runs some of the same dangers as that of Scalia however, in that while recognizing the strength of many of the arguments for absolute prohibition of abortion, Wolfe concedes that, "given the fact that many people did and do in fact doubt (however wrongly, in fact) whether a human person exists from the time of human conception . . . the Constitution lacks the kind of clarity that would be necessary for a judge to strike down a law permitting abortion." So Wolfe's position, like Scalia's, is based ultimately upon conceding that the status of unborn children is open to doubt.

But we must ask: Why allow anti-life advocates to continue this deceptive argument that the ontological status of an unborn child is open to doubt, that it is based upon religion, or values, or some other subjective standard, and that it is a point over which reasonable people can disagree? Why does Professor Wolfe leave open to doubt what is obvious to so skeptical a man as Stanley Fish? We must be clear: if the ontological status of the unborn child is open to question, then objective knowledge itself is open to question. So long as life advocates concede that this is an open question the battle over abortion, and perhaps democracy itself, is lost.

To be sure, as the *End of Democracy?* symposium in *First Things* (November 1996) revealed, there is ample reason for reticence about the unborn person interpretation. The last half-century of "living constitutionalism" and its subsequent judicial license has left a badly scarred Constitution in its wake, severely undermining the delicate balance of powers that was part of

the Founders' original design. The "least dangerous branch" of Federalist 78 has arguably become the "most dangerous branch" of Brutus 15. As many liberals are beginning to discover, the surrender of self-government to the Supreme Court is a double-edged sword that can cut both ways. We must be cautious, therefore, about seeking unwarranted readings of our privileged moral principles into the Constitution. For the purposes of this essay I will assume without argument that the proper reading of the Constitution is a *textualist* reading as that term is used by Justice Scalia in his book *A Matter of Interpretation*. A textualist reading assumes that the primary guidance for interpreting the Constitution comes from text and context. As Justice Scalia describes it, "A text should not be construed strictly, and it should not be construed leniently; it should be construed reasonably, to contain all that it fairly means." This principle excludes both "living Constitution" jurisprudence as well as "natural law" jurisprudence. According to this textualist jurisprudence, it seems to me, the unborn person reading is the most honest and legitimate, despite Justice Scalia's claims to the contrary.

The simple syllogism for my argument can be stated as follows. The word "person" in the due process and equal protection clauses of the Fourteenth Amendment includes all human beings. Unborn children are human beings. Therefore, the due process and equal protection clauses of the Fourteenth Amendment protect unborn children. To refute this syllogism, advocates of the restoration interpretation must either deny the major premise, that the legal person of the Fourteenth Amendment includes all human beings, or deny the minor premise, that an unborn child is a human being. Because virtually none of the life advocates are willing to deny the minor premise, the main point of contention must be the major premise.

So, do the due process and equal protection clauses of the Fourteenth Amendment include all human beings? Based on the text of the Constitution, its repeated construction prior to *Roe*, explicit statements of the framers of the Fourteenth Amendment, and valid inferences from state practices toward abortion, we can answer this question in the affirmative.

The first section of the Fourteenth Amendment states: "Nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The problem is that the Constitution never defines the word "person." Justice Scalia, among others, rightly looks to context for guidance on the meaning of this term, and he finds no evidence that the word was intended to include unborn persons. In a speech delivered at Notre Dame in 1997 he pointed out that none of the references to "person" in the Constitution have

prenatal application. For example, the second section of the Fourteenth Amendment states that “representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed.” Because there is no evidence that the framers contemplated counting unborn persons for purposes of apportioning representatives, Scalia argues, they must not have understood “person” to include “unborn person.”

There are serious flaws in this argument, flaws that are attached to any contextual attempt to understand the meaning of the word “person” in the Constitution for due process purposes. The reason for this is that apart from the Fifth and Fourteenth Amendments every reference to person is context dependent—that is, each reference is intended to accomplish a particular limited purpose. Take Justice Scalia’s example. The means for determining numbers of persons in each state is regulated by the second section of the first Article of the Constitution. According to this passage, “actual enumeration” shall be made by Congress every ten years “in such manner as they shall by law direct.” In other words, Congress can determine by statute those who should be counted in the census for purposes of allocating representatives. Surely Congress could constitutionally include unborn persons in the census count, and with good reason, as the count might be more accurate. On the other hand, this might be an impractical enterprise. A clearer example illustrating this contextual problem is the eligibility requirement for holding office in the House of Representatives. The Constitution states, “No person shall be a representative who shall not have attained to the age of twenty-five years.” Does this mean that no persons under the age of twenty-five are protected by the due process clause? Of course not.

It is quite clear from the history of the Amendment that its framers did *not* intend to give Congress the power to determine personhood for due process and equal protection purposes. An early draft of the Amendment stated: “Congress shall have the power to make all laws which shall be necessary and proper to secure the citizens of each state all privileges and immunities of citizens in the several states, and to all persons in the several states equal protection in the rights of life, liberty, and property.” Several Republicans objected to this language because it would merely “effect a general transfer of sovereignty over civil rights from the states to the federal government, while effectively failing to limit the exercise of state power that had produced the black codes.” Instead, the framers of the Amendment chose to lodge the prohibition in the Amendment itself, while leaving Congress *corrective* power. The Amendment clearly does not give Congress plenary power over the meaning of the first section of the Fourteenth Amendment. The

strong implication of the text and history is that the courts would have a strong hand in enforcing its provisions. Scalia's interpretation is implausible and would effectively emasculate the Amendment.

Another prevalent and yet erroneous interpretation of the Fourteenth Amendment holds that its provisions are limited exclusively to blacks. This reading is supported by neither the text of the Amendment, the history of its framing, nor its subsequent application. The Amendment was aimed not only at the "black codes" of various states, which sought to effectively reduce freedmen to slavery while technically obeying the provisions of the Thirteenth Amendment, but also at the entire constitutional apparatus that placed the rights of persons at the mercy of oppressive state governments. (Remember, whites that supported blacks in their quest for freedom were also in danger of retaliation.) In other words, the framers were seeking a constitutional remedy for protecting the rights of persons when the states failed to do so. For this reason, they chose to use the term "person" rather than "blacks" as the object of protection in the text of the Constitution.

Abundant evidence from the congressional debates over the Fourteenth Amendment indicates that the framers intended the word "person" to include all human beings. For example, the author of section one of the Fourteenth Amendment, John Bingham, stated that "before that great law the only question to be asked of a creature claiming its protection is this: Is he a man? Every man is entitled to the protection of American law, because its divine spirit of equality declares that all men are created equal." And Senator Lyman Trumbull declared that the Amendment would have the "great object of securing to every human being within the jurisdiction of the Republic equal rights before the law."

The history of enforcement of the provisions of due process and equal protection clauses supports the argument that the provisions were not intended exclusively for freedmen. Indeed, the vast majority of Fourteenth Amendment due process cases that later came before the Court, even in the late nineteenth century, involved economic issues. The word "person" accordingly has been given a very liberal construction by the Supreme Court to include all human beings, be they minors, prisoners, aliens, enemies of the state, and even corporations. Indeed, apart from *Roe*, the Court has *never once* differentiated between "person" and "human being," nor has it ever excluded a human being from the due process protections of the Fourteenth Amendment. So it is a fair legal inference to say that if it can be demonstrated that an unborn child is a human being, then that child will constitute a "person" for Fourteenth Amendment purposes.

Notice that the minor premise of the syllogism above is only marginally

contingent upon historical analysis. The primary issue is ontological, not historical. Just as “the freedom of speech”—to use Justice Scalia’s example in *A Matter of Interpretation*—includes movies, radio, television, and computers, so the Fourteenth Amendment includes human persons whose personhood was not fully “discovered” when the due process and equal protection clauses of the Amendment were written. In other words, it doesn’t ultimately matter what past people thought about *when* human life begins, so long as they agreed—as they did—that at whatever point it begins, this is the point at which the protective powers of the state must be introduced. They did not have enough access to the scientific and biological facts of human reproduction and embryology to know for certain when life begins. But in a time of 4D ultrasound technology, when infants can be operated on while still in the womb, there is no room for dispute about the status of the fetus.

One objection to the unborn person interpretation is the lack of precedent to support it. The common law basis of our system embodied in the principle of *stare decisis* and the just requirements of consistency in applying the law demand a respect for precedent. To this objection I offer two replies. First, there *was* a federal court precedent for the unborn person reading of the Fourteenth Amendment before *Roe v. Wade*, though this fact was virtually ignored by Justice Harry Blackmun and the *Roe* Court. In *Stenberg v. Brown* (1970) a three-judge federal district court upheld an anti-abortion statute, stating that privacy rights “must inevitably fall in conflict with express provisions of the Fifth and Fourteenth Amendments that no person shall be deprived of life without due process of law.” After relating the biological facts of fetal development, the court stated that “those decisions which strike down state abortion statutes by equating contraception and abortion pay no attention to the facts of biology.” “Once new life has commenced,” the court wrote, “the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the state the duty of safeguarding it.” Yet in commenting on the unborn person argument in *Roe*, Justice Blackmun wrote that “the appellee conceded on reargument that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment.” He did so despite the fact that he had cited the case just five paragraphs earlier! The failure of both appellees and the Court to treat this case is both unfortunate and inexplicable. Second, while our system is based upon a reasonable and healthy respect for precedent, this has never prevented the Court from revisiting and modifying precedent when the erroneous foundation and unjust results of that precedent become manifest. Such is the case with respect to abortion and the Fourteenth Amendment.

The historical practices of the states both before and during the time the Fourteenth Amendment was ratified can serve as evidence of what the framers of that Amendment thought about its meaning. Clarification of this matter will also help clarify why the unborn person interpretation is different in kind from a “living Constitution” or “natural law” jurisprudence. The principle can be stated simply: the killing of an unborn human being has been universally condemned by Christendom, was a crime at common law, and was made a felony through all stages of pregnancy by the vast majority of the states in the latter half of the nineteenth century. There was virtually no debate about the principle; the only question concerned the facts: When does human life begin? What began as a standard of “quickening,” or the first perception of fetal movement (which, by the way, had nothing to do with “viability”—a term which is ultimately grounded in utilitarian notions of “meaningful life”) eventually became “conception,” as medical science revealed the nature of human reproduction, growth, and development.

Thus, at the urging of the American Medical Association, among others, states began to revise their statutes to accommodate the new scientific knowledge. As Justice William Rehnquist pointed out in his dissent in *Roe*, “By the time of the adoption of the Fourteenth Amendment in 1868, there were at least thirty-six laws enacted by state or territorial legislatures limiting abortion.” From this he concluded that “there apparently was no question concerning the validity of this provision or of any other state statutes when the Fourteenth Amendment was adopted.” As Justice Scalia himself points out, “By the turn of the nineteenth century virtually every state had a law prohibiting or restricting abortion on its books.” Significantly—and contrary to the assertions of several historians and legal scholars who were relied upon in *Roe*—abundant evidence indicates that these restrictions on abortion were passed with the primary purpose of protecting unborn children, and not merely to protect the health of the mother.

While this argument appears to provide stronger support to the “restoration argument” than to the “unborn person” argument, the appearance is only superficial. The framers of the Fourteenth Amendment did not intend to supplant the criminal codes of the various states. They merely intended to set conditions to those codes, the enforcement of which would be worked out primarily in litigation and secondarily in congressional enforcement. By the time the Fourteenth Amendment was ratified the states were well on their way toward enforcing its provisions with respect to unborn children. Moreover, other pressing concerns dominated the attention of the time period. *Roe* was the first case in which the issue of abortion had come directly before the Supreme Court, and it would have been a perfectly appropriate

time for the Court to affirm the proper extension of the protections of the Fourteenth Amendment to unborn persons.

Thus, the unborn person interpretation has nothing to do with broadening or narrowing legal concepts to meet ever-evolving standards of morality accessible only to privileged elites. In such cases judges usually broaden or contract the meaning of the legal concept itself, as when they argue, for example, that the right to “liberty” includes an absolute right to engage in behavior once regarded as legitimately subject to state “police power” regulations covering the right to contract, to view obscene materials, or to use contraception. In the argument above, the legal concept—the protection of all human beings—remains unchanged. The only change comes from the clear development in scientific knowledge about when human beings come into existence.

A final consideration goes beyond the scope of this paper, but deserves mention. One could concede the entire argument above and still object that the practical effect of the unborn person interpretation on the protection of unborn children would be minimal due to the “state action” doctrine. According to the extreme formulation of this doctrine, the Fourteenth Amendment only places limits upon state action, and does not reach private action. I will only state here that the narrow reading is not plausible, and is not supported by the continuous reading of that Amendment. Congress is clearly given the power in Section Five of the Fourteenth Amendment to remedy both hostile state action and state failure to secure the constitutionally protected rights of persons. The unborn person reading would make it constitutionally incumbent upon states to secure the basic rights of all persons in their jurisdiction without discrimination, and would enable Congress to pass remedial legislation protecting those same rights in states that fail to do so.

This would be a bold affirmation of the democracy our nation suffered through the agony of the Civil War to achieve, and whose principle is enshrined in the Fourteenth Amendment. If, then, as seems likely to happen in the near future, Congress passes and the President signs a ban on partial-birth abortion, the issue of abortion and the Constitution will again come to the forefront of national attention. We must not let this opportunity pass to boldly challenge the prevailing jurisprudence and its attendant epistemological and moral skepticism with respect to abortion.

In sum, we must be cautious that our legitimate fears of an overweening Court and “living constitutionalism” do not blind us to the proper constitutional and political response to the problem of abortion. Metaphysical realism regarding both the identity and the dignity of the human person is the fixed

point around which our political order revolves. Without it, there can be no resistance to the ever-encroaching influence of pragmatic and utilitarian conceptions of human dignity. This principle was given strong affirmation in the Fourteenth Amendment. While this Amendment was not intended to redress every social ill, its legitimate purposes certainly extend to the protection of unborn persons. We cannot afford to feign skepticism about the personhood of unborn children any more than an earlier age could afford to feign skepticism about the personhood of African-Americans.

Robert H. Bork

Professor Nathan Schlueter belongs to the “heart’s desire” school of constitutional jurisprudence: if you want something passionately enough, it is guaranteed by the Constitution. No need to fiddle around gathering votes from recalcitrant citizens. He is by no means alone. His school counts among its members a majority of the Justices of the Supreme Court as well as professors of constitutional law, but Schlueter’s closest counterpart is perhaps Justice Harry Blackmun of *Roe v. Wade* fame or ignominy, depending on your point of view. Blackmun and Schlueter have announced diametrically opposed constitutional rights, but both are made out of whole cloth. Blackmun invented a right to abortion, just as Schlueter has invented a complete prohibition of abortion. Though neither would care to admit the relationship, they are brothers under the parchment.

A dash of reality may be in order at the outset. The exercise in which Schlueter engages, while interesting and nobly inspired, is entirely irrelevant to the future course of the law. *Roe* had nothing whatever to do with constitutional interpretation. The utter emptiness of the opinion has been demonstrated time and again, but that, too, is irrelevant. The decision and its later reaffirmations simply enforce the cultural prejudices of a particular class in American society, nothing more and nothing less. For that reason, *Roe* is impervious to logical or historical argument; it is what some people, including a majority of the Justices, want, and that is that. If Mr. Schlueter were entirely correct in his constitutional argument, nothing would change. Only a shift in the culture, reflected in our politics, can make a change. Perhaps *Roe* may one day be whittled away by new appointees to the Court, though unless an unforeseeable cultural-political shift occurs, such candidates will have great difficulty in winning Senate approval. Dim as are the prospects for the demise of *Roe*, it is not imaginable that any Justice, let alone five of them, would rule that the Constitution prohibits all abortion, no exceptions. Schlueter’s argument will never be more than a curiosity.

The main outline of Schlueter's position is familiar. Again and again, pro-life advocates have said that the constitutional guarantee that life not be taken without due process of law, found in both the Fifth Amendment, ratified in 1791, and the Fourteenth Amendment, ratified in 1868, means, properly interpreted, that unborn children may not be deprived of life by abortion. That reading seems to me absurd. I think it clear that the Constitution has nothing to say about abortion, one way or the other, leaving the issue, as the Constitution leaves most moral questions, to democratic determination. I am, therefore, one of those whom Mr. Schlueter criticizes as restorationists: *Roe* should be overruled and the issue of abortion returned to the moral sense and the democratic choice of the American people.

The constitutional question is not what biological science tells us today about when human life begins. No doubt conception is the moment. The issue, instead, is what the proponents and ratifiers of the Fifth and Fourteenth Amendments understood themselves to be doing. It is clear that the Fifth Amendment's due process clause was intended to guarantee that no one be deprived by the federal government of life, liberty, or property without regular procedures. The Fourteenth Amendment made that guarantee applicable against the states.

Can those guarantees of fair and regular procedures be read as applying to unborn children who are deprived of life? Certainly not. When the two Amendments were proposed and ratified, abortion was known, had been known for millennia, and there had been arguments about whether life began at quickening or some other stage prior to birth. No one concerned in the adoption of these Amendments could have been ignorant of the fact that life did or could exist at some time prior to birth. Thus, if they intended to protect all human life, they would have known that the Amendments did, or very probably would, prohibit some category of abortions. It passes belief that nobody would have said so or raised the question for discussion, but the records are bare of any such question or discussion. The conclusion can only be that those who adopted these Amendments addressed only the rights of persons who had been born.

Indeed, the language of the Amendments strongly supports that understanding. The Fifth Amendment states that no "person" shall be held to answer for a capital or otherwise infamous crime except on presentment or indictment of a grand jury. Moreover, no "person" shall suffer double jeopardy for the same crime or be compelled to be a witness against himself. These all quite clearly apply only to persons who have been born since it is difficult to imagine an unborn child being charged with an infamous crime, or being tried twice for the same crime, or being required to be a witness

against himself. The due process clause follows immediately after those guarantees and refers to the same persons mentioned in the preceding clauses. Not even the most tortured interpretation of the due process clause in the Fifth Amendment can make it apply to the unborn.

The Fourteenth Amendment starts by referring to “all persons born or naturalized in the United States” and provides that they are citizens of the United States and of the state in which they reside. In the same section, it is provided that no state shall “deprive any person of life . . . without due process of law.” Since this due process clause was carried forward from that of the Fifth Amendment, one would think it referred to the same persons. That inference is supported by the Amendment’s speaking of persons born or naturalized. None of these categories include unborn children. Thus, both the history and the texts of the two due process clauses demonstrate that they have nothing to do with the issue of abortion.

Schlueter’s claim of historical support for his position fails; in fact, the material he cites cuts against that claim. He asserts that abortion was universally condemned by Christendom, a crime at common law, and a felony in the vast majority of states in the latter half of the nineteenth century. This is a curious argument. If all those assertions were true, that would say nothing about what the ratifiers of the Fifth and Fourteenth Amendments meant. Armed robbery was even more universally condemned, certainly condemned by Christendom, a crime at common law, and a felony in every state. That does not mean that the Amendments in question outlawed armed robbery.

Worse, Schlueter quotes then-Justice William Rehnquist’s dissent in *Roe*, apparently not noticing that the words undermine his argument. Rehnquist said: “By the time of the adoption of the Fourteenth Amendment in 1868, there were at least thirty-six laws enacted by state or territorial legislatures limiting abortion.” The crucial word is *limiting*. To limit conduct is to prohibit only some aspects of it while allowing the rest. It is impossible to suppose that the states ratified an Amendment they understood to outlaw all abortions but simultaneously left in place their laws permitting some abortions. If it is answered that people of the time thought that life began at some specific point after conception but before birth, and that that understanding was written into the due process clause, then the laws they left on the books should uniformly reflect that understanding. Schlueter makes no claim that the laws displayed any such uniformity, nor, so far as I know, does anyone else.

No better is the argument that the ratifiers meant to protect anybody who should later be discovered to be a person just as the commerce clause was subsequently applied to trucks that the ratifiers knew nothing of. There is no equivalence. We have already seen that there is not the slightest scintilla of

evidence for the proposition that the Amendments were designed to protect all human life, including the unborn. The commerce clause was designed to keep open trade between the states, and naturally it did not matter what instruments were used to conduct that trade. Interstate movements of trucks clearly fall within the principle the commerce clause was designed to vindicate. It is abundantly clear from text and history that abortion had nothing to do with the principle the due process clause was intended to establish.

When all else fails, it is always good to quote Lincoln. In this case, Schlueter quotes Lincoln about the evils of slavery and the rights of all men to self-government. The example is ill-chosen. Lincoln was not addressing a court or expounding the meaning of the due process clause. He was addressing the moral sentiments of the nation. Though it would have been highly useful to him, he never suggested that the Supreme Court could abolish slavery by a proper interpretation of the Fifth Amendment. At the time he spoke, the District of Columbia and some territories, all governed by Congress and so subject to the due process clause, had laws permitting and protecting slavery. Apparently no one, including Lincoln, imagined that that clause gave the federal courts the power to prohibit slavery. Yet a slave was surely as much a person as an unborn child.

If there were no other objections to Schlueter's reading of the due process clauses, it should be enough that for two hundred years, in one case, and almost a century and a half, in the other, nobody suspected that those clauses meant what Schlueter would have them mean, not the men who proposed them or those who ratified them. The presumption is overwhelmingly against any revolutionary interpretation of the Constitution that occurs this late in the day.

Schlueter correctly recognizes that he has a problem with the fact that the due process clause limits governmental action and not the actions of private individuals. Abortions are killings by private persons. Without some additional constitutional action, there is no way around this other than to say that what the state fails to forbid, the state affirmatively orders. That would make all private action state action. It would follow that no area of individual freedom is exempt from judicial control. Suppose you establish trusts for two of your three children, but, for reasons satisfactory to you, leave the third child out. He sues you for depriving him of property without due process of law and, because you favored the other children, of denying him the equal protection of the laws. If private action is state action, he has a colorable constitutional case, and the courts will decide whether your reasons for discriminating pass constitutional muster. The same thing would be true with

respect to any other actions of yours that somebody happened not to like. There is no exercise of individual freedom that could not be challenged under such a regime. The courts would make the rules for private conduct and legislatures would become largely irrelevant. That would turn the constitutional allocation of powers on its head.

Schlueter's solution is to have the Supreme Court declare all abortions violations of the due process clauses, and then have Congress enforce the ruling by legislating under section five of the Fourteenth Amendment. Aside from misuse of the due process clause involved, that solution assumes a judicial and social consensus antagonistic to all abortions so broad and intense as hardly to require such drastic action by Congress and the courts. *Roe* would be jettisoned and state legislatures would outlaw abortions. But the notion that any such anti-abortion consensus lies in any foreseeable future is a fantasy.

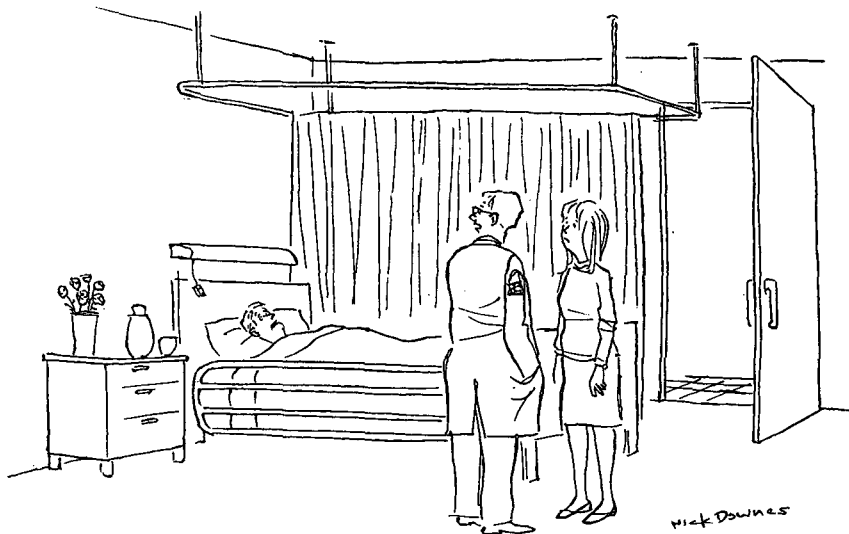
It is wrong to play word games with the text of the Constitution. Reading the word "person" to encompass all human life and thus to make abortion illegal is exactly like arguing that the Thirteenth Amendment's prohibition of "involuntary servitude" makes the military draft unconstitutional. A person drafted into the army against his desires is placed in a condition that looks and feels very much like involuntary servitude. Every so often a beginning law student of libertarian bent discovers this argument but is defeated by the fact that Congress continued to vote for conscription with not the remotest notion that it had already made the draft unconstitutional. Context governs. The Thirteenth Amendment was adopted to prohibit slavery or its equivalent. Not every obligation placed upon the individual by government or by other individuals amounts to involuntary servitude.

Schlueter persistently confuses science with law. Science and rational demonstration prove that a human exists from the moment of conception. What they do not prove is that existing law, addressed to different problems, must change with every advance of science. Minimum wage laws have been demonstrated by economics and empirical proof to cause unemployment or to price certain classes of people out of certain occupations. Rent control diminishes the amount of housing available and skews the occupancy of existing housing. In both cases, people may be said to be deprived of liberty or property without due process of law. Nevertheless, for reasons that may be thought discreditable, legislatures keep enacting such laws and there is no constitutional reason to say they may not.

Schlueter tries, wholly without success, to distinguish his position from "living Constitution" or "natural law" jurisprudence. But he ignores the plain text of the Fifth and Fourteenth Amendments and offers a patently irrelevant

version of history. Any judge who followed his prescription would be guilty of judicial activism at least equal to Roger Taney's in *Dred Scott* and Harry Blackmun's in *Roe*. Once we fall into the habit of sacrificing the integrity of law in the service of moral passions bad things are certain to follow, as our history abundantly demonstrates.

It will be best to notice only briefly Schlueter's remarks about Justice Antonin Scalia. As my argument to this point suggests, Scalia is quite right that the Constitution has nothing to say about abortion. He is also right that different persons and different societies make different value judgments about when life begins or when a fetus is entitled to moral respect. There is no point in ignoring that fact. Value judgments, contrary to Schlueter, are subject to rational discourse and people do change their minds as a result. I have changed my mind about abortion as a result of discussion. Though I am fairly sure that Scalia does not regard the beginning of life as an open question, a proper regard for the restraint proper to a judge prevents him from denouncing abortion in his opinions, as Schlueter thinks he should. Scalia needs no defense from me, but Schlueter should reflect that the proclivity to assault one's closest allies as insufficiently pure may be a symptom of the onset of fanaticism.



"Sure he's scared. You'd be scared too if I were your surgeon."

The Physicians' Crusade for the Unborn

Frederick N. Dyer

In 1857, while much of the nation was consumed with the issues that would soon lead to civil war, a young Boston doctor took action on another matter of life and death. Dr. Horatio Robinson Storer's effort, dubbed the "physicians' crusade against abortion," was wonderfully successful. As a result of diligent lobbying by Dr. Storer and his colleagues, state and territorial legislatures enacted stringent laws against unnecessary abortions, most of which remained in effect with little or no change for more than a hundred years. Perhaps just because it was so successful in placing abortion outside the pale, the physicians' crusade was largely forgotten until the 1970s, when it was exhumed from the archives and cited in *amicus curiae* briefs submitted to the Supreme Court. However, the people citing the physicians' crusade in these briefs were not pro-lifers but pro-choicers, and they used it in a most ingenious and disingenuous way.

Concern for the unborn child, they claimed, was not an important factor motivating these physicians to seek stringent abortion laws. These laws, the briefs argued, were passed primarily to protect women from a dangerous operation. Since physician-induced abortion was no longer dangerous in the 1970s, there was no reason to retain the laws against abortion. A majority of Supreme Court justices accepted these and other false claims in *Roe v. Wade* and subsequent cases with the results we have lived with ever since.

In 1989, as the Supreme Court was preparing to hear *Webster v. Reproductive Health Services*, a group of 281 professional historians provided an *amicus curiae* brief that extended the list of reasons why the nineteenth-century physicians opposed abortion. In addition to concern for women's health, their list included putting the "quacks" who performed many of the abortions out of business; increasing the numbers of "Americans," i.e. native-born citizens, who were having many fewer children than Catholic immigrants; and keeping women in traditional child-bearing roles. The brief acknowledged that "physicians were the principal nineteenth-century proponents of laws to restrict abortion," but it denied that concern for the unborn was one of their reasons. The life of the fetus, according to the brief, "became a central issue in American culture only in the late twentieth century."

Frederick N. Dyer, a retired research psychologist, is currently carrying out research for a book on the 19th century "physicians' crusade against abortion" which led to state abortion laws that typically remained in effect until the 1960s and 70s.

The authors of this 1989 friend-of-the-court brief found much of their ammunition in a history of nineteenth-century abortion published in 1978 by the historian James C. Mohr. Mohr's *Abortion in America* was much more honest than the *amicus* brief based on it. For example, Mohr wrote:

The nation's regular doctors, probably more than any other identifiable group in American society during the nineteenth century, including the clergy, defended the value of human life per se as an absolute. Scholars interested in the medical mentality of the nineteenth century will have to explain the reasons for this ideological position. . . . But whatever the reasons, regular physicians felt very strongly indeed on the issue of protecting human life. And once they had decided that human life was present to some extent in a newly fertilized ovum, however limited that extent might be, they became the fierce opponents of any attack upon it.

Mohr discussed this "personal" reason for physicians' opposition to abortion *after* discussing "professional" reasons such as eliminating "quacks" and controlling the practice of legitimate members of the profession. As a result, concern for the unborn appeared to the casual reader, perhaps including the three law professors who actually wrote the historians' brief, to be less important than these other concerns. Numerous subsequent authors would use the historians' brief as a guide and stress the incorrect claim that the nineteenth-century physicians opposed abortion for professional reasons rather than concern about the unborn child. (See Ramesh Ponnuru, "Aborting History," *National Review*, October 1995, 29-32. Reprinted in the Winter, 1996 issue of this journal.) However, anyone who reads Mohr's book carefully—or, better yet, reads the original articles and books by these pioneer pro-life physicians—can see that concern for the unborn was the *major* factor motivating the physicians' crusade against abortion. Mohr himself noted that "many fervent writings" by these physicians expressed their belief that abortion was "morally wrong," although Mohr provided few examples of these "fervent writings" in *Abortion in America*. In his chapter, "The Physicians' Crusade Against Abortion," he provided a single extended quote from an Illinois physician, James S. Whitmire, written in 1874:

Many, indeed, argue that the practice is not, in fact, criminal, because they argue that the child is not viable until the seventh month of gestation, hence there is no destruction of life. The truly professional man's morals, however, are not of that easy caste, because he sees in the germ the probable embryo, in the embryo the rudimentary foetus, and in that, the seven months viable child and the prospective living, moving, breathing man or woman, as the case may be.

That is clear enough, but not very fervent. Here, from the same article, is a more typical passage by Whitmire:

Persons who engage in this crime, whether they are professional or self-abortionists,

have lost all the natural instincts of humanity; they have neither principle nor good morals, and are, hence, an eyesore to society, a plague-spot upon communities where they exist—lepers, whose infectious breath undermines the very foundation of the morals of the people, and should not be tolerated for a single day, when and where they are known.

Mohr recognized the key role of Dr. Storer in launching the physicians' crusade and even included a picture of Storer in *Abortion in America*. However, Mohr provided only brief quotes from Storer, despite the fact that Storer wrote two committee reports, twelve articles, four books, and several editorials condemning criminal abortion. One Storer passage surely deserved repetition by Mohr, since Storer himself regarded it as his strongest statement of the essential issue. First used in his first article on abortion, published in the January 1859 *North-American Medico-Chirurgical Review*, it read:

If we have proved the existence of foetal life before quickening has taken place or can take place and all by analogy, and a close and conclusive process of induction, its commencement at the very beginning, at conception itself, we are compelled to believe unjustifiable abortion always a crime.

And now words fail. Of the mother, by consent or by her own hand, imbrued with her infant's blood; of the equally guilty father, who counsels or allows the crime; of the wretches who by their wholesale murders far out-Herod Burke and Hare; of the public sentiment which palliates, pardons, and would even praise this so common violation of all law, human and divine, of all instinct, of all reason, all pity, all mercy, all love,—we leave those to speak who can.

Storer repeated that long last sentence in his 1865 American Medical Association Prize Essay which in 1866 became the popular book *Why Not? A Book for Every Woman*. He repeated it again in his second popular book, *Is It I? A Book for Every Man*, published the following year. Thousands of these books were sold to the public, and many copies of *Why Not?* were distributed by physicians to their women patients. These popular books no doubt contributed much to the success of the physicians' crusade, which according to Mohr, produced a substantial decrease in the number of abortions, at least among married women.

If Storer was the first to organize a lobbying effort against abortion, he was far from the first to speak out on the subject. One of the earliest physicians to address the epidemic of criminal abortion was Hugh Lenox Hodge, Professor of Obstetrics at the University of Pennsylvania. Hodge spoke the following words to his medical students in 1839 and again in 1854, and the address was published on both occasions:

Would, gentlemen, that we could exonerate the moderns from guilt in this subject! It is, however, a mournful fact, which ought to be promulgated, that this crime, this

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mode of committing murder, is prevalent among the most intelligent, refined, moral, and Christian communities. We blush while we record the fact that in this country, in this city, where literature, science, morality, and Christianity are supposed to have so much influence; where all the domestic and social virtues are reported as being in full and delightful exercise; even here, individuals, male and female, exist who are continually imbruing their hands and consciences in the blood of unborn infants; yea, even medical men are to be found who, for some trifling pecuniary recompense, will poison the fountains of life, or forcibly induce labor to the certain destruction of the foetus, and not unfrequently of its parent.

So low, gentlemen, is the moral sense of the community on this subject—so ignorant are the greater number of individuals—that even mothers, in many instances, shrink not from the commission of this crime; but will voluntarily destroy their own progeny, in violation of every natural sentiment, and in opposition to the laws of God and man.

Storer praised Hodge's anti-abortion efforts in his January 1859 article, and a few months later he selected Hodge to be a member of the American Medical Association's Committee on Criminal Abortion, which Storer chaired.

In January 1851, the Rhode Island physician John Preston Leonard published in the *Boston Medical and Surgical Journal* a long letter that included this passage:

Besides these bills of mortality, the records of criminal courts will furnish sufficient proof that this crime is every day becoming more prevalent. It is humiliating to admit that there are a class of physicians who, Herod-like, have waged a war of destruction upon the innocent. Though their motives are not the same as those which instigated that cruel king, they are no less murderers for that. If there is any difference, they are worse than Herod. He was influenced by popular clamor and bigotry; these quacks do all for money, and such could be hired to burn out the eyes of infant princes.

In his letter, Leonard recommended that the American Medical Association deal with the problem of criminal abortion and that the states pass strong laws against it. In many respects, Leonard's letter was a blueprint for the crusade Storer launched six years later.

Horatio Storer's father, David Humphreys Storer, was Professor of Obstetrics and Medical Jurisprudence at the Harvard Medical School. In November 1855, he gave a lecture at the Medical School whose final section dealt with criminal abortion. In 1859, Horatio cited his father's lecture as a major stimulus for his anti-abortion "undertaking." In that lecture, David Storer had said:

To save the life of the mother we may be called upon to destroy the foetus in utero, but here alone can it be justifiable. The generally prevailing opinion that although it may be wrong to procure an abortion after the child has presented unmistakable

signs of life, it is excusable previous to that period, is unintelligible to the conscientious physician. The moment an embryo enters the uterus a microscopic speck, it is the germ of a human being, and it is as morally wrong to endeavor to destroy that germ as to be guilty of the crime of infanticide.

In January 1860, the New York physician Augustus Kinsley Gardner published what may have been the first *popular* article dealing with criminal abortion. The article, "Physical Decline of American Women," was published in the *Knickerbocker*, a New York literary magazine with national circulation. Gardner first dealt with the bad effects women experienced from lack of exercise, late hours, improper clothing, and "sins against one's own self," i.e. masturbation. He then moved on to criminal abortion:

This is a theme from which we would gladly shrink, both from the delicacy of the subject and from conscious inability to treat it as it deserves; to bring before you the most horrid social enormity of this age, this city, and this world, and to hold it up to you in such a light as to make you all feel it, in its craven cowardice, its consequent bodily, mental and moral degeneracy, its soul-destroying wickedness. We look with a shudder upon the poor ignorant Hindoo woman who, from the very love of her child, agonizes her mother's heart, when in the fervor of her religious enthusiasm she sacrifices her beloved offspring at the feet of Juggernaut or in the turbid waves of the sacred Ganges, yet we have not a pang, nor even a word of reprobation, for the human sacrifices of the unborn thousands annually immolated in the city of New-York before the blood-worshipped Moloch of fashion. From no excess of religious faith in even a false, idolatrous god are such hecatombs of human beings slain, but our women, from a devotion to dress and vain pride of outward show, become murderers of their own children, and do literally in their own bodies become whitened sepulchres [sic], pallid, with the diseases consequent upon such unrighteous acts, and sepulchral in thought and tone of voice from the remorse which always follows a guilty action.

Gardner's jeremiad against women who sought abortions continued for three full pages. He further condemned abortion and abortion seekers in a popular book, *Conjugal Sins Against the Laws of Life and Health and Their Effects upon the Father, Mother and Child*, published in 1870. Several other physicians published books for the general public with chapters condemning criminal abortion. One exceedingly popular book was *Plain Facts For Old and Young*, by John Harvey Kellogg, M.D., the inventor of Corn Flakes. Kellogg quoted extensively in his abortion chapter from Gardner's 1860 article and from Horatio Storer's books. Kellogg also described the following conversation he had had with a woman patient who had requested an abortion:

A number of years ago, a woman called on the writer, stating that she had become pregnant much against her wishes, and earnestly desired that an abortion should be produced. The following conversation ensued:—

"Why do you desire the destruction of your unborn infant?"

“Because I already have three children, which are as many as I can properly care for; besides, my health is poor, and I do not feel that I can do justice to what children I now have.”

“Your chief reason, then, is that you do not wish more children?”

“Yes.”

“On this account you are willing to take the life of this unborn babe?”

“I must get rid of it.”

“I understand that you have already borne three children, and that you do not think you are able to care for more. Four children are, you think, one too many, and so you are willing to destroy one. Why not destroy one of those already born?”

“Oh, that would be murder!”

“It certainly would, but no more murder than it would be to kill this unborn infant. Indeed, the little one you are carrying in your womb has greater claims upon you than the little ones at home, by virtue of its entire dependence and helplessness. It is just as much your child as those whose faces are familiar to you, and whom you love.”

Other physicians related similar conversations in which they offered to kill an existing child, since it would be safer for the mother than having the abortion she requested. Most indicated that this approach—which vividly reminded their patients that abortion both constituted murder and was dangerous to the mother—was effective in persuading the woman to bear her child.

Several Catholic physicians argued in published papers, articles, and books that even when the mother’s life was endangered, the fetus must not be sacrificed. Typically, these received short shrift from other physicians, including some who also were Catholic. The latter doctors refused to sacrifice both the fetus and the mother when there was a chance the mother could be saved by an abortion.

Discussions of society’s loss from abortion abounded in physicians’ writings. The Illinois physician H.A. Pattison read a paper in 1907 in which he made the claim that abortion at any period after conception was “a crime against life and against society.” He cited as “proof” the hypothetical case of “an obscure family named Lincoln” living in a Kentucky log cabin.

The mother of this family had many duties and cares. At a certain time she became pregnant. Suppose that for some reason she felt it too much to go through the long period of gestation, the perils of maternity, and the cares of motherhood, and had submitted to an abortion. Abraham Lincoln would never have been born, and that obscure woman would have committed the greatest crime ever perpetrated against this republic.

Physicians’ concern for the unborn continued throughout the nineteenth century and well into the twentieth. Hundreds of physicians published articles, letters, and editorials in medical journals that defended the unborn from earliest conception and condemned the seekers and providers of

unnecessary abortions. Many of these physicians also expressed concern about dangers to the mother and about changes in the national character as a result of the higher birth rates of immigrants, who were not seeking abortions. But for almost all of them, these concerns were subordinate to their concern about the killing of unborn human beings. Storer and many others recognized that some women would not be persuaded by moral arguments and recommended that their physician readers appeal to women's concerns about their own health as a way to persuade them to have their children. The issue of the national character was also viewed as a means to influence legislators who might not be fully convinced of the immorality of abortion. As to eliminating "quacks" and controlling the practice of legitimate members of the profession, when these were mentioned, it was as tactics for reducing the number of criminal abortions, not as strategies that were served by opposing abortion.

It might be asked whether there were any physicians who called for legalization of abortion. The New Jersey physician Isaac Skillman Mulford urged in 1855 that abortion before quickening should be allowed—or more correctly, continue to be allowed, since many states at that time did not make early abortion a crime. Mulford argued this point in a letter to the *New Jersey Medical Reporter* in April 1855, in which he claimed that "nature sometimes fails in her purposes; her attempts to attain a certain result proving to be abortive, a true conception does not take place; a living, growing being is not produced in the womb, but instead thereof there exists a mere rude, unformed, unorganized mass of matter." Mulford indicated that only after the contents of the womb are definitely known to be a living being must abortion be avoided. For Mulford, it was "quickening"—the point in the pregnancy when fetal motion could be felt by the mother—that established that life existed. In 1889, a call for general legalization of abortion was published in the New York-based *Medico-Legal Journal*; however, the author was probably a lawyer and not a physician.

In an 1892 article, Charles H. Harris, M.D., of Cedartown, Georgia, proposed exceedingly liberal indications for abortion and described a pair of devices for snaring the embryo or fetus. In March 1893, Dr. F.W. Higgins, of Cortland, New York, published a call for legalization of early abortion while the form of the embryo "still remains that of a cat or dog." There may have been one or two others advocating legal abortion in general or early in pregnancy before 1900, but our attempt to comprehensively review all articles on abortion in medical journals has located only those mentioned above.

Calls by physicians for legalization of early and even late abortion became

slightly more prevalent in the early 1900s. A New York City gynecologist, M. Rabinovitz, called for legislation in 1914, although he maintained that every effort should be made to persuade the woman to have her child. Another New York City physician, Morris H. Kahn, published a paper advocating "The Legalization of Abortion" in 1927. Abraham Jacob Rongy argued in 1931 that legal abortion was a "social necessity." William J. Robinson advocated legal abortion in 1933 in an article and a book. Frederick J. Taussig switched from opposing all unnecessary induced abortions in 1910 to recommending socioeconomic factors as indications for abortion in the 1940s.

However, even in the 1940s and 1950s there were fervent pleas by physicians on behalf of the unborn and fervent condemnations of unnecessary abortions. The New Jersey obstetrician Samuel A. Cosgrove might have been a reincarnation of Horatio Robinson Storer. He believed the unborn child was being inappropriately sacrificed in almost all therapeutic abortions. At an American Medical Association symposium in June 1947, Cosgrove spoke of the need to instill high ethical standards in the medical profession. His discussion included the following statement:

Nowhere does this ethical sense have more direct bearing than in relation to abortion. Widespread and indiscriminate abortion is a major factor in puerperal mortality. It is believed to be best controlled by retention of the ethical recognition that the fetus is a human being with all the potentialities of every human being; that its destruction is murder, only justifiable in the most extreme circumstances involving direct and imminent threat to the mother's life.

Cosgrove's articles and symposium discussions caused a sharp reduction in the high rate of therapeutic abortion in hospitals across the country. A Samuel A. Cosgrove Memorial Lecture is presented each year by the American College of Obstetricians and Gynecologists. However, the organization that annually honors Cosgrove, in view of other of its actions and pronouncements, apparently no longer honors his view of the fetus.

When physicians like Rabinovitz, Kahn, Robinson, Rongy, and Alan Guttmacher wrote in favor of liberalized abortion laws, they did not mention the pleas for the unborn by Hodge, Storer, or the other pioneer pro-life physicians. They typically did not even mention their existence. Taussig was an exception. In his 1936 book, *Abortion, Spontaneous and Induced, Medical and Social Aspects*, Taussig admitted that Hodge had decried abortion as "one of those unnatural and horrible violations of human and divine law which cannot be too severely stigmatized and deserves condign punishment." However, the reason Taussig mentioned Hodge was that Hodge "advised induction of abortion in cases of contracted pelvis where a viable child cannot be born." Taussig did not qualify this by mentioning that, at the time Hodge

was writing, the caesarean section was fatal to the mother more often than not.

Alan Guttmacher was guilty not only of overlooking history, but of distorting it. He repeatedly claimed that the "Father of Medicine," Hippocrates, while instructing physicians to not perform abortions, contradictorily advised a woman how to achieve the same result herself. Guttmacher did this fully knowing that the ancient Greek physician who prescribed jumping up and down to empty the uterus was *not* Hippocrates of Cos, who wrote, according to one translation: "I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect. Similarly, I will not give to a woman an abortive remedy."

It must be conceded that even at the height of physician opposition to abortion, unnecessary abortions continued at a high rate, with the bulk of these being obtained by married Protestant women.

The reasons for the continuing prevalence of induced abortion are complex. Many newspapers, including some religious newspapers, carried thinly veiled advertisements for drugs that were presumed to cause miscarriages, and these ads made women aware that abortion could be induced and led them to believe that this was no major crime. Protestant clergy typically were unwilling to raise the issue in their sermons.

However, high as abortion rates were, they would have been even higher if it weren't for the laws that dissuaded some women from seeking abortions and restrained many physicians who might otherwise have provided them. Of even more importance was physicians' persuading women seeking abortions to continue their pregnancies. Dozens of physicians echoed John Harvey Kellogg in describing how it was the physician's duty to convince women that they should not have abortions. Many reported large successes, including Frederick Taussig, who claimed that he was able to persuade almost one-half of the married women requesting abortions to have their babies instead. If you, the reader, are of Protestant stock going back 100 years in this country, the odds are good that you have at least one ancestor who was born alive because his mother heeded such counsel.

Not the least factor in keeping the rate of unnecessary abortions from being even higher was the Catholic clergy. Catholic readers can thank their grandmothers', great grandmothers', and great great-grandmothers' priests for their own existence. Storer noted the rarity of abortion among Catholic women in 1859 and reported that there had been no change when he wrote in 1868. He gave credit for this fact to the Catholic confessional, as did numerous other physicians, including Alfred A. Andrews, of Windsor, Ontario. In a paper published in the *Canada Lancet* in June 1875, Andrews noted the

similarities between the Catholic confessional and the doctor's private office:

I had for many years noted and wondered at the fact that, of the married women who sought my co-operation, nearly all were Protestants. Being myself a Protestant of the broadest Orange stripe, and not ready to acknowledge any marked moral inferiority in my co-religionists, I was for a long season puzzled, but I think the solution is this. The Pulpit is debarred, but the Roman Catholic Priesthood have in their confessional an opportunity of instructing and warning their flock. Protestant women do not go there, but we, and we only, have the private confidential ear of the whole sex, and it is, I conceive, our duty to lose no opportunity of diffusing the information we possess in this regard. Let us purify the moral atmosphere. Let us make the whole sex know that it is murder, when the embryo is but four weeks old, as completely as if the nine months of foetal life had been reached or passed. We have a duty to perform, and we have countless opportunities of doing it.

The essays and speeches quoted in this article are a minuscule fraction of the fervent defenses of the unborn written by physicians between 1839 and 1947. James Mohr immersed himself in this sea of fervency and at least mentioned its existence. It is unfortunate that he did not quote more of these examples himself, and that he did not name Chapter 6 of his *Abortion in America* "The Physicians' Crusade for the Unborn," instead of "The Physicians' Crusade Against Abortion." This might not have affected the outcome of *Roe v. Wade* and subsequent Supreme Court decisions, given the prevailing mindset in political and judicial circles in the 1970s and '80s. But it would at least have made it impossible to maintain that a majority of physicians who wrote on this subject were primarily motivated by a desire to protect women from a dangerous operation, or by a desire to protect themselves from competition. Their primary goal was to awaken men and women alike to the powerful claims that unborn children have upon their parents and upon the community.

Winning Friends and Saving Lives

Mary Meehan

I grew up in a home where we fiercely debated great issues of the day around the dinner table. Excelling in stubbornness and sheer fighting spirit, we were another version of the Fighting Irish.

Our lively arguments taught us that current events were important and that we should have some passion about them. Yet there were disadvantages in our free-for-alls. Each of us was so eager to win arguments that we didn't listen carefully to others' points of view, or discuss issues in such a way that we all learned more about them. Nor were we adept at persuading (as opposed to bludgeoning) others to our position.

As we matured, we learned that a quiet discussion is often more helpful than a rousing argument; yet perhaps we also lost some of the youthful passion that energizes societal change.

This common experience has bearing on the question of how to persuade people to defend the lives of unborn children. How can we talk about abortion in a way that wins hearts and minds? Should we moderate our language and the images we use? Can we do that without softening our convictions, losing our edge, and postponing action—while unborn children die by the millions?

I hope to show that we can win over people who are ambivalent and even bitter adversaries—and save many lives—by thoughtful choice of words and tactics, by listening more carefully to our opposition, and by telling better and more hopeful stories than they tell.

The Iceberg Problem

Whether to defend the unborn is for Americans a crucial personal decision as well as a political one. “Shall I defend my own unborn child? Shall I protect my unborn niece or nephew? My grandchild? How can I do that while also protecting the interests of the child's mother, whom I deeply love?” This is the way—consciously or subconsciously—that many people first faced abortion. Various pressures and fears, though, may have prompted them to phrase the questions in a more self-interested way: “How can I pay the bills? What will this do to my career? She's unmarried—What will the neighbors think? How will I explain this to my friends and the folks at church?”

Those who failed to defend the child to whom they were related are

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unlikely to defend other unborn children now. And those who actually had or encouraged abortions may feel guilty, or believe their decision was the only one they could make at the time, or simply not want to think about it at all. We are speaking here of tens of millions of people. Many others, while not directly involved, know someone who has had an abortion. According to a *Los Angeles Times* poll, 52 percent of the U.S. adult population have had abortions themselves or know someone who has.¹

Abortion complicity is the great iceberg just below the surface of the abortion debate. Some abortion foes sense this when they criticize abortion in private conversation and meet silence or evasion. Or they bump right into the iceberg when friends respond with stories about abortions they had or facilitated, which is embarrassing, to say the least, and often leads to decisions to keep quiet about the issue. Those who are publicly active against abortion face the same iceberg: many people are defensive about their decisions and resent pro-life activists, finding it difficult to listen to them with an open mind.

Yet there *are* ways to reach such people. Canadian pro-life writer Denyse Handler once suggested allowing them to “bury the past”: one might say, “No doubt, we all did what we thought was right, but with what we know now, we simply can’t go on doing this. We have to move away from abortion and re-examine our thinking towards the unborn child.”²

Not everyone, of course, did what they thought was right; but some did. Others acted under great psychological or economic pressure, so that their decisions were not entirely free. If they now feel they are under personal attack, they’ll keep defending what they have done. And this is one reason why occasional suggestions of a “Nuremberg Trial” for abortion promoters are misguided. They simply encourage people to harden their positions, to dig in and resist the pro-life case at all costs. Nuremberg proposals also ignore our constitutional ban on any *ex post facto* law—a law which makes a crime of an act that was *not* a crime when committed.³

Many people who have been involved in abortion suffer great remorse and guilt. Clergy, mental-health professionals, Project Rachel, and the Centurions can help them.⁴ But those who have been involved in abortion must be able at some point to move beyond their history. They can’t delete the past, but—as Denyse Handler suggested—they can be helped to bury it.

When I speak in defense of unborn children before a college group, I say early in the talk that some in the audience have probably had abortions or helped others have them; that I’m not trying to make them feel bad or send them on a guilt trip; but that I ask them to reconsider the issue because there are still many lives at stake every day. I believe this gives them the relief of knowing that they are not under personal attack and enables them to listen to my case.

Emphasis on specific alternatives to abortion is a great good in itself, and also a way to acknowledge that many people who have chosen abortion have acted under great pressure, and that no one close to them even suggested an alternative.

The Messenger as Part of the Message

“Don’t *say* things,” advised Ralph Waldo Emerson. “What you *are* stands over you the while, and thunders so that I cannot hear what you say to the contrary.”⁵ Excellent advice for those whose private lives conflict with their public positions.

When pornographer Larry Flynt sought to embarrass members of Congress who were trying to remove President Clinton from office in 1999, he produced an affidavit from an ex-wife of then-Representative Robert Barr, Republican of Georgia, who had been outspoken against abortion. His ex-wife said that, when they were still married and had two other children, he had once driven her to an abortion clinic and paid for her abortion. “Bob never told me not to have the abortion, or that he was in any way against my having the abortion,” she declared. Barr did not deny the specifics of her account, but said he had “never suggested, urged, forced or encouraged anyone to have an abortion”⁶ . . . a feeble response. If he regretted his complicity, he should have said so.

A respect for humans of all ages ought to be obvious in those who speak for unborn children. Former Representative Jack Kemp, a New York Republican, and his wife Joanne, who brought up four children of their own, provided a small but telling example of this. In 1996, Kemp, who had a strong pro-life record, was running for vice president on a ticket with former Senator Robert Dole, the Kansas Republican. A San Diego woman attended a Dole-Kemp rally with her husband and their five young children, finding a place in the front row. “When the rally was over,” the woman said, “the crowd began to push its way to the front, and my children began to cry with fear.” Joanne Kemp

passed by, immediately noticed our children and asked what was wrong. She stood by us until her husband came by shaking hands. He, too, immediately noticed our little children down below and yelled to the crowd to stop pushing. He then picked each child up and carried each one to the safe arms of his wife. She whisked them up to the stage, where they remained safe until the crowd cleared. Mrs. Kemp stayed with my children, and Mr. Kemp returned to make sure all was well. . . .⁷

A small story, perhaps; yet it is always heartening to see people so gracefully practice what they preach.

On the more heroic level, we might think of Dr. Albert Schweitzer and

Mother Teresa, and of the many pro-lifers who have adopted special-needs children. While we can't all be heroes and saints, we *can* do our best to help children and others in need.

Quaker founder George Fox said, "Let your life speak"⁸: to Fox's advice we might add, "Let your *love* of life speak, too." When the person who presents the case for life is a warm human being, with a zest for life and a love for humanity, his message is clearly enhanced. Helen Alvare, the attorney who was for years the Catholic bishops' pro-life spokeswoman, once said that people are attracted to your message "in direct proportion to whether" they are attracted to yourself. "Do they like people like you?" she asked. ". . . Do they like the world view you're selling? Do they want to live there?"⁹

Respect for the person is a bedrock of the right-to-life position. It ought to lead to courtesy and respect for one's adversaries as well. This is not selling out or conceding anything on issues; indeed, it makes the pro-life position more attractive by showing it in practice. John Naughton, former chairman of Right to Life of Montgomery County, Md., and a tireless writer of letters to editors, has demonstrated this on many occasions. Responding to a long-time adversary in one letter, Naughton declared: "Even if the Supreme Court should declare Mr. Doerr and all pro-abortionists to be non-persons, that would not lessen their right to life, liberty and pursuit of happiness; and right-to-life groups would defend their lives."¹⁰ The late Dr. Joseph R. Stanton of Brighton, Mass., a veteran pro-life leader, once wrote an open letter to culinary superstar Julia Child in response to her support of abortion and Planned Parenthood. After a serious discussion of the issues, he expressed his good will toward her by saying, "May your souffles not collapse and *Bon Appetit!*"¹¹

The Language of Life

Words can open doors, or slam them shut. They can feel like salve for one's wounds, or a kick in the stomach. They can appeal to "the better angels of our nature,"¹² or make us angry and bitter. There are no magic answers to the question of which words are best in discussing abortion: there is, after all, a built-in tension between being honest about the reality of abortion and holding an audience long enough to win them over. While tact is important, if overemphasized, it can lead to euphemisms (such as "pro-choice") that obscure reality and deaden conscience.

There is much to be said for choosing neutral words for dialogue and debate, words that do not make everyone pause and fight over semantics for half an hour before resuming discussion. It is better to describe abortion as "homicide," "killing" or the "taking of human life" than to use the word "murder." (Technically, by the way, murder means *unlawful* killing; most

abortions in the U.S. today are, unfortunately, lawful.)

Some people worry that they will make a philosophical concession if they use the term “abortion clinic,” as they believe the word “clinic” means a facility that provides benevolent health care. Yet the word is often used in non-medical contexts—a “reading clinic,” a “golf clinic” or an “auto clinic,” for example. It is better, I think, to use the relatively neutral “abortion clinic” or even the negative “abortion mill” than “abortuary.”

However, the term “pro-choice” should *not* be used. Doris Gordon, national coordinator of Libertarians for Life, uses “abortion choice” instead, believing that it is “important to name the choice.” (She doesn’t use the term “abortion rights” because, she says, abortion is a wrong—not a right.)¹³

In what may be the most important word-controversy of all, we should always say “unborn child” instead of “fetus.” Fetus is a Latin word for “fruit,” “produce” or “offspring.” But as someone once said, for most people the word suggests “a specimen in a laboratory.”¹⁴ There is no reason to accept an effort by political thought-police to dehumanize the unborn.

Hit 'Em Over the Head with a 2 x 4?

For years there has been controversy over using color photographs of aborted children in public protests. No one should be surprised that abortion supporters hate pictures showing the ugly and violent reality of abortion, but many opponents of abortion also cringe when they see them. They have long since internalized the pictures; they are haunted by them. Little wonder that they hate to see them again. Pro-life activists may also mistakenly assume that nearly everyone else has seen the pictures. Or, based on their own experience, they may believe that the pictures alienate more people than they convert. And many, having been taught good manners by their parents, may think it rude and unfair to thrust such ugliness on another person without prior warning.

One major objection, though, is that the pictures may traumatize young children, making them even more fearful of the real world than they may already be. Julianne Loesch Wiley, for example, has written and spoken widely against abortion; she has taken part in sit-ins and sidewalk counseling at abortion clinics. She used to go to the annual March for Life in Washington, D.C., but she stopped after she married and had her first child, because she feared the child would be traumatized by seeing large photos of aborted children. She wants to be sure that her children have “a lot of experiences with things that are good, true and beautiful and normal and lovely and holy . . . before they get exposed to anything that’s ugly and perverted.”

Wiley stressed that she does not object to the pictures themselves; in fact,

she believes they are quite valuable. But she thinks that “they have to be presented in the correct context, or else they are literally obscene.” She approves the practice of pro-lifers who treat them as pornography—keeping them in brown paper wrappers, showing them only after warning people of their shock potential. “It takes a certain amount of balance and discernment,” she said. “But I think that’s a step in the right direction.”

How about showing them to politicians who vote to keep abortion legal and even to fund it with government money? Should they see what they are funding? Wiley is all for that; she believes “you should make it a mission to go to them frequently and show them personally.”¹⁵

Gregg Cunningham, executive director of the California-based Center for Bio-Ethical Reform, makes a strong case for using the pictures in public. He sends huge trucks bearing photos of aborted children (and the word “Choice”) out to cruise freeways during rush-hour, and he has recently hired planes to pull banners with similar pictures over public beaches and sports stadiums.

Cunningham, like Wiley, is a veteran pro-lifer. A lawyer, he worked against abortion as a state legislator in Pennsylvania and helped end public funding of abortion in Colorado. He has studied the history of social reform in America and believes that shocking pictures are a key to winning reform.

Cunningham is convinced that Americans, because of their own complicity in abortion, pretend “that first-trimester abortion is the lesser of two evils” and “a necessary evil if it’s evil at all.” The pictures “settle the facts” by demonstrating “the humanity of the unborn child” and also show that “abortion is an evil of such immensity that it should be outlawed.” He says that his group constantly hears from women who had intended to abort their children, but were so shocked by the pictures that they decided against it.

He acknowledged that many people “feel very threatened by this information” because they are “in *massive* denial,” and believes that “you’ve got to break through all of that denial if you’re going to educate those people. And pictures are by far the most effective way of doing that.” Given the lack of sympathetic news and entertainment media, he said, his group must “force-feed these facts into the heads of people who don’t want the information.” He added that such people “are going to get very angry at us for forcing this information on them” but insisted that “this information has to be thrust on people, which is exactly the way social reform always advances.”

But what about the effects on small children? Cunningham noted that “we won’t take these pictures to elementary schools; we won’t take them to daycare centers, playgrounds, places where obviously every passerby is going to be a young child. But the idea that we can only show these pictures publicly if we can guarantee that no young child will ever see them holds us

to an impossible standard.” He commented that young children are “traumatized every time they’re taken to the supermarket and pushed in shopping carts past magazine racks displaying cover photos of airliners’ exploding into skyscrapers or Israelis and Palestinians killing each other.”

Cunningham also suggested that abortion foes who oppose display of the shocking photos in public “really need to sit down and ask themselves, ‘Am I pro-life, or am I pro-feelings?’”¹⁶ (This seems unfair to me: the concern is not about mere feelings, but about psychological trauma.)

On the other hand, one could argue that small children may be more aware of and more threatened by abortion than many people realize. One psychiatrist said: “I have had children who suffer from night terrors and who fear to fall asleep because they overheard their parents discussing an abortion they had or planned to have. These children fear they may be gotten rid of the next time they make their parents angry.” Two doctors who have studied the effects of abortion on surviving siblings wrote that abortions often are “pseudo-secrets” in families and that children often know or sense that a sibling has been aborted.¹⁷

Are there ways of imparting the basic reality of abortion without running into censorship in the media? Line drawings of D & X or “partial-birth” abortions seem to have great impact in the debates over that gruesome practice. Such drawings have been carried in publications that rarely, if ever, show photographs that include the blood and gore.¹⁸ A verbal description of D & X abortion by nurse Brenda Pratt Shafer, who witnessed three of them, has also been very effective.¹⁹ The same methods can and should be used to describe other types of abortion.²⁰

One of Gregg Cunningham’s programs, the Genocide Awareness Project, does warn people of what lies ahead and gives them a chance to turn away. Designed especially for university campuses, the project involves large panels with blown-up photos of genocide: the 1890 massacre of the Sioux at Wounded Knee by U.S. soldiers; lynchings of African Americans; the death camps of Nazi Germany; massacres in Cambodia, Rwanda and former Yugoslavia; and abortion. Cunningham said that “morbid curiosity draws people” to these displays: “the most effective way to draw people to our display site on the university campus is to warn them to not come . . . If you put up signs all around the display, as we do from blocks away, warning people that there are graphic genocide images ahead, that draws people like a magnet.” But he believes that “we can have a much greater effect on many more people” by using the trucks and airplanes.²¹

It seems to me that those who show the shocking photos in public should also show photos of newborn babies, to remind people that there’s a beautiful

alternative to the death-dealing of abortion. Without that reminder, the photos of aborted children may sink too many of us into depression and despair.

Tactics of Intimidation

Julianne Wiley commented on another controversial practice. A front-page story in the *Wall Street Journal* (May, 2002) described abortion foes who photograph women going into abortion mills and then send the photos to be posted on Internet web sites. A recent check of the main site featured in the *Journal* article showed that the activists are photographing not just women, but also male escorts, male security guards and male abortionists.²² This technique of intimidation may deter some people from having abortions or working for abortion clinics, but it probably also hardens the attitudes of abortion supporters, reinforcing their view of abortion foes as mean-spirited religious fanatics. The *Journal* article quoted an activist/photographer who screamed at one woman and her escort, "Your sin won't be hidden or forgotten."

In Wiley's view, the photography/Internet combination "just blows apart the sense of safety in the sidewalk environment" so that "you're never going to be able to do sidewalk counseling there." Those who have done such counseling "know what a long, sensitive, patient process it takes to get people to allow you to approach them on the street at all. You have to have a very welcoming aspect." She also thinks that people "are rightly indignant and rightly feel intimidated or even threatened" when they are photographed and their image is posted on a web site without their permission.²³

The problem of people who yell or scream when protesting at clinics is an old one. Their total numbers may be relatively small, but they make life difficult for the larger group of activists who try to counsel women and to establish a dialogue with clinic staff in order to persuade them to quit their jobs.

Why do these people scream? Some may do it simply to relieve their own frustration and anger, acting in self-indulgence and not really caring about the results. Some may do it partly from guilt. The screamer described in the *Journal* article was a man who many years earlier had paid for the abortion of his own child: perhaps he was, at a deep level, screaming at himself. Other activists cannot control this sort of thing; but they can at least try to persuade the screamers that they are doing more harm than good.

Listening to the Opposition

One sign of respect for one's opponents is simply to listen to what they say. Listening can also help to refine and make more effective one's own statements. Doris Gordon not only listens, but also invites criticism from her opponents within the libertarian movement. "I pick their brains" she once

said. She understands that “you need to explain things in different ways very often until people get something. You need to try to say it this way and then try to say it another way, come at it from a different angle.”²⁴

It is important to listen to opponents’ personal stories as well as their arguments. When someone volunteers information about an abortion they had or encouraged, it’s appropriate to ask whether they considered alternatives. This is particularly the case with public figures who mention their personal experience. I will deal with several of their stories here, both because there may be a chance of converting them—and *any* chance of doing that shouldn’t be missed—and because dealing effectively with their stories can win others over to the pro-life side.

Columnist James J. Kilpatrick once wrote a rather angry article supporting legal abortion. He recalled that many years earlier, as a young reporter covering a medical examiner’s office, he had seen “the body of a beautiful girl, maybe 16 or 17, lying on the stainless-steel table of the morgue. She had tried abortion by knitting needle, and had died in the agonies of peritonitis.”²⁵ U.S. Representative Corrine Brown, a Florida Democrat, remembered a similar horror. When she was only five years old, she attended the funeral of a cousin who had been pregnant and “couldn’t face the possibility of being a single mother with another child.” Her cousin had committed suicide by eating potash. “What I remember most vividly about her funeral,” Rep. Brown said, “is that she had swelled up so much her body had to be stuffed in the casket. It was the most horrific thing I’ve ever seen.”²⁶

While we certainly should express sympathy for the women who died and for those who were deeply affected by seeing them, we should also ask whether the women had any positive support from family or friends or doctors. Didn’t *anyone* suggest ways of helping both mothers and unborn children? If not, isn’t *that* the place where work is needed?

Washington Post columnist Richard Cohen has written countless pieces supporting abortion. Perhaps the most important, though, was one in which he described how he once helped a woman obtain an illegal abortion. Cohen was about 22 at the time, and apparently living in New York City. The woman “was the former girlfriend of a friend who had left town.” She “turned to me and I turned, as you did then, to the underground. For \$400 and the carfare to Union City, N.J., the deed was done. It was dirty work. . . . We did what we had to do and went on with our lives.”²⁷ Feminist leader Betty Friedan arranged illegal abortions for a number of friends in New York in the 1940s. “I myself never had an abortion,” she wrote many years later, “though I personally accompanied several of these friends to scary, butchery back

rooms, and shared their fear and distrust of the shifty, oily, illegal operators, and sat outside the room and heard the screams and wondered what I'd do if they died, and got them into the taxis afterward."²⁸

Cohen and Friedan were right in wanting to help their friends; but they should have helped their friends' unborn children as well. It's ironic that some people who are fairly sophisticated, and who don't view themselves as "scarlet letter" enforcers, are nearly as panicked by unwed pregnancy as are the women involved. Instead a friend in this kind of situation should be calm, steady, and encourage nonviolent alternatives.

Some personal stories don't involve abortion directly, yet have bearing upon it. Former U.S. Representative Patricia Schroeder, a Colorado Democrat, had two difficult pregnancies, one of which led to the loss of twins. A third pregnancy ended successfully in the birth of a daughter, but Schroeder suddenly had a severe hemorrhage and came close to dying. When she recovered after many weeks in the hospital, doctors told her, "We don't want to see you here again. Another baby could kill you." But when, during an abortion debate, Schroeder told congressional colleagues about these experiences, "hoping to enlighten certain colleagues who seemed to think pregnancy was simple, I was stunned when some responded that if I was 'malformed,' I should have had a hysterectomy."²⁹ Schroeder had such a strong ideological commitment to legal abortion that I doubt greater sensitivity from pro-lifers would have changed her position; but it might have made her somewhat less vehement.

Kate Michelman, president of NARAL Pro-Choice America, was married and had three small daughters when her husband left her for another woman in 1970. "He also walked out of my daughters' lives," she said. Shortly after he left, Michelman discovered that she was pregnant again. In desperate financial condition, and feeling that "the very survival of my family was at stake," she had an abortion.³⁰ She tells her story in public, and I suspect that it has a paralyzing effect on many politicians.

But when I asked some pro-life women how they would have advised Michelman, if they'd the chance, they gave many good answers. Julianne Wiley was sympathetic, recalling her own times of feeling like "a single-engine, single-pilot airplane being buffeted around in an electrical storm, losing my radio and my radar, you know, and realizing that I was not in a position to make good decisions." She also said that Michelman's ex-husband "aborted the family" and "probably has about 95 percent of the moral responsibility for that abortion."

Wiley and others said they would have helped Michelman obtain support from her family, friends, church and especially from other women. Wiley

suggested that Michelman could have organized a sort of posse to pursue her ex-husband—“to go after him legally and to go after him socially” so that he would pay child support “and so that his role as the destroyer of the marriage and the abandoner of the children would be acknowledged.”³¹

Serrin Foster, president of Feminists for Life of America, said that Michelman’s story “actually inspired me personally to work for” stronger child-support-enforcement as part of welfare reform.³²

Helen Alvare would have surrounded Michelman with other women who had been through the same situation and who could help her throughout her pregnancy. What Michelman needed most of all, Alvare suggested, was “unconditional emotional support.”³³ And Sister Paula Vandegaer, executive director of International Life Services, asked whether Michelman had family or friends who would have helped her raise her children, adding “I would have tried to help her draw on the sources of her strength.” Vandegaer said she should have “fought for her rights as a mother and as a woman and had her child and received all of the support that she deserved.”³⁴

Worried Fathers and Playboy Politicians

The abortion experiences of the late Senator Barry Goldwater, Republican of Arizona, and former Senator George McGovern, Democrat of South Dakota, were not generally known while they were in office: *had* they been, the senators probably could not have run for President. In the mid-1950s, when abortion was illegal except for life-of-the-mother cases, one of Goldwater’s daughters became pregnant while in college. Although she had already planned to marry the child’s father, the young couple didn’t want to have a child at the beginning of their marriage. Goldwater tried to persuade his daughter not to have an abortion; when she persisted, he arranged an illegal one for her. The experience undoubtedly had major impact on his later, extremely ambivalent, and ultimately pro-abortion political stance.³⁵

Former Senator McGovern, long after he left the Senate, wrote a moving account of his daughter Teresa (Terry) and her long struggle with alcoholism. It ended in the 1990s, on a December night in Madison, Wisconsin, when she “left a Madison bar that night, stumbled into the snow, and froze to death.” McGovern revealed that in the 1960s, when Terry was only 15, she became pregnant by an emotionally-unstable boyfriend. Earlier, the boy had severely wounded himself in a suicide attempt, after she had “refused his advances.” The McGoverns’ family doctor, with her parents’ acquiescence and despite Terry’s ambivalence, arranged an abortion for her. McGovern said that his daughter had feared her pregnancy “and yet did not want to terminate” and that an “important part of Terry was devastated by the

abortion.” It would be wrong to attribute her alcoholism to abortion alone—she had started drinking when she was 13—but the abortion certainly didn’t help. Yet Senator McGovern supported legal abortion when it became a political issue in the 1970s.³⁶

There is also the category of playboy politicians whose extramarital affairs sometimes result in abortion.³⁷ They have special reason to promote legal abortion as a benefit for women rather than for themselves. Might some, though, have guilty consciences?

Telling Better Stories

In lobbying politicians, pro-life constituents can be more effective if they remember that the politicians may have confronted abortion in their own lives. Here, again, an emphasis on non-violent alternatives can be helpful. Instead of simply arguing, the constituents might tell their own stories about hard-case pregnancies that turned out well for all concerned: a teenage mother who is coping skillfully and completing her education; a Down Syndrome child who is much loved by all and is making progress in school or work; the help a crisis pregnancy center gave someone like the young Kate Michelman or the young Terry McGovern.

Some of the best stories are by no means the exclusive property of proliferators. Stories about people who have disabilities or difficult childhoods, and nonetheless have good and fulfilling lives, are a great antidote to the gloomy belief that difficulties in childhood predestine one to unhappiness and failure later on. A. J. Cronin, the late Scottish novelist, once said “I had a miserable boyhood. I was an unwanted child and we were very poor.” Yet he was able to become a doctor and to practice medicine in a mining town, which led to Cronin novels such as *The Stars Look Down* and *The Citadel*, protesting the miserable working and health conditions of the miners, and to his successful writing career. His other novels included *The Keys of the Kingdom*, *The Green Years* and *Shannon’s Way*.³⁸

Elizabeth Lipscomb, unlike Dr. Cronin, never became well-known or prosperous. But those who wonder about the fate of abandoned babies should ponder her story. Born in 1922 to an unmarried teenager in rural Virginia, she was left on the doorstep of poor tenant farmers who had no other children. After a lonely childhood, she married another tenant farmer and brought up four children of her own. She never had an easy life. But a reporter who visited Lipscomb after her retirement found that she enjoyed reading, watching television, visiting with her children and grandchildren, and going to church. She liked looking out her window at the changing colors of autumn to see, she said, “what God has done with an almighty paintbrush.” Lipscomb

remarked that “I’m glad I lived, and I’ve loved life.”³⁹

Dr. Benjamin Carson, an outstanding pediatric neurosurgeon, was a child of poverty and divorce. His mother suffered from depression, but she was determined that her two sons would succeed in school and in life. She insisted that they do their regular homework and also made them read library books each week and write reports on them for her. “And she couldn’t read!” Dr. Carson recalled years later. “But I didn’t know that!” He became a fine student, later a great surgeon. He and his wife started the Carson Scholars Fund, which provides encouragement and scholarships to outstanding students.⁴⁰

Karin Muraszko was born with a relatively mild case of spina bifida, but one that required surgery and a leg brace. Like Carson, she grew up to become a neurosurgeon. She once told the *New York Times*, “Because of my handicap, patients open up to me. I can understand their pain and encourage them to get beyond it . . .” One of her former patients told the *Times*, “I never noticed she was handicapped. All I know is that she was the best doctor and the kindest person I ever met.”⁴¹

There are also stories from the front lines of the abortion war, where women and children are often saved from abortion at the last minute by sidewalk counselors. A Shield of Roses group in California supplies much material aid as well as counseling. In one of its cases, a woman ran into an abortion clinic while her husband or boyfriend stopped to talk with a counselor about the couple’s problems. They had two other small children, and the pregnancy was unexpected. “Besides,” said the father, “where am I going to put another car seat? My car, which is falling apart, can only hold two car seats on the rear seat.” “You’re going to abort because you don’t have room for another car seat?” the counselor asked. “If this is what you need, we’ll get you another car.” The father found a bargain car, and Shield of Roses bought it for the family. The couple named their baby Christopher.⁴²

One Minnesota woman is especially grateful for Pro-Life Action Ministries counseling she received many years ago. It persuaded her not to abort her child, now a teenager. Each July she visits the group’s office to deliver a rose and a thank-you card in celebration of her child’s birthday.⁴³

Maryland’s Gabriel Project once heard from a young pregnant woman who had been thrown out of her home by her parents, and was calling from a pay phone. The project quickly found a “shepherding family” to take her in and a church to help her in other ways before and after her child’s birth. The woman later said that she had “found hope when I thought all hope was lost.”

Often a woman’s parents change their views after others step in to help. A Gabriel Project staff member said that “we’ve seen a lot of reconciliation take place between kids and their parents,” when the grandchild who had

been rejected “becomes that little bouncing baby on the grandparent’s lap” and “a real source of healing for a lot of people.”⁴⁴

Stressing the Positive in *Their* Principles

While it is always tempting to attack the weaknesses of one’s opponents, it’s often better to stress their positive principles and show how these should lead to protection of unborn children. Defense of the little guy against the powerful, the historic position of the political left, should always lead to defense of the unborn—who is smaller, less powerful, poorer or more vulnerable than the unborn child?

Feminists celebrate the strength and ingenuity of women, their ability to overcome all sorts of obstacles in life. Women really can handle crisis pregnancies; they can deal with children and careers at the same time. (To the extent that society still makes this difficult, it is *society* that needs to be changed, not women.) The sisterhood that feminists celebrate should always extend to their unborn sisters, too. It certainly did in the minds of early American feminists such as Susan B. Anthony and Elizabeth Cady Stanton. And it does today in the work and writing of feminists such as Sidney Callahan, Mary Krane Derr, Serrin Foster and Rachel MacNair.⁴⁵

Peace activists know they must offer alternatives to the violence of war, such as conflict resolution, better diplomacy, nonviolent resistance and civilian-based defense. This ought to make them receptive to nonviolent alternatives to abortion, and draw them to help the work of crisis pregnancy centers, for example.

The writer George Weigel has emphasized the point that legalized abortion goes against our American history, which is one of expanding “the community of the commonly protected” to include religious dissenters, African Americans, women, poor people, and people with disabilities. He adds that the “defenders of the rights of the unborn are the true inheritors of the American liberal tradition in its quest to draw more widely the boundaries of the American commons.”⁴⁶

Socrates Had a Splendid Idea

One historian of philosophy wrote that Socrates was a “perpetual student because there was always something more for him to learn, at least one more question to ask.”⁴⁷ His “Socratic method” of questioning also helped others to learn. But in the commotion of intellectual battle, we sometimes forget that a question may be more effective than a declaration or a long speech. Placing one or two good questions in someone’s mind may do more good than an hour’s debate.

A thought-provoking question for a politician might be: “But *why* are you personally opposed to it? What is it about abortion that bothers you?” For someone who discusses the issue in a totally abstract way: “Have you actually seen the results of abortion? If not, would you be willing to look at a couple of pictures?” For a lawyer: “Given both abortion and euthanasia, I wonder if we’re headed for a time when the only people with legal protection of their right to life will be the powerful—those who need it least?” For a psychologist or teacher: “Have you considered the effects of abortion on small children? Don’t you think that knowledge of it might terrify them?” For a liberal: “Hey, whatever happened to standing up for the little guy? And why not consider a nonviolent approach to this issue?”

The 21-Gun Salute

Dialogue alone will not win the day for unborn children. Constant political pressure is needed. So is economic pressure in the form of boycotting businesses that support abortion and medical “charities” that support embryonic and fetal research. Also needed are marches and rallies—and a constant presence at the places where unborn children die.

However, dialogue must remain a key part of all these efforts. To the extent that it is calm and steadfast, kind but truthful, it *will* win hearts and minds and save lives.

When a friend indicates a change of heart in favor of the unborn, or when a politician starts voting right, the occasion should be noted and celebrated. Here pro-lifers can learn from the practice of the late Lyndon B. Johnson, when he was the Democratic majority leader of the U.S. Senate and Dwight Eisenhower was the very popular Republican president. Johnson explained that the Democrats prodded Eisenhower “into doing everything we can get him to do, and when he does something good we give him a 21-gun salute.”⁴⁸

After the salute, they prodded him again.

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Women Deserve Better

Kathryn Jean Lopez

⁶⁶“Women deserve better. Women deserve better.”

Serrin Foster repeats that refrain as often as she can—and has for some nine years at Feminists for Life of America, where she has served as executive director and now as president. The message is simple, but potentially revolutionary.

The message is that abortion hurts women. Of course, this comes as no surprise to women who *know* abortion—either firsthand or through painful observation and education—but they don’t often talk about it. That’s why some women (and men) in the pro-life movement are now sponsoring a “Women Deserve Better” advertising campaign designed to make women think about what they are doing to *themselves*, as well as to their unborn child, when they choose to have an abortion.

Tending to both victims of abortion is not entirely without precedent. Groups like Project Rachel have ministered to women for years, with a decidedly and devotedly pro-life (re: anti-abortion) message. The Caring Foundation has run woman-centered television commercials in several states over the last decade. But now, 30 years after *Roe v. Wade*, this woman-centered message is at the heart of a big new advertising effort made possible by an unprecedented coordination of groups who oppose abortion.

The “Women Deserve Better” campaign, launched earlier this year, is sponsored by a coalition which includes Feminists for Life, Life Resource Network’s Women’s Task Force, the Second Look Project, Women and Children First, Solidarity With Women/Priests for Life, and the Silent No More Campaign, co-sponsored by NOEL (National Organization of Episcopalians for Life). An associated campaign, sponsored by the Knights of Columbus and the pro-life office of the U.S. Conference of Catholic Bishops, reads: “Abortion is a reflection that we have not met the needs of women. Women deserve better than abortion.” It’s all part of a public educational effort “highlighting the failure of abortion to meet the needs of women,” according to the “Women Deserve Better” literature. “The campaign is a long-term effort to refocus the nation on the reasons why women feel pressured into abortion and to promote women-centered solutions to these problems.”

Sleek, smart brochures and posters and other promotional materials are aimed at catching the eye of the young woman who may not be picking up a

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pro-life brochure at church. See, for instance, a chic Gen-Xer with a nose ring. Now, nose rings, obviously, aren't every young woman's thing, but if they are, that shouldn't keep the pro-life message from reaching her. The look and feel of the campaign just exude coolness. And requests from college students for Feminists for Life buttons and such ("Refuse to Choose" stickers, for instance) suggest that a "cool" packaged message about abortion is getting through to its target audience. If the idea of a trendy appeal sounds silly, well, consider this: Abortion has been marketed to this generation as a necessary lifestyle choice, another buying decision as it were. If a trendy appeal gets the "Women Deserve Better" life-and-death message to one more college gal—that's the point, isn't it? It's the right message.

The campaign is trendy in another way, too, inasmuch as it takes the feminist position that abortion "empowers" women and turns it on its head. Here, for example, is an ad produced by Feminists for Life, who developed the "Women Deserve Better" slogan (with no focus grouping!); the ad features television star Patricia Heaton, honorary chairwoman of Feminists for Life:

Every 38 seconds in America a woman lays her body down, feeling forced to choose abortion out of a lack of practical resources and emotional support.

Abortion is a reflection that society has failed women.

There is a better way.

Another Feminists for Life ad would answer any concerns that their woman-centered focus is not wholeheartedly just as much about unborn children as it is about women and motherhood. In it a beautiful young woman named Rebecca speaks:

Did I deserve the death penalty?

My "crime" was being conceived through rape. So the next time you hear people talking about "exceptions" to abortion for rape and incest, think of me.

My name is Rebecca.

I am that exception.

Question abortion.

The goal of the "Women Deserve Better" program and the Feminist for Life efforts, more generally, is to refocus the debate about abortion—by challenging feminists to tell the truth. "We need a comprehensive review of the reasons that drive women to abortion in order to holistically solve this national tragedy," Serrin Foster wrote in the Summer 2001 issue of *The American Feminist*, the Feminists for Life's quarterly.

As Cathy Cleaver, spokesman for the Catholic bishops on life issues, says, "For thirty years the abortion experiment has been dominated by a public debate that embraces an utterly false dichotomy: women versus children. Pro-lifers are seen as those who fight for unborn children, pro-choicers as those who

fight for women. Women and children are of course natural allies, not enemies, and pro-lifers fight for women every day, but the terms of the debate have been set, and they have held . . . the other side of the abortion debate has offered up the false assumption that abortion is good for women, and the culture has swallowed it. It is time to challenge this assumption head-on.”

It’s a significant challenge to those who call themselves feminists. Dead babies aside—pro-abortion feminists have long made clear those lives are not a compelling interest as far as they are concerned—for more than 30 years, abortion advocates (among whom feminists are the most vocal) have ignored the dangers of abortion. They have, in fact, often gone out of their way to ensure that questions are not raised, and information is nowhere to be found when women consider their so-called choice.

The “Women Deserve Better” message—whether it be on TV, in a magazine ad, on a billboard, or incorporated into a magazine article or lecture—is one women don’t hear often if at all. A case in point (one out of countless candidates): In its *Roe* anniversary issue this year, *Glamour* magazine quoted a Minnesota ob-gyn, saying, “abortion is such an easy, safe way to terminate pregnancies, yet women were dying for lack of safe abortions,” recalling life before *Roe v. Wade* ostensibly “liberated” women. Here was a medical professional instilling fear in the hearts and minds of the magazine’s young readers. The Right wants your only choice to be a coat hanger, she implied, as she began reciting a litany of pre-*Roe* horror stories. *Roe*-loving ob-gyns and “women’s magazines” rarely, if ever, recount the post-*Roe* horror stories—women who’ve died, or suffered serious physical and/or emotional injury from abortion.

Typical was the Red River incident in Fargo, N.C.

The Red River Women’s Clinic was distributing a pamphlet to potential customers that said, “Anti-abortion activists claim that having an abortion increases the risk of developing breast cancer and endangers future child-bearing. *None* of these claims are [*sic*] supported by medical research or established medical organizations.” (Emphasis in original.)

Amy Jo Mattson, a sidewalk counselor, obtained a copy of the pamphlet and subsequently filed suit against the clinic for false advertising. Ultimately, she lost the case. The judge ruled that since a sufficient number of legitimate authorities have determined that there is no abortion-breast cancer link, the clinic was in the clear.

The jury, however, is still out on the possible relationship between cancer and abortion. Indeed, the latest National Cancer Institute fact sheet—the one the Red River Women’s Clinic cited in their brochure—says the evidence to date is “inconclusive.” When a panel convened by the NCI recently

reached the conclusion that there was no link, a New York *Times* editorial was typically gleeful in its dismissal of any and all concerns about abortion and women's health. For the likes of the *Times*, any convenient study is one more propaganda tool for fooling women and bashing the pro-life movement. However, despite protests from the media that anyone looking into the linkage between abortion and breast cancer is perpetrating a "war against women," scientific question-raising is making a facing-of-the-facts unavoidable—as readers of the *Human Life Review* well know (e.g., see "Women's Health After Abortion," Fall 2002).

The woman-focused philosophy that undergirds the "Women Deserve Better" campaign—along with the miracles of modern technology that allow women and men to see the wonder of human life in its earliest stages—is the most compelling the pro-life movement has taken up, possibly since *Roe v. Wade*. As Serrin Foster—who regularly travels to college campuses as well as to Capitol Hill—explains the guiding principle of her group: The mission is "to be a red carpet so that people can reconsider abortion." Just recently she was approached by a medical student after delivering a college lecture. The young woman claimed to be not just pro-choice, but an activist, and an activist who *wanted to be an abortion provider*—something very rare among medical students who mostly want to avoid the controversy associated with the issue and practice. But, she said, Foster's hour-long lecture had been a catalyst for a change of heart. The young woman had never heard anyone talk about abortion like Foster did. Foster, and other women who share her message, hear that a lot.

As abortion-advocacy groups bend over backward to pretend they are not for abortion—most recently by changing their names (the National Abortion Rights Action League is now NARAL Pro-Choice America and the Center for Reproductive Law and Policy is now the Center for Reproductive Rights)—they're eventually going to have to face women—and their own hypocrisy—when it comes to abortion. The idea of post-abortion syndrome, that women suffer emotionally after abortion, despite feminist claims to the contrary, is gradually beginning to penetrate the mainstream, in part thanks to star power.

Former model Jennifer O'Neill was a guest on *The View*, a women's coffee-klatch-style daytime talk show, earlier this year. In a subsequent interview with a reporter for Focus on the Family's *Citizen* magazine, O'Neill described her television appearance, in which she'd talked about the pain she suffered from having an abortion, as being in "a den of iniquity."

She said: It was just very difficult; I couldn't get a word in edgewise. Once you're in

the midst of pro-choice individuals, sometimes it is hard to get your message across, especially if they become protective, in terms of making any moves to change [abortion] by legislation.

I was merely there trying to be the voice of those who have had abortions, since I've written two books and have been traveling in the last five years, with the amazing opportunity to speak to thousands and thousands of individuals who have the same cry I did. We quite often feel that we're alone in that pain and don't even understand the devastating aftermath of abortion.

How do we change that perception? Thirty-year-olds today have never known anything in their lifetime other than abortion-on-demand. I think there is a misconception of the connection between "pro-child" and "pro-woman." They are one and the same. Women who have an abortion under duress, under stress, or [from] buying into the concept that they are sold—are usually uninformed. They do not know the truth, the facts, their risks. They've been sold a bill of goods that is so anti-woman.

At a recent *Roe v. Wade* anniversary event, O'Neill, a spokeswoman for the "Silent No More" campaign of Episcopalians for Life, said: "I have suffered an abortion, so I know firsthand the years of emotional, physical, mental and spiritual pain of that experience. . . . Of course, our lost children are the cornerstone of our concern, but we would be remiss to forget those left behind." The "Silent No More" campaign seeks to encourage women to speak out about their abortions. Says O'Neill, "to have the opportunity to encourage and comfort hearts of women who have suffered is humbling."

Getting Hollywood on board is no small feat, and it's a focus the folks involved in the campaign intend to continue to foster, knowing the power of Hollywood's widely encompassing influence. Hearing former "Cover Girl" model Jennifer O'Neill—who many Congressmen probably remember from the 1971 movie *Summer of '42*—talk about the agony of her reluctant decision to abort—which led to nine subsequent miscarriages—is a jolting experience they are unlikely to forget.

Patricia Heaton, Emmy-award winning star of CBS's *Everybody Loves Raymond*, is also someone people pay attention to. The married mother of four boys, Heaton, primary spokeswoman for the "Women Deserve Better" campaign, views abortion as a "human-rights issue." During a book tour last fall, she told Fox News Channel's Bill O'Reilly: "The early feminists were pro-life. And really abortion is a huge disservice to women, and it hasn't been presented that way." She continued: "As Feminists for Life, what we're trying to do is support women, and so what we want to do is . . . reach women on campus—college campuses—so that, when they get pregnant, they can find housing. They can find money they need to stay in school." Heaton is an articulate, passionate voice and a perfect fit for Feminists for Life. A classic Heaton moment came when she won her first Emmy in 2000.

“First I just want to thank God for thinking me up,” she said, “and my mother for letting me come out, because life is really amazing.”

Actress Margaret Colin, best known for her role in the film *Independence Day*, is also publicly pro-life. Speaking on Capitol Hill this summer, Colin addressed a pro-life gathering sponsored by Feminists for Life: “While many will remember the 40 million American children that were never born, I want us to also remember the 25 million women and girls in America today who have personally experienced an abortion.”

Colin continued:

I want you to remember a 13-year-old African-American named Dawn Ravenell, who skipped junior high one January day in 1985 to have an abortion. She died 3 weeks later having never regained consciousness from this legal procedure. Which part of safe, legal, and rare would this be?

I want you to put yourself in the shoes of Marion Syverson, who was raised in a very abusive environment. At age 15, she sought assistance from a local church when she found herself pregnant. Instead of help, Marion was handed \$150, so she thought that God wanted her to have an abortion. She wanted to have her baby—where were the resources to rescue her from that abusive family? We let her down. We didn’t give her a place to go, a phone number to call, a safe haven. We could have saved her from the abusive situation and helped her to make choices about her pregnancy. Is abortion the best we could do for her?

I want you to remember Guadalupe Negron, who sought an abortion at age 33 because she thought her husband would not be able to afford another child. After infection set in, one limb after another was amputated until she died, leaving her husband and 4 children motherless. Didn’t she have a right to know assistance is available for women in exactly this situation?

Colin told the gathering: “This is violence against women. This is the failure of medicine to help and heal. This is the failure of our American society to help and protect women. We need to address the reasons that women seek abortions and help them find the resources that are available to ease their situations, to coordinate the resources nationwide.”

Fortunately women—especially the most vulnerable—increasingly see through the disingenuousness of the abortion-advocacy groups. The Internet has helped make that possible. Websites like the PASS Support Site (www.afterabortion.com), run by volunteers since 1998, provide an anonymous connection for women who need to talk about their post-abortion pain and guilt but don’t know anyone they feel comfortable talking about it with, or don’t think anyone they know will “get it” (See “Virtual Healing” in the Spring 1999 *Human Life Review*).

The following post, which appeared on an “after abortion” blogsite on National Appreciation Day for Abortion Providers earlier this year, is typical of

many on the Internet on such websites (the typos are typical, too):

your post was very descriptive and i feel for you and know EXACTLY what you are going through, i too feel this deep deep sadness inside of me that is wrecking every aspect of my life, my hubby is sick of hearing about it, i try to FUNCTION but is getting harder when i feel so griefstricken, i too know about putting on a brave face and then dying inside, i too know about being two people, one who looks happy, helps others and then the other who cries, doesn't want to get up in the morning, hides away, is full of a deep self loathing, who can't bear to be touched because somehow it hurts, it hurts not physically but mentally, it's weird i don't like sex as i assoixate it with my ab, but at the same time i need that closeness with my hubby, sexwise, sleeping together, it isn't healthy for our relationship, i don't want to lose him, but i am pushing him and people away, like i don't deserve love and happpiness etc etc, i derserve to be sat alone in my house all day not seeing anyone but my hubby when he gets home, it isn't healthy for me, anyway i am going off on a tangent, have you thought of meds? counselling etc, i am taking meds again as i have been very very low, i think they may be helping somewhat too just cope and function with everyday life. i am seeing a counsellor this week also, what that will achieve i don't know, all i know is i have to try to deal with this iinstead of pushing it away, it's hard as it is all i ever think about . . .

Makes you appreciate not abortion providers and their enablers but truthtellers.

It's about time so-called feminists be forced to face the facts, that without the truth about what they are getting themselves into, many women are among the abortion casualties in a real war against women. It's a holistic approach—to femininity, motherhood, and the dignity of human life, at every stage.

This reckoning is happening at a time when more young women than not appear to be questioning abortion. (It's no accident, and perhaps the recent decline no coincidence, that Feminists for Life, for instance, has focused attention on college outreach.) Because college women are most likely to have abortions, this is a remarkably significant audience and an important success. A recent article in the *New York Times* ("Surprise, Mom: I'm Against Abortion," March 30) noted,

A study of American college freshmen shows that support for abortion rights has been dropping since the early 1990's: 54 percent of 282,549 students polled at 437 schools last fall by the University of California at Los Angeles agreed that abortion should be legal. The figure was down from 67 percent a decade earlier. A *New York Times*/CBS News poll in January found that among people 18 to 29, the share who agree that abortion should be generally available to those who want it was 39 percent, down from 48 percent in 1993.

Mercifully, it looks like the time for feminist silence and spin is running out. For the most innocent—the unborn—it couldn't come soon enough.

Overcoming Motherhood

Christine Rosen

To invoke Prometheus, the figure of Greek myth who was punished by Zeus for stealing fire from Hephaestus and giving it to humans, has become a popular warning against scientific hubris in our new age of biotechnology and genetic engineering. But the second half of the Promethean myth offers a further warning: Prometheus's defiant act led Zeus to dispatch a woman, Pandora, to unleash her box of evils on the human race—and thus eliminate the power differential that access to fire briefly had given mankind.

Pandora's box of dark arts is an apt metaphor for human reproductive technologies. Despite being hailed as important scientific advances and having succeeded in allowing many infertile couples to have children, the next generation of these technologies offers us a power that could prove harmful to our understanding of what motherhood is. This new generation of reproductive technologies allows us to control not merely the timing and quantity of the children we bear, but their quality as well. Techniques of human genetic engineering tempt us to alter our genes not merely for therapy, but for enhancement. In this, these technologies pose moral challenges that are fundamentally different from any we have faced before.

Contemporary human reproductive technologies range from the now widely accepted practice of in-vitro fertilization (IVF), where physicians unite egg and sperm outside the woman's body and then implant the fertilized egg into the womb, to sophisticated sex selection techniques and preimplantation genetic diagnosis of disease and disability in embryos. Today, for-profit clinics, such as Conceptual Options in California, offer a cafeteria-like approach to human reproduction with services such as IVF, sex selection screening, and even "social surrogacy" arrangements where women who prefer not to endure the physical challenges of pregnancy rent other women's wombs. New techniques such as cytoplasmic cell transfer threaten to upend our conceptions of genetic parenthood; the procedure, which involves the introduction of cytoplasm from a donor egg into another woman's egg to encourage fertilization, could result in a child born of three genetic parents—the father, the mother, and the cytoplasm donor—since trace amounts of genetic material reside in the donor cytoplasm. Doctors in China recently performed the first successful ovary and fallopian tube transplant,

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from one sister to another, which will allow the transplant recipient to conceive children—but from eggs that are genetically her sister's, not her own.

The near future will bring uterus transplants and artificial wombs. Scientists at Cornell University are perfecting the former, while researchers at Juntendou University in Tokyo, who have already had success keeping goat fetuses alive in artificial wombs for short spans of time, predict the creation of a fully functional artificial womb for human beings in just six years. Cloning technologies eventually could fulfill even the most utopian of feminist yearnings: procreation without men via parthenogenesis, something that excited the passions of Simone de Beauvoir in 1953. "Perhaps in time," she mused in *The Second Sex*, "the cooperation of the male will become unnecessary in procreation—the answer, it would seem, to many a woman's prayer."

De Beauvoir was correct to identify women's hopes as a powerful force in modern challenges to old-fashioned procreation, but these hopes also pose serious ethical challenges. Contemporary feminism's valorization of "choice" in reproductive matters and its exaltation of individualism—powerful arguments for access to contraceptives and first-generation reproductive techniques—offer few ethical moorings as we confront these fundamentally new technologies. In fact, the extreme individualism of the feminist position is encouraging women to take these technologies to their logical, if morally dubious conclusion: a consumer-driven form of eugenics.

The primacy of choice

Our biotech era has exposed a serious contradiction in feminist thinking: Feminists want women to maintain absolute control over reproductive decisions, but thus far their arguments have rested on a feeble hope that women will not choose to do detrimental things. They have failed to construct a plausible and stable ethical basis upon which to make morally sound decisions about human reproductive technologies. The feminists' approach to gene therapy for the purposes of enhancement, for example, is little different from their stance on plastic surgery—we are told that it does not serve women's best interests but are given no ethical guidance on the elimination of these incorrect desires. What happens when women, as avid consumers, exercise that control and use sperm sorting to give birth only to sons, or as their justification for genetically manipulating their children?

The triumph of individual choice as an unassailable right also prevents us from engaging in important debates about the broader social implications of reproduction and the technologies that promise to change its meaning. Drawing the delicate line between genetic therapy and enhancement is a difficult task, and quality of life a malleable concept. Recently, a woman with a

history of early-onset Alzheimer's disease paid a fertility clinic to screen her IVF-created embryos for the defective gene, discard the embryos that were found to have it, and implant a "clean" embryo that did not carry the genetic marker. Is this eugenics, preventive therapy, or simply the neutral exercise of individual choice?

The desire to control reproduction and conquer biology was a central part of the feminist-driven political and sexual revolutions of the late twentieth century. In her 1970 manifesto, "The Dialectic of Sex," radical feminist Shulamith Firestone wrote that the "first demand" of a feminist social order would be "the freeing of women from the tyranny of their reproductive biology by every means available." In their push to populate classroom, courtroom, and boardroom, feminists implicitly endorsed Firestone's goal, securing the contraceptive and abortion rights they saw as crucial for women's advancement in the public realm. Feminism insisted that women try to overcome, or at least willfully ignore, biological realities.

By the late twentieth century, the feminist movement's effort to liberate women from reproduction had produced unexpected results. A majority of women routinely used birth control, accepted abortion as a right, and viewed IVF and other first-generation reproductive technologies as useful tools of last resort for the infertile. But the women who embraced the feminist message about reproduction—the daughters of the sexual revolution—eventually felt that message's sting personally. They found themselves entering middle age with ripe careers but declining fertility. Today they form a large portion of the fertility industry's customers, spending tens of thousands of dollars for a single chance to cheat time. The facts are stark: According to a January 2002 report on aging and infertility in women, published by the American Society for Reproductive Medicine, a woman's fertility begins to decline in her late twenties and drops precipitously around the age of 35. Although fertility experts quibble over precise odds, there is a consensus that by the time a woman is in her forties, her odds of having a child, even with some form of intervention, are less than 10 percent. For these women, reproduction is not the tyranny imagined by Firestone, but an unfulfilled hope. A recent educational campaign launched by the American Infertility Association and the American Society for Reproductive Medicine is directed at the daughters of this feminist generation; fertility specialists hope to combat the undue optimism of women in their twenties and thirties about their ability to have children as they get older.

As the controversy—and, in some quarters, consternation—that greeted Sylvia Ann Hewlett's recent book, *Creating a Life: Professional Women and the Quest for Children*, revealed, we are still uncomfortable, as a society,

with airing too many of these facts about fertility. Hewlett, who gently rebukes women for assuming that the fertility industry could extend their reproductive lives long enough for them to make partner (and chastises the fertility industry for insinuating that it could), nevertheless is herself wary of trampling the principle of choice. Instead, in interviews with childless women that speak poignantly to the intractability of biology, Hewlett uncovers something called “creeping non-choice,” a condition treatable, in her view, with a strong dose of government social policy and more “intentional” plotting by women of their reproductive futures.

What Hewlett and others overlook is a different and more disturbing facet of “choice,” the one that inexorably pulls us toward making “intentional” decisions about the *kind* of children we have. The sentiment is already gaining the sanction of clinical practitioners. A recent study conducted by University of Massachusetts public health professor Dorothy Wertz and University of Virginia bioethicist John Fletcher revealed that 62 percent of American geneticists would agree to perform sex-selection tests on fetuses (or refer them to specialists who would) for parents who stated ahead of time their desire to have an abortion if the fetus was the “wrong” sex. In the early 1970s, a similar study found that only 1 percent of physicians and ethicists would do the same.

Feminist bioethics

If clinicians are less inclined to question the limits of individual choice in these matters, our self-appointed ethical guides in the field of bioethics should. In fact, the burgeoning field of bioethics now supports a subdiscipline in feminist bioethics, with its own organizations and methodological assumptions and with a keen interest in reproductive technologies. Unfortunately, feminist bioethicists remain wedded to a misguided view of science and medicine as inherently biased against women, and they pursue a feminist worldview that applauds “difference” but offers few limits on the excessive individualism that is the logical conclusion of their emphasis on choice in reproductive matters.

Although resting along various points of the ideological spectrum, feminist bioethicists share certain core principles—most important, a concern that human reproductive technologies are being developed in the context of a society that has not yet granted women full equality. The International Network on Feminist Approaches to Bioethics, a consortium launched in 1992, is “committed to a non-hierarchical model of organization” and takes as its goal the development of “a more inclusive theory of bioethics encompassing the standpoints and experiences of women and other marginalized

social groups.” The group’s mission statement also includes a vow to deconstruct “presuppositions embedded in the dominant bioethical discourse that privilege those already empowered.”

In this, feminist bioethics has its roots in broader feminist critiques of both science and ethics, two enterprises they view as inherently masculine and biased. Critics such as Lynda Birke of the University of Warwick and Sandra Harding of the University of California, Los Angeles, have argued for a “feminist science” that rejects objectivity in favor of intuition and seeks to supplant Francis Bacon’s metaphor of Mother Nature as a “common harlot” meant to be tamed and molded by men with more inclusive practices. Their critique of science has trickled down into popular culture through narratives, such as Naomi Wolf’s *Misconceptions*, that attack the male medical establishment for its treatment of pregnant women, and through manuals such as the popular alternative feminist health book, *Our Bodies, Ourselves*, which has been in print continuously since 1970.

The feminist critique of ethics is also intent on illuminating women’s subordination. As feminist bioethicist Rosemarie Tong of the University of North Carolina notes, feminist ethicists “ask questions about male domination and female subordination *before* they ask questions about good and evil, care and justice, mothers and children.” Moreover, women’s subordination “leads to women’s disempowerment morally and personally as well as politically, economically, and socially.” This twin focus on women’s disempowerment and the masculine bias of science serves an important exculpatory purpose—as ethical escape hatches—in the field of feminist bioethics.

The current reigning principle in bioethics is autonomy, which grants to individuals the freedom to choose for themselves what they want to do until they begin to infringe on the liberty of others or cause serious harm. Feminist bioethicists promote something different; they endorse the principle of “autokoenomy,” from the Greek for self (*auto*) and community (*koinonia*). As Tong notes, “unlike the autonomous man who thinks that his self is entirely separable from others . . . the autokoenomous woman realizes that she is inextricably related to other selves.” The implication is that autokoenomy fosters a humility that is otherwise lacking in strict autonomy, since it emphasizes a person’s place in a particular community, or an “epistemology of perspective.”

In practice, autokoenomy appears to foster confusion, not ethical guidance. As an ethical principle, it appears to allow nearly any ethical choice, including eugenic choices, as long as the choice is made in the service of gender equity. “It is to be hoped,” Tong writes, “that women will choose the characteristics of their fetuses in ways that will break down gender inequity

and the host of other human oppressions to which it is related. In choosing for their fetuses, women will be choosing for themselves.” Laura Purdy, of the University of Toronto, is another feminist bioethicist who approves of genetic screening for the purpose of weeding out the unfit; she declares “unjustifiable” the “rejection of so-called quality control that uses genetic services to prevent the birth of babies at risk for serious physical or mental illness or disability.” Since women are primary caregivers to children, Purdy reasons, their autonomous interests are infringed upon when those children are burdened by genetic conditions that require more devoted parental care. Purdy concludes that failing to prevent the birth of a child with serious defects is “immoral.”

Autokoenoemy can also begin to resemble a chilling utilitarian “community” of one. University of Chicago feminist bioethicist Mary Mahowald draws on the “ethics of care” and “maternal thinking” models of Carol Gilligan and Sara Ruddick to promote a “feminist standpoint theory” that parallels Rosemarie Tong’s autokoenoemy. Mahowald’s feminist standpoint theory endorses women having babies for the explicit purpose of harvesting spare parts for themselves or loved ones. The ethic on which she relies would “support a decision to become pregnant in order to provide the [fetal] tissue to someone with whom one has a special relationship.” Moreover, Mahowald says, “a pregnant woman might herself be the recipient and could deliberately become pregnant in order to provide the fetal tissue that might lead to her own cure.” As Tong and Mahowald’s reasoning reveals, autokoenoemy has little to say about the excesses of individual choice.

The technology of patriarchy?

At the other end of the spectrum are feminist bioethicists who do not so eagerly embrace reproductive and genetic technologies, although they do share with their autokoenoemous sisters a devotion to feminist politics. As Tong says, “all feminist approaches to bioethics share a common methodology—namely, the methodology of feminist thought.” But feminist principles make for an awkward fit in the field of bioethics, for in focusing so keenly on science’s patriarchal bias, feminist critics of reproductive technologies miss the most serious challenges these new tools pose.

Australian feminist Robyn Rowland has been issuing warnings since the early 1980s about the dangers of male control of reproductive technologies. Men have “coveted” the power women have over reproduction, Rowland argues. “Now, with the possibilities offered by technology they are storming the last bastion and taking control of conception, fetal development, and birth.” But this is only part of a larger control men exercise over women,

according to Rowland's critique. "Being the dominant social group, men expect to control all social resources, including reproduction," Rowland argues. They "use the vehicles of science, medicine and commerce to establish control over procreation." Men, Rowland concludes, are making women into "patriarchy's living laboratories."

Another feminist critic of reproductive technologies, former *New York Times* reporter Gena Corea, assails as "propaganda" the notion that women should procreate. It is patriarchal society that pushes this pronatalism, Corea argues, and it "has a coercive power." "It conditions a woman's choices as well as her motivations to choose," she says, leaving her incapable of rendering an authentic ethical choice about her reproductive options. Janice Raymond, a feminist theorist who teaches at the University of Massachusetts, has argued that new reproductive technologies might be used by the patriarchal medical establishment as a tool for the "previctimization" of women, eliminating or fundamentally altering females before they are even born. "Technological reproduction is brutality with a therapeutic face," Raymond avers. In 1984, some of the more earnest skeptics of reproductive technologies organized FINRRAGE—Feminist International Network of Resistance to Reproductive and Genetic Engineering—a small group that hosts conferences to raise awareness of the dangers of these new interventions.

Genetic technologies are also viewed with suspicion by feminists who fear they will undermine feminism's valorization of "difference." Maura Ryan, a professor of Christian Ethics at Notre Dame University, has argued that genetic technologies are "at odds with a feminist view of community where all are welcome and persons are challenged to deal creatively with difference." Yet arguments for difference can take unexpected twists, as they did recently when they were invoked by a deaf lesbian couple in Bethesda, Maryland, who used sperm donated by a fifth-generation deaf man to ensure that their son and daughter would be born profoundly deaf. Since the women view deafness not as a disability, but as a sign of membership in a specific cultural community, they wanted to guarantee that their children would be part of that community as well.

What these feminist skeptics of reproductive technologies share is an assumption, guided by feminist politics and feminist critiques of science, that women lack control over even the most rudimentary reproductive decisions. This leaves them unwilling to tackle thorny ethical practices, such as sex selection, that rest on women's own choices. Evidence from China and India indicates that women in those countries avidly rid themselves of female fetuses, usually by making use of ultrasound machines and abortion, creating a serious imbalance in male-to-female sex ratios in the process. In the United

States, sex selection is gaining in popularity, with new techniques such as sperm sorting offered by many fertility clinics.

Feminists have a stock answer when questioned about the use of sex selection in countries such as India and China: Blame the sin, not the sinner. Because these women are living in undemocratic, patriarchal societies, they are eligible for feminist bioethicists' ethical escape hatch. "The solution is not to take away abortion rights," a spokesperson for the group Population Action International stated, "but rather to elevate the status of women so that the economic and cultural incentives for sex-selection abortion are no longer there." This rationale is less compelling when applied closer to home, where feminist claims of patriarchal control do not ring true. Bioethicist Mary Mahowald suggests that "selection of either males or females is justifiable on medical grounds and morally defensible in other situations so long as the intention and the consequences are not sexist." But how does one judge whether consequences are sexist? In the United States, many women use sex selection to have girls. "Women are the driving force, and women want daughters," one fertility doctor told the *New York Times* in 1999.

Even mainstream feminist groups, such as the National Organization for Women, conveniently ignore incorrect expressions of choice. NOW has no official position on the use of sex-selective ultrasound and abortion or other sex-selection techniques, yet the group did endorse a resolution at its national conference last year calling for the protection of the rights of "inter-sex girls" (girls born with atypical sexual anatomy). The resolution, which called on parents to resist imposing hormone treatments and surgery on their daughters until the daughters themselves could choose whether or not they wanted to become fully female, was deemed part of the organization's "movement for reproductive freedom and bodily integrity."

Although feminist bioethicists have failed to come to terms with the impulse to control the quality of one's offspring, especially among women, it is not a new one. In Spartan society, women were responsible for bearing sons who would be formidable warriors and for rigorously weeding out those who would not, leaving them to die of exposure in the chasm called the *Apothetae*. In the mid-nineteenth-century utopian community of Oneida in upstate New York, it was women more than men who eagerly volunteered for leader John Humphrey Noyes's proto-eugenic experiments in breeding better children—an undertaking he likened to plant breeding and called "human stirpiculture." During the heyday of the American eugenics movement, as historian Wendy Kline has found, women's reform organizations were some of the most enthusiastic lobbyists for compulsory state sterilization laws meant to combat the menace of the so-called feeble-minded. Women

embraced an ideal of “scientific” and “responsible” motherhood that emphasized the quality of the children being born, and found in the eugenic impulse to “improve the human race through better breeding” a compelling justification for their efforts.

The birth control movement of the early twentieth century offers perhaps the most extended case study of this impulse. In her 1920 polemic, “Woman and the New Race,” birth control activist Margaret Sanger described how “millions of women are asserting their right to voluntary motherhood. They are determined to decide for themselves whether they shall become mothers, under what conditions, and when.” But the logic of that assertion encompassed more than control of quantity. Like many of her peers, Sanger shared her culture’s desire for eugenic “race improvement.” Fearful that the vaunted American melting pot was no longer assimilating new waves of immigrants from southern and eastern Europe, Sanger argued that contraception could alleviate the burden of bad stock. “Birth control, often denounced as a violation of natural law,” she wrote, “is nothing more or less than the facilitation of the process of weeding out the unfit, of preventing the birth of defectives, or of those who will become defectives.” The “voluntary motherhood” Sanger pursued had as its goal the “creation of a new race” and drew upon the language of choice and the individual rights of women to achieve it.

Many of Sanger’s more astute contemporaries understood the radical nature of the new ideal of motherhood she was promoting. In *A Preface to Morals*, Walter Lippmann urged society to consider the “full logic of birth control,” which he saw as making parenthood a “separate vocation,” detached from the “hard realities” and ambiguities of life and thus ultimately “efficient, responsible, and dull.” Birth control is like the automobile, Lippmann argued, capable of hurtling us along at terrifying speeds to new and exciting destinations, but a device whose “inherent possibilities do not fix the best uses to be made of it.”

Our reproductive future

Today our devices are more numerous and powerful, but contemporary feminist bioethicists remain mired in the individualistic rhetoric of the previous era’s technologies and politics. The end pursued by feminist bioethicists is an egalitarian feminist society, but they assume that this society would consist of feminist mothers choosing traits for their children that conform to “women’s values.” In this, feminist ethicists betray the fact that they have not strayed far from the utopian yearnings of their foremothers. Charlotte Perkins Gilman’s 1915 feminist utopian novel *Herland* found perfection in a

world where men did not exist and where parthenogenic births produced only girl children; contemporary fiction writer Marge Piercy's 1976 novel, *Woman on the Edge of Time*, offered a similar social vision. In Piercy's world, citizens of the utopian society of Mattapoissett decide that to end sexism, classism, and racism, reproduction must be removed from the control of one particular sex. "It was part of women's long revolution," one of Piercy's characters explains. "As long as we were biologically enchained, we'd never be equal. And males never would be humanized to be loving and tender. So we all became mothers. Every child has three. To break the nuclear bonding."

We are not all mothers yet, but if we continue along the path our feminist ethical guides have laid down, we run the risk of ending up in a consumer-driven eugenic society. With ever more sophisticated IVF techniques, genetic screening, and artificial wombs, the physiological process of pregnancy and childbirth could become just another commodified "life experience." Like climbing Mt. Everest or meditating on an ashram, seekers of the exotic could experience the "adventure" of childbirth the old-fashioned way, while some women would make use of artificial wombs to avoid the hassles of pregnancy.

Our new reproductive future also suggests a society where male responsibility and fatherhood take on a different form. Shotgun weddings and social stigmas that used to keep men close to their offspring have disappeared, but in an age where embryos are stored in fertility clinics like jewelry in safe deposit boxes, men have begun to claim paternal rights using the language of property. Popular culture has enlisted science to help them. Producers of daytime talk shows are leavening the sensationalism of their broadcasts with paternal "outing" using DNA tests; men who suppose themselves the father of a child are told, on-air in front of a studio audience and their wayward partners, that DNA tests have proven otherwise.

We are being eased into this bread-and-circuses world of reproduction by the very rhetoric that once promised to free women from the burdens of biology: the rhetoric of choice that feminists have long championed. Choice will allow us to begin crossing the line between genetic therapies and genetic enhancements—quietly at first, but eventually with ease. Genetic engineering could become just another reproductive right. But this normalization process comes with a cost that first-generation technologies such as IVF never posed: altering the human race and, in the process, fating for extinction biological motherhood as we have known it. With feminist principles guiding us and a public preternaturally optimistic about and desirous of new reproductive technologies, Pandora has met Dr. Pangloss. But all is *not* for the best in this best of all possible worlds.

One would hope that, having had glimpses of the logical conclusion of

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their principles, feminists would make a well-timed retreat from their glorification of choice in reproductive matters. Such a retreat is unlikely, however, for making it would require feminists finally to concede that there is no such thing as “women’s values” or the sisterhood for which they have served as self-appointed spokeswomen. Such a retreat would force feminists to confront the fact that some women make ethically unsound choices not because they are victims of male domination, but because they lack ethical moorings, and it would require them to recognize that in a world of unfettered individualism, women’s choices will not lead to a feminist vision of women’s liberation.



“Is this water fattening?”

APPENDIX A

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Abortion Now

Ramesh Ponnuru

It is a lucky thing that most pro-lifers profess a religion that forbids despair. It is, of course, possible to be pro-life without being religious (and vice-versa). It is even possible for unbelievers to oppose abortion for the same reasons that impel religious pro-lifers: because the state has a duty to bar the private use of deadly force against human beings, and that's what abortion is. But the purely secular pro-lifer does not have the consolation of believing in an infinitely just, merciful, and loving God.

It is a consolation much needed as *Roe v. Wade* nears its thirtieth anniversary. If you do not consider abortion a grave injustice, consider what the world looks like to those of us who do. More than 40 million unborn lives have been snuffed out—which implies that something like a third of American women have had their sons or daughters killed. A quarter of unborn children die this way.

The most respected political institution in the land, the Supreme Court, says that all this killing is protected by the Constitution. So in the event you persuaded your fellow citizens and elected representatives to do something about the death toll, it wouldn't matter. The courts would just unleash the abortionists again, and lecture you to accept the judicial resolution of the issue. Even peaceful protest outside the places these killings occur is uniquely circumscribed.

Many people agree with you that abortion is wrong. But most people, whatever their view of abortion, do not want to hear a word about the subject. Most people, whatever their view of abortion, regard people like you as fanatics.

Ups and Downs

Ten years ago was the nadir of the movement. The abortion rate had kept climbing: In 1990, 1.6 million abortions were committed. Public opinion kept moving left. By June 1992, Gallup estimated that 34 percent of the public believed that abortion should be legal in all cases. That same month, the Supreme Court reaffirmed *Roe*, albeit with qualifications, in *Casey v. Planned Parenthood*. It did so, moreover, at the direction of three Republican appointees whom many pro-lifers had supported in the hope they would overturn *Roe*.

Later that year, the most pro-abortion president since *Roe* was elected. On his first day in office—the same weekend as the twentieth anniversary of *Roe*—he issued a series of executive orders liberalizing abortion law. It was widely suggested that he had been elected in part because the public supported legal abortion, and that Republicans would have to come around if they were ever to win the White House again.

But the early 1990s turn out to have been high tide for “abortion rights.” The

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annual number of abortions peaked in 1990. Fewer doctors are performing abortions, and fewer medical students want to learn how to perform them. Surveys attribute this reluctance more to moral qualms than to fear of anti-abortion violence or protest.

Even at the peak, most Americans disappointed pro-abortion ideologues by persisting in seeing abortion as a tragedy rather than a routine medical procedure. Parents do not dream of one day telling people about “my son the abortionist.” Few men brag about pressuring their girlfriends or wives into having abortions. Unease about abortion is so widespread that the politicians most committed to keeping it legal rarely use the word, preferring to talk about “choice.” Abortion is the right that dare not speak its name.

The unease has only grown. Since 1995, the polls have been moving in the pro-life direction. Almost as many Americans now call themselves “pro-life” as “pro-choice.” The numbers appear to have been driven by the debate over partial-birth abortion—a debate in which, for the first time, it was the pro-choicers who looked like extremists to middle-ground Americans. Most Americans still think that abortion should be legal when a pregnancy results from rape or incest, or threatens the life or physical health of the mother. But a majority would ban most abortions. Only a quarter of the population now believes abortion should be legal in all cases.

Even at the high tide of pro-choice sentiment, there was never much evidence that opposition to abortion was politically dangerous. Exit polls have always shown that pro-lifers are more willing to vote on abortion than pro-choicers are, and that pro-life candidates therefore have a substantial advantage. That Republicans can win while opposing abortion is now even clearer. For the first time since *Roe* was decided, the president, the Senate leadership, and the House leadership are all pro-life. Two months ago, pro-life Republicans won four hotly contested Senate seats—in Georgia, Minnesota, Missouri, and North Carolina—partly on the abortion issue. On this thirtieth anniversary of *Roe*, morale among pro-lifers is high.

The pro-choice side continues to hold the political high ground in one very important sense: It’s the party of the status quo. That makes it easy to portray the pro-lifers as the aggressors, when what the public most wants on abortion is peace and quiet. This perhaps explains why Democratic senators are happy to grill Republican judicial nominees on whether they support *Roe*, while Republicans hardly uttered a peep about the Clinton administration’s explicit pro-*Roe* litmus test for its nominees. In his confirmation hearings, attorney general John Ashcroft, following White House instructions, said that he “accept[s] *Roe* and *Casey* as the settled law of the land”: “The Supreme Court’s decisions on this have been multiple, they have been recent, and they have been emphatic.”

That was a substantial concession. But it was also an exception for Bush, who has surprised and gratified pro-lifers with his constancy. Many congressional Republicans were ready to abandon pro-lifers by supporting federal funding for research on “surplus” embryos from fertility clinics. Bush came out against such funding. He also called for an outright ban on the cloning of human embryos, even

though many scientists want to be able to do research using (and in the process destroying) these embryos.

President Bush cut off government funding for international organizations that commit abortion or advocate it. He signed a bill clarifying that the child who somehow survives an abortion is entitled to legal protection. This year, Bush is expected to seek a bill to ban partial-birth abortions. Should there be a vacancy on the Supreme Court, no doubt he will nominate someone whose judicial philosophy could be expected to please pro-lifers. (The alternative would be to throw away his hard-won credibility in an instant.)

Pro-lifers should push for more. The law on survivors of abortion ought to be toughened. Breaking it should entail penalties, including the withdrawal of federal funds from hospitals. Pro-lifers should move, as well, to ban all elective abortions past, say, the twentieth week of pregnancy. They need to do political work outside Washington, too, especially seeking new recruits among blacks and Hispanics who oppose abortion.

Aspects of a Debate

Busy as the pro-life movement is with its traditional work of combating abortion, it is also having to fight new battles. In the last two years, the issue of research on human embryos has suddenly moved to the forefront of pro-life concerns. The public's initial reaction to cloning embryos, as measured in polls, has been opposition. But that opposition has to be mobilized now if it is not to dissipate as cloning comes to be seen as normal.

The embryo-research debate simultaneously is, and isn't, the same as the abortion debate. In both cases, pro-lifers are acting to vindicate the same principle: that human beings, from the moment they come into being as distinct organisms, have a right not to be killed. Supporters of the research, meanwhile, have sometimes suggested that a society that allows abortion has no principled basis for forbidding it. Both sides in the embryo-research debate, however, have taken pains to separate it from abortion.

A woman's rights over "her own body" cannot be asserted here, and people who want the research to be legal do not claim to be "personally opposed" to it. As such, the debate has turned, more than the abortion debate, on the moral claims of the embryo. Many research supporters say that human embryos deserve "respect," but that this respect cannot be made so absolute as to preclude their intentional destruction for good ends. One gathers that respect for human embryos would instead be manifested in discussions of the importance of having respect for them.

Whatever the rhetoric employed to advance it, the argument for going ahead with the research rests on the premise that merely belonging to the human species does not confer a right not to be killed. This also, ultimately, has to be the argument for a "right" to abortion (although other, prudential arguments could be made against legal prohibitions). On this view, human beings are not intrinsically worthy of protection. If particular human beings may be worth protecting, it is on the basis of

accidental qualities they may have: sentience, independence, rootedness in a community, size, or what have you.

The trouble for people wishing to defend these propositions is that these qualities come in degrees. That means, first, that there is no non-arbitrary point at which to start granting protection: How old must a person be, how well must his mind function, for him to enjoy a right to life? Second, on this account there is no basis for asserting an equality of rights among people with different levels of the particular quality held to be crucial—as Lincoln observed in another context. *Roe* is undemocratic not merely in a procedural sense.

Some contemporary philosophers, most notoriously Peter Singer, have grasped the difficulty of containing the principle behind abortion and embryo research. They concede that the argument for abortion is also the argument for outright infanticide. This is not a reason to prohibit abortion, they say, but rather to reconsider infanticide. American law has not yet achieved this dreadful consistency. But it is moving closer.

The true radicalism of *Roe* is still not sufficiently appreciated. Many educated people believe that *Roe* legalized abortion only in the first trimester, allowing it to be restricted in the second and banned in the third. In fact, *Doe v. Bolton*, handed down the same day as *Roe*, took back those apparent concessions. Abortions had to be allowed at all stages of pregnancy whenever continued pregnancy was said to jeopardize a woman's "physical, emotional, psychological, [or] familial" health.

It has often been said that the Court's error was to fast-forward a process of liberalization that was already taking place democratically. That's not true either. Before *Roe*, a few states had substantially weakened protections for the unborn. But the movement for liberalization then stalled, with many more states voting it down in legislatures and in referenda. Justice Blackmun, the author of *Roe*, tried to downplay its radicalism by depicting it as consistent with American history. Much of the opinion is dedicated to demonstrating that American law never sought to protect the unborn. The shoddy historical work on which he relied has since been thoroughly discredited.

The truth is that *Roe* was a breathtaking power grab by the Supreme Court, allowing abortion at any stage of pregnancy, nullifying laws in all fifty states, and going far beyond anything contemplated by public opinion before or since. Not even law professors who favor constitutional protection for abortion believe that *Roe* was well reasoned. Indeed, an academic cottage industry has spent thirty years trying to devise better constitutional foundations for *Roe*'s result. (What this effort has lacked in plausibility, it has made up for in determination.)

Relentless Logic

Contrary to John Ashcroft, the Court's abortion jurisprudence is not settled law, either. The latest abortion decision, issued the year before Ashcroft spoke, kept partial-birth abortion free from state bans. It was a 5-4 split in which the principal authors of *Casey* disagreed with some bitterness about *Casey*'s meaning. *Casey*

itself reworked *Roe* in significant ways, and hinted that a majority of the Court thought that *Roe* was a mistake.

But it is a mistake from which the Court is unwilling to retreat. The lack of a settlement in abortion law—the fact that *Roe* has exposed the Court to decades of intellectual ridicule and political resistance—seems to be experienced by the Court as a scandal. When the Court reaffirmed “abortion rights” in *Casey*, it cited the need for stability in law, which is a real virtue. But it also said that to admit error and reverse itself on *Roe* would be to undermine its own power unacceptably.

When they struck down state bans on partial-birth abortion, the federal courts showed just how far they were willing to go to protect their abortion jurisprudence. One federal judge noted that such bans were enacted in order to set a firm barrier against infanticide—and that, he implied, was not possible legally. Another disputed the characterization of a baby partly out of the birth canal as partly born: “A woman seeking an abortion is plainly not seeking to give birth.” The baby, whatever the stage of pregnancy, counts for nothing independent of the mother’s desires.

When the Supreme Court followed these judges’ example, it put a lot of weight on the mother’s health. But the Court wasn’t saying merely that a woman has a right to a partial-birth abortion when it is the safest way of dealing with a threat to her health: It said that a woman in the eighth month of pregnancy who wants her baby dead, whatever her reason, has a right to have that baby killed in whatever way is safest to her. What if the safest way is to deliver the baby, fully, and then kill it? Yet another federal judge had asked what difference it made, from the perspective of the fetus, whether part of its body were outside the birth canal when his skull was punctured and his brain sucked out. What difference would it make if his whole body had been delivered? The Born-Alive Act signed into law last year was written to prevent this next logical step from being taken. But it is not yet clear what effect that act will have.

When pro-lifers began their campaign against partial-birth abortion, they knew that they ran the risk of legitimizing infanticide rather than delegitimizing abortion. In the courts and in the academy, that danger may be coming to pass. This is thus as important a moment for pro-lifers as any in the last thirty years. They have new opportunities in Washington. If they succeed in banning cloning, they can establish the principle that human beings have a right to life regardless of their age, size, wantedness, location, stage of development, or condition of dependency. They can save some unborn children, as even fairly modest state laws appear to have done.

What happens if they lose? The idea that widespread infanticide could ever come to America is, of course, crazy. Babies are cute, they cannot be mistaken for globs of cells, and there is a natural human instinct to protect them. Other cultures may not have treated them so tenderly, to be sure. But that could never happen here. We’re nice people.

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Thirty Years of Empty Promises

Candace C. Crandall

In the long and arduous fight leading up to *Roe v. Wade*, the one thing feminists were most passionate about was their belief that unrestricted access to abortion was indispensable to achieving gender equality. Betty Friedan in 1972 promised that legalizing abortion would make women whole. Advocacy groups, including the National Organization for Women, the National Association for the Repeal of Abortion Laws (now the National Abortion and Reproductive Rights Action League), and the President's Advisory Council on the Status of Women, stood adamantly opposed to any limits, claiming regulation would violate a woman's right to control her body.

When one looks at the data today, noting that half of all women undergoing abortion in 2002 will be having at least their second, and that one of every five will be having at least her third, a number of highly descriptive thoughts come to mind. "In control" isn't one of them.

The successful push for unrestricted abortion on demand, nationwide, rested on two factors. The first was fortuitous timing. In the 1960s, the nation was caught up in the turmoil of three great social movements: civil rights, with its emphasis on effecting sweeping political change via the courts; feminism, with its promise to empower the victims of very real social and economic injustice; and environmentalism, which had fostered nationwide hysteria with claims of an imminent population disaster. The point at which the tenets of these three movements converged was abortion.

The second and more important factor was packaging. Abortion, from the onset, was not a health issue; it was politics. And politics is personal. In 1968, public opinion polls revealed scant support for legalizing abortion. Few Americans anticipated any personal benefit and many had serious moral concerns. But over the next five years, abortion rights advocates overcame Americans' qualms with repeated assurances that when every child was a "wanted" child, broad social benefits would ensue.

According to this argument, illegitimacy would become a thing of the past. Women who found themselves inconveniently pregnant could obtain an abortion and remain in school or in the workforce. Couples would no longer be trapped into miserable, forced marriages. Children would no longer be battered by parents resentful that they were "unplanned."

With an implied reduction in welfare and social services, abortion was transformed in the early 1970s from a moral question into a pocketbook issue. Senator Jacob Javits, for example, described New York's decision to legalize abortion as "a

significant step forward in dealing with the human problems of our state.”

Members of the Commission on Population Growth, established by President Richard Nixon in 1970, thought so too. In the second of three reports, issued in March 1972, they called for Medicaid-funded abortions as necessary weapons in the war on poverty, noting that “unwanted fertility is highest among those whose levels of education and income are lowest.”

This line of thinking already had powerful support from *The Population Bomb*, the 1968 bestselling book by Stanford biologist Paul Ehrlich. Ehrlich, who co-founded the group Zero Population Growth, warned that humans were rapidly populating themselves out of existence. Within slightly more than a decade, he wrote, all ocean life would die of DDT poisoning. Thousands would perish in smog disasters in New York and Los Angeles. Life expectancy in the United States would plunge to just forty-two years, as pollution-induced cancer epidemics decimated the population.

To much of the public, these forecasts seemed frighteningly plausible. Press reports told of earnest young college girls having themselves surgically sterilized rather than risk bringing any more children into an already overcrowded world. In a controversial two-part episode of the popular CBS sitcom *Maude*, broadcast in 1972, the title character chooses to have an abortion. A *New York Times* reporter later revealed that the show had been prompted by a \$5,000 prize offered by the Population Institute for the best prime-time script concerning population control.

Abortion rights advocates, employing the rhetoric of equality, were quick to point out that wealthy women could always obtain a safe abortion, legal or not. Extending access to poor women simply corrected a social injustice. The larger reality, given the environmental scare, was a bit different. If all humanity was sitting on an increasingly overcrowded life raft, many Americans reasoned that it might be unwise to let “the poor” occupy too big a corner. By 1972, Americans were increasingly drawn to the banner of “choice.”

But did the nation benefit? Are American women more free?

Paul Ehrlich, a genuine expert on the Checkerspot butterfly, was not such an expert on human populations, as it turned out. His forecasts of impending disaster from overpopulation were never remotely realistic. But neither was the assumption that America could abort poverty out of existence.

Illegitimacy, far from disappearing, has become a serious social problem. In 1970, just 10.7 percent of all births were to unmarried mothers. By 1975, after *Roe*, the illegitimacy rate in the United States had jumped to 14.5 percent. Nearly 70 percent of black children and 33 percent of all children are born out of wedlock today. Divorce rates have multiplied, as have reported incidences of child abuse.

What about the familiar refrain that abortion should be a matter between a woman and “her” doctor, the so-called right to privacy? *Roe* hinged on this issue. The reality, today as in 1972, is that a woman’s personal physician is unlikely to perform abortions. Two surveys—one by the American College of Obstetrics and Gynecologists in 1985, the other by the Kaiser Family Foundation in 1995—found

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that two-thirds of the obstetricians and gynecologists in practice in the United States, especially women and those under forty, refuse to do abortions under any circumstances. The reasons offered only rarely had to do with public pressure from anti-abortion activists. Most cited religious scruples or simply said they didn't like doing abortions. Of the one-third that do perform abortions, a majority perform four or fewer per month. That leaves most to specialized abortion clinics that offer women with unplanned pregnancies little in the way of counseling or emotional support.

Of course, the most powerful of the pro-choice arguments was that failure to legalize abortion would leave five to ten thousand women a year bleeding to death from coat-hanger abortions or dying from systemic infections incurred at the hands of "back-alley butchers."

Had anyone bothered to research that claim, then or since, they would have learned that every aspect of it was a myth. Death rates from infections and all types of surgeries, including illegal abortions, had already fallen precipitously after World War II, when antibiotics finally became available to the general public. But at no time, even before penicillin and sulfa drugs, had the number of abortion fatalities come anywhere close to the five thousand to ten thousand figure most often cited.

In 1940, the National Center for Health Statistics confirmed just 1,313 deaths from illegal abortions, most of them from infection. As antibiotics became available and surgical techniques improved generally, abortion-related deaths fell sharply: 159 deaths in 1966, forty-one in 1972, the year before *Roe*.

Activists contend that most deaths were covered up. But if so, one would still have expected to see a decline in the overall death rate among women after 1973, when abortion became legal nationwide. According to Centers for Disease Control statistics, the death rate among women aged fifteen to thirty-four, the group that today accounts for 94 percent of all abortions in the United States, saw no significant change in the years immediately after *Roe*.

Nor were the abortionists of the 1950s and '60s necessarily untrained: Dr. Mary Calderone, a former medical director for Planned Parenthood, estimated in the *American Journal of Public Health* in 1960 that nine out of ten illegal abortions were already being performed by licensed doctors.

In this there is no little irony. Prior to *Roe v. Wade*, the fact that these doctors were breaking the law kept the numbers of abortions relatively low—as few as 200,000 a year by some estimates—and effectively discouraged most from taking unnecessary risks. Legalization removed that constraint. An unscrupulous abortion doctor could now advertise openly, confident that he would be shielded by abortion rights rhetoric that uniformly proclaimed him a hero, even if his motives were something other than compassion.

Only a year after abortion was legalized in New York state in 1970, writer Susan Edmiston noted with alarm in the *New York Times Magazine* that state health department officials were failing to supervise the numerous abortion clinics that had sprung up throughout the city, establish accurate data collection, or take any action on complaints that were already flooding in. Reporters were turning up similar

problems in Los Angeles and the District of Columbia.

Stories like these have been consistently ignored. In 1974, the *Detroit Free Press* found unsafe, unlicensed abortion clinics proliferating in the Detroit area. In 1978, a five-month investigation by the *Chicago Sun-Times* uncovered dangerous medical practices at abortion clinics along Chicago's Michigan Avenue. In 1991, after several gruesome New York abortion cases made national headlines, the *New York Times*, in a front page article, found "filth" and "butchery" at dozens of shabby, unlicensed clinics tucked away behind storefronts or—to evade state regulators—operating out of ordinary-looking doctors' offices, most often in poor neighborhoods.

How much bad medicine is glossed over in the name of choice isn't known. It's impolitic for health agencies to keep good data on deaths and injuries at abortion clinics. And since the much publicized shootings at these clinics, newspapers have shown a reluctance even to report such events. But anyone can sit down at a computer, as I did, and pull up hundreds of newspaper accounts documenting a long history of death, injury, and fraud at walk-in abortion clinics in Atlanta, Houston, St. Louis, Miami, Boston, Los Angeles, Chicago, Detroit, Birmingham, Kansas City, and many other cities. In this atmosphere, supporters' repeated references to abortion as a "vital health service" and to attempts to regulate clinics as "threats to women's safety" begin to ring hollow.

The past decade has been an especially tough one for the abortion rights movement; morale has visibly collapsed. Six years ago, a hard-fought and very public congressional debate over so-called partial-birth abortions—a procedure in which the physician partly delivers a late-term fetus feet first, then kills it by piercing its skull with scissors, attaching a high-powered suction device and sucking out its brain—revealed not only a disturbing brutality toward the unborn but also the widespread occurrence in this country of second- and third-trimester abortions. Facing a horrified public, abortion rights advocates remained rigid ideologues.

With abortion becoming increasingly controversial and the vast majority of doctors reluctant to participate—or medical schools even to teach abortion techniques—advocates turned to RU-486 and other abortion-inducing drugs. Now claims of a too quick approval of RU-486 by the Food and Drug Administration and reports of deaths among seemingly healthy women who used the drug are raising alarms. And this type of abortion, in which the dead fetus is passed in the toilet or shower, with the woman herself as sole witness, may be even more emotionally traumatic than the various surgical procedures. Chemically induced abortions certainly do nothing to reassure the public that abortion is "humane."

Some of abortion's most ardent supporters are expressing doubts. *Roe* poster girl Norma McCorvey, overwhelmed by feelings of guilt, defected in 1996. Germaine Greer, though still holding tight to feminist ideology, complained in her 1999 book *The Whole Woman* that abortion had become just one more oppression—this time from a male-dominated medical establishment that failed to inform women of the risks. She should know. By her own admission, several abortions have left her sterile.

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For advocates of choice, surveys of public opinion have become more and more grim. A 1998 Wirthlin poll found that 58 percent of American women felt that abortion had hindered their relationships with men, and 70 percent of men and women believed that legal abortion is not necessary for women to pursue various educational and career goals. A January 1999 survey of 275,811 incoming college freshman by the Higher Education Research Institute showed that just 52.5 percent of men and 49.5 percent of women thought abortion should be legal—a decline of 14 percentage points since 1990 in an age group typically more pro-choice than any other. In 2000, a *Los Angeles Times* poll showed that just 43 percent of Americans support a continuation of *Roe v. Wade*, down from 56 percent in 1991.

In the last presidential race, while 27 percent of those polled by the *Los Angeles Times* said they were more likely to vote for George W. Bush because he was pro-life, just 18 percent said the same for Al Gore because he was pro-choice.

Nationwide, the number of abortions has been dropping since 1990. But a potentially more significant number was announced this past summer by the U.S. Census Bureau. Drawing on year 2000 data, the Bureau reported that for the first time in three decades the U.S. birth rate is up. Kids are no longer being regarded as a threat to the planet or Mom's ball and chain. Where the two-child limit was once the hallmark of social responsibility, young couples are opting for more.

Initially hailed as a woman's ticket out of the kitchen and into the boardroom, abortion today has become increasingly associated with sexual irresponsibility and moral degradation. From a proclamation of independence, a woman's admission that she has had an abortion has now become the kind of public announcement that makes men, and other women, cringe, regardless of their politics.

The ability of abortion to galvanize public opinion, to claim influence over election outcomes, is over. Americans looked at *Roe v. Wade* and found nothing in it for them. Should the opportunity arise, the nation may finally be ready to see the abortion issue returned to the state legislatures, where it should have remained some thirty years ago.

APPENDIX C

[*Fred Barnes is executive editor of The Weekly Standard, where the following appeared (Feb. 3, 2003). © Copyright 2003, News Corporation, Weekly Standard, All Rights Reserved.*]

Safe, Legal, and Stigmatized

Fred Barnes

A stigma. That's the great achievement of the pro-life movement: Having an abortion once again carries a stigma. The legal right to an abortion is one that almost no one boasts of exercising. Abortion is a medical procedure that fewer and fewer doctors and hospitals want to perform and not many medical schools want to teach. Even the word "abortion" is rarely spoken by its advocates nowadays. The National Abortion Rights Action League has changed its name to the less explicit NARAL Pro-Choice America. And politicians, particularly Democrats, talk about "a woman's right to choose" without saying what the choice involves. Senator John Edwards of North Carolina told a NARAL gathering last week that "the important thing" about a woman "wrestling with a decision" is that "she and she alone has the right to make her choice." Her choice of what? He didn't say.

Those who claim there's a pro-abortion consensus in America are wrong. Attorney General John Ashcroft has said *Roe v. Wade* is settled law, but he's wrong too. Pro-lifers are winning, but very gradually and incrementally, and they're not winning what they had hoped to. Their goal is to overturn *Roe v. Wade*, which would let each state decide its own abortion law, or to ban abortion outright by constitutional amendment. The prospect of either of those outcomes happening is nil at the moment. Instead, there's a new consensus in favor of sharp restrictions on abortion. This is why Kate Michelman of NARAL looks perpetually stressed. This is why Faye Wattleton, the former head of Planned Parenthood and now president of the Center for Gender Equality, finds it "disturbing" that women are becoming more conservative and religious. It means more of them support these restrictions.

The most telling shift, though, is not in public opinion but in the actions of pregnant women. Backers of legalized abortion say the decline in the number of abortions from 1.6 million to 1.3 million a year is due to greater use of contraceptives. Maybe that has something to do with it. More important is the fact that a growing percentage of women who've become pregnant reject abortion and have the baby. This represents a cultural shift, a small one perhaps, but indicative of the stigma now attached to abortion.

Another factor is the explosion of crisis pregnancy centers across the country. They take in pregnant women, discourage them from having abortions, and care for them through childbirth and afterwards. The latest count of such centers is more than 3,000, but that's probably low. People start them with little money and a few volunteers. A friend of mine, Jim Wright, who works in commercial real estate in Falls Church, Virginia, opened one called Birthmothers a few years ago. He quickly built up a group of financial supporters, hired a director and a small staff, and now takes care of dozens of women. Imagine what Michelman and Wattleton

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must think when they see crisis pregnancy centers popping up everywhere and advertising in the Yellow Pages.

Pro-lifers, including me, have always been suspicious of politicians who balked at concentrating on the banning of abortion, arguing the culture must change first. But it turns out the queasy pols may have had it right. We just couldn't see it until the culture actually began changing. The change is especially evident among young people. Focus groups have found them to be surprisingly tilted against abortion. A poll of college freshmen in 1996 found that only half backed efforts to keep abortion legal, down from 65 percent in 1990.

It's taken years—plus this small but real cultural shift—but Republicans finally understand that opposing abortion often helps them politically. It took years because Lee Atwater, President Bush senior's political adviser, had sold the party on the notion that whenever the abortion issue is on the table in any form it hurts Republicans. The Atwater axiom was notably untrue in Senate races last fall. In a Fox poll on Election Day in Missouri, 17 percent of voters said abortion was the issue that mattered most. Eighty percent of them voted for Republican Jim Talent, who defeated Democratic senator Jean Carnahan. In the Minnesota Senate race, 14 percent said abortion was their paramount issue, and 81 percent of them voted for Republican Norm Coleman, who beat former Vice President Walter Mondale, a strong backer of the right to an abortion.

For now, the abortion issue is right where Republicans want it. President Bush is pushing this year to enact a ban on partial-birth abortion and on human cloning of any sort. He has an excellent shot at winning the first, a better than even chance on the second. I once asked GOP senator Rick Santorum of Pennsylvania why the partial-birth issue was so significant in turning the debate on abortion. "You can see the baby," he said. The baby is partly outside the mother's womb when this procedure takes place (the baby's brain is sucked out and its head crushed). Bush notably didn't mention overturning *Roe v. Wade* when he spoke by phone to the pro-life rally in Washington on January 22. He's said as much before, but why repeat that now? That would only complicate the politics of abortion and give Democrats something to rage about.

With their lockstep allegiance to pro-choice groups and feminists, Democrats are in a corner on abortion. They're leery of all the popular restrictions: on partial-birth abortion, late-term abortion, parental consent, informed consent. Only one of the six Democratic presidential candidates who appeared before a NARAL audience last week opposes partial-birth abortion—Richard Gephardt. And he didn't mention it. The loudest pro-choicer was Gov. Howard Dean of Vermont, who seemed to regard adoption and abortion as morally equivalent alternatives. That pleased the NARAL crowd, and none of his Democratic rivals called him on it. Before an audience of average voters, Democrat or Republican, he wouldn't have fared so well. There, the stigma would apply.

APPENDIX D

[Mark Steyn is a columnist for the Chicago Sun-Times, Britain's Daily Telegraph, Canada's National Post and many other publications around the world. The following originally appeared in the National Post, January 27, 2003, and is reprinted with permission.]

Go Forth and Multiply

Mark Steyn

This will be an important week for the world, and I've no idea how it's going to go. So let me come at it from another direction: Abortion.

Last week was the 30th anniversary of *Roe v. Wade*. If the greying harpies of the abortion movement were looking to get their groove back on anniversary fever, it didn't work out that way. As has been noted, polls show more and more Americans are opposed to more and more abortions. This isn't the way it's supposed to go. The assumption behind judicial activism is that the guys in the fancy robes are ahead of the curve: Being more educated, intelligent and sophisticated than the unwashed masses, our judges reach today the positions that the grunting, knuckle-dragging public won't come round to for another decade or so. But eventually we will, and we'll wonder what all the fuss was about.

Well, America has had constitutionally mandated abortion absolutism for a third of a century, and it's further away from broad social acceptance than ever. If *Roe v. Wade* hasn't caught on by now, it never will. In abortion as in war, Americans are at odds with their Canadian and European "allies." My colleague Patricia Pearson thinks this is because "Canadians are becoming more tolerant, Americans more conservative"—conservatism being the opposite of tolerance, presumably. I'd say the abortion crowd's problem is that they're up against science. There are those of us who are opposed to all abortion—I'm one, at heart—and those who are hot for a woman's right to kill full-term healthy partially delivered babies. But in the middle are a big swath of people whose position is more nuanced, and the trouble for the abortion absolutists is that, thanks in part to advances in medical science, all the nuances are moving in the pro-life direction. The most fascinating of last week's polls, for ABC News, found that 57% of Americans thought that abortion should be legal in "all or most cases," which must have heartened the "pro-choice" types. But when "all or most cases" were spelt out one by one the numbers were very different: over 80% of Americans will support abortion in cases of rape or incest or to save a woman's life; 54% will support the abortion of a "physically impaired baby." But, when it comes to terminating an "unwanted pregnancy," only 42% approve.

But that's what abortion is: the "unwanted pregnancy" category accounts for 95% of cases. The rest—the stuff with the 80% approval ratings—are a tiny number of exceptions to the overwhelming rule—that abortion for most of its devotees is a belated, cumbersome and inefficient form of contraception. Which is what "a woman's right to choose" boils down to. When the crazed ideologues at *The New York Times* ran a story on the Administration's approach to abortion under the headline "Bush's War On Women," they overlooked the inconvenient fact that the

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President's views are now more reflective of American womanhood than the Times' or the abortion groups'. Only 40% of women are in favour of the right to end an unwanted pregnancy. In other words, 60% of women don't support a woman's right to choose. The euphemism doesn't work anymore.

Right now, the only significant demographic moving toward Roe v. Wade absolutism are the ever swelling numbers of Democratic Presidential candidates. That's because the Democrats brook no qualms on the subject. In the candidates' big panderfest at a "pro-choice" rally, the former Vermont Governor, Dr. Howard Dean, was so anxious to demonstrate his bona fides that he all but offered to perform a partial-birth abortion on audience volunteers. Dr. Dean's candidacy is unlikely to be carried to term, or even survive the first trimester of 2004, so he need not detain us long. But what's more interesting is the broader phenomenon his creepy suck-up represents.

For what it's worth, I don't accept "a woman's right to choose." Given that humanity's only current widely available method of reproduction involves access to a woman's womb, society as a whole has a stake in this question. But, even if one subscribes to the premise of Roe v. Wade—that abortion is a privacy issue for individual women to decide—why would one half of the political establishment in America and pretty much the whole shebang in the rest of the West choose to fetishize "a woman's right to choose" as an approved goal of state policy?

Here's the reality: When feminists talk about "women's reproductive rights," they mean the right of women not to reproduce. Fine. That may make sense as a personal decision, but the state has no interest in promoting it generally.

Why? Because the state needs a birth rate of 2.1 children to maintain a stable population. In Italy, it's now 1.2. Twenty years ago, a million babies were born there each year. Now it's half a million. And the fewer babies you have today, the fewer babies are around to have babies in 20 years. Once you're as far down the death spiral as Italy is, it's hard to reverse. Most European races are going to be out of business in a couple more generations.

If you think that a nation is no more than (in our Booker Prize-winning novelist's famous phrase) a great "hotel," you can always slash rates and fill the empty rooms. But, if you think a nation is the collective, accumulated wisdom of a shared past, then a dependence on immigration alone for population replenishment will leave you lost and diminished. God's first injunction to humanity couldn't have been plainer: Go forth and multiply. In the 1995 referendum, when Lucien Bouchard made his unfortunate faux pas about Quebec women having one of the lowest fertility rates of any "white race" in the world, he was on to something. Given that young francophones trend separatist, had Quebec Catholics of the Seventies had children at the same rate as their parents, he and M. Parizeau would almost certainly have won their vote. Instead, Quebec's shrivelled fertility rate has cost them their country.

And why wouldn't it? A society whose political class elevates "a woman's right to choose" above "go forth and multiply" is a society with a death wish. So today

we're the endangered species, not the spotted owl. We're the dwindling resource, not the oil. Abortion is like the entirely mythical "population bomb" touted by the award-festooned Paul Ehrlich, who predicted millions of Americans would be starving to death by the 1980s: It's a prop of the Western progressive's bizarre death-cultism. We are so bad, so racist, so polluting, so exploitative that we owe it to the world not to be born in the first place. Abortion fetishism and our withered birth rate are only the quieter symptoms of the West's loss of self-confidence manifested more noisily elsewhere, from last weekend's Saddamite demonstrations to Chirac and Schroeder's press conference. The issue this week, according to the *Ottawa Citizen's* David Warren, is simple: "Is what we are worth defending?" If you think the Euro-appeasers' answer is pretty pathetic right now, wait another decade, after the birth rate's fallen even lower and their bloated welfare programs are even more dependent on an increasingly immigrant workforce.

The abortionists respond that every child should be "wanted." Sounds nice and cuddly, but it leads remorselessly to Italian yuppie couples having just the one kid in their thirties. In a healthy society, not every baby is exactly "wanted": things happen, and you adjust to them. Legal abortion was supposed to make things better for that small number of women who found themselves clutching a handful of cash and riding the bus to a backstreet abortionist in the next town. But "unwanted" is a highly elastic term: in Romania in the Nineties, three out of four pregnancies were being terminated. Europe, in eliminating "unwanted" pregnancies, is eliminating itself. In Canada, meanwhile, Patricia Pearson assures us there's plenty of other folks to take up the slack:

"Immigrants to Canada from China and Eastern Europe are, I think it's fair to say, more secular and more accustomed to official support for abortion and gender equality espoused in the socialist and communist states they have fled from, than those immigrants to the United States who come from Catholic Latin America."

Well, that's one way of putting it. "Official support" means China telling you how many babies you can have: not a woman's right to choose, but the state's right to choose for the woman. Some "tolerance." Those of us less persuaded than Miss Pearson by the benefits of totalitarian approaches to birth control will just have to do our bit as we can. Next time you're in a rundown diner and the 17-year-old waitress is eight months pregnant, don't tut "What a tragedy" and point her to the nearest Planned Parenthood clinic. Leave her a large tip instead. She's doing the right thing, not just for her, but for all of us.

APPENDIX E

[Peggy Noonan is an author and contributing editor of *The Wall Street Journal* where the following appeared on January 20, 2003. Reprinted from *The Wall Street Journal* © 2003 Dow Jones & Company, Inc. All rights reserved.]

A Tough Roe

Peggy Noonan

It is now 30 years since the Supreme Court, in its *Roe v. Wade* vision, blew down the barriers to abortion on demand, using as the essential rationale a constitutional right of privacy that the court had discovered less than eight years earlier. Since 1973 roughly 40 million abortions—that seems to be the generally accepted number—have been performed in America, and 40 million children banished from life.

Forty million. There isn't a country in the world with an army that big. Many don't have a population that big. Among the 40 million were, as romantics like to point out, a Leonardo, a Dr. Salk, the man who'd make the rocket to Mars and perhaps the first American pope. But there were men and women among the 40 million who would have grown up to be destructive too, and cruel. It seems realistic to assume the 40 million would have included your average mix of heroes, villains and those undistinguished by recognizable gifts.

But actually I wonder about that. It has seemed to me over the years that so many of the 40 million were the children of bright or educated or affluent parents, lucky young people and, in the way of things, might likely have gone on to—well, we might have lost more curers of cancer than we know. In any case, whatever these individuals would have become, they were all unique, blessed. They all deserved the same thing, life, and all suffered the same fate.

Looked at in this way, abortion might seem not a completely private choice but one that has had a profound public impact on our country. If you want to be cold and actuarial about it, you can note that in the next five to 10 years tens of millions of baby boomers will retire, and their futures would be more secure if they were benefiting from the financial support of the missing 40 million, many of whom would be paying into Social Security right now. But they're gone, so they can't help.

If you want to be less actuarial than cultural in your thinking, it's hard to believe that we don't all know, down deep, that abortion has not made our country a gentler place. I believe we haven't begun to appreciate the effect on our children and their developing understanding of life that they are told every day, on television and in magazines, in advertisements and news stories, that we allow the killing of children. It's not good for them to know that, not good for them to be told over and over that they live in a place where life is not necessarily respected and inconvenient life can be whisked away. Knowledge like that has a chilling effect on the soul.

I think, as many do, that *Roe v. Wade* was as big a travesty as the Supreme Court decision on *Dred Scott*, which in 1857 declared that descendants of slaves could not become U.S. citizens. All Americans would now see that decision as terribly wrong, but back then the Court had spoken and *Dred Scott* was forced to continue

to live in slavery.

I think also that if the legal status of abortion, a long-settled issue that was inevitably forced into play by the cultural revolution of the '60s and the rise of the women's movement, had to be redecided, it should have been done politically, not judicially. That it was not, that a huge and radical change in law was forced on the entire country by black-robed fiat, caused avoidable and continuing unrest. It has contributed more than any decision in my lifetime to the national breakdown of faith in our institutions.

If it had been left up to the states, New York, California and other places would have legal abortion (as they already did in 1973). Utah, Louisiana and other places would have voted pro-life. The outcome would have been mixed and the argument would have continued, but not with quite the same citizen-hating-citizen level of intensity or quite the damage to our trust in the law and the law givers.

The anti-abortion movement isn't going to go away. It will fight on until the day our country ends if that day comes. And it is making progress. Two recent polls, which the mainline media largely ignored, are revealing of that progress. A Wirthlin poll released last week reported 68% of respondents support "restoring legal protection for unborn children," and almost the same number said they would favor future Supreme Court nominees who supported protections. That poll was commissioned by pro-life groups, but then came a USA Today/CNN/Gallup poll in which 70% of respondents said partial-birth abortion should be outlawed, 78% backed a mandatory 24-hour waiting period for all abortions, 73% supported parental consent for girls under 18 seeking abortions, and 88% said they favor a law directing doctors to inform patients of alternatives to abortion before it is performed.

These data suggest the country may be slowly but surely turning, and looking at the question in a new way, and inching closer back to the old idea that abortion is tragedy, tragic for the baby and tragic for us. It is no good, we know it, it is avoidable, there are options, such as hundreds of thousands if not millions of Americans eager to adopt.

Why haven't our courts and lawmakers made greater progress in protecting the unborn when polls suggest public support is there? Lots of reasons, but one that I think is not sufficiently appreciated is this: Abortion is now the glue that holds the Democratic Party together. Without abortion to keep them together, the Democrats would fly apart into 50 small parties—Dems for free trade, Dems for protectionism; for quotas, for merit. All parties have divisions, the Republicans famously so, but Republicans have general philosophical views that keep them together and supported by groups that share their views. They're all united by, say, hostility to high taxes, but sometimes they have different reasons for opposing tax increases.

The Democratic Party, in contrast, has exhausted its great reasons for being, having achieved so many of them during the past 75 years. The Democrats often seem like the Not Republican Party, no more and no less. It is composed not of allied groups in pursuit of the same general principles but warring groups vying for money, power, a louder voice, the elevation of their particular cause.

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The one thing they agree on, that holds them together and finances their elections, is abortion. The abortion-rights movement packs huge clout in the party; it can make or break a candidacy with contributions and labor and support. It has such clout that at the 1992 Democratic convention the party wouldn't even let Gov. Bob Casey of Pennsylvania, a popular liberal from a state with 23 electoral votes, give an afternoon speech. He was officially a nonperson at his party's convention because he was pro-life. The Republicans, on the other hand, still have arguments over abortion. Whether pro- or anti-, it is understood you are not banned from a convention podium on that basis. The Republicans can still have a conversation, albeit with occasionally loud voices. But better a loud voice than no voice at all.

Democratic officeholders either agree with and fear the clout of the abortion-rights groups or disagree with and fear them. So the pro-abortion forces keep the party together, but they also tie it down. They keep the Democratic Party on the defensive—the lockstep pro-abortion party that won't even back parental notification, the party of unbending orthodoxy that will fight tooth and nail against banning abortions on babies eight months old, babies who look and seem and act exactly like human beings because they are.

No party can long endure, or could possibly flourish, with the unfettered killing of young humans as the thing that holds it together. And so a prediction on this grim anniversary: Someday years from now we will see abortion's final victim, and it will turn out to be the once-great Democratic Party, which was left at the end deformed, bloody and desperately trying to kick away from death, but unable to save itself.

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[*Meghan Cox Gurdon is a writer in Washington, D.C. Reprinted from The Wall Street Journal (January 21, 2003) © 2003 Dow Jones & Company, Inc. All rights reserved.*]

Mother of All Rights

Meghan Cox Gurdon

Roe v. Wade anniversaries make me think of the last scene in “Schindler’s List,” the film about Oskar Schindler, the German industrialist who saved a small number of Jews during World War II. The final scene features actual Schindler survivors with their children and grandchildren, lining up to place stones on his grave in Israel. What makes this scene so powerful is not just the surprising number of progeny already produced by the Holocaust escapees, but the staggering number of men, women and children who *aren’t* there, who never had a chance of life because the Nazis gassed those who would have been their parents and grandparents.

When *Roe* comes up, it has Schindler-like reverberations in my own family. The fact is, my husband and I, our four children, his three siblings, and their combined eight children all owe our lives to the fact that the famous Supreme Court decision did not come until 1973 (and its British equivalent until 1967). For all 17 of us are descended from two unwanted pregnancies—two pregnancies that produced two hasty marriages, some happiness, rather more sadness, and, eventually, two divorces. And I have to say, boy am I glad that those pregnancies—dismaying and unexpected as they were, entailing the compromises that they did for those involved—weren’t tidied up in a clinic so that the young mothers in question could “get on with their lives.” You, gentle reader, would have been deprived of nothing more than my editorial voice. I, and 16 kinsfolk, would have been robbed of everything.

True, the world would have been 17 beef-eating, water-drinking, petroleum-burning individuals fewer, and I realize that this outcome would, for some, have been preferable. While stuck in traffic a few days ago, I found myself behind a car bearing a Sierra Club sticker. The slogan ran: “Your Family: PLAN IT for the PLANET.” You have to wonder, what sort of Malthusian fanatic puts a contraceptive slogan on the back of his car? Babies consume resources, responsible families are small families. The feminist activists who brought *Roe* before the high court can join greens in claiming credit for the pervasive social acceptability of deploring other people’s existence. For with abortion, there’s no excuse for large, environment-despoiling, career-crimping families, apart from, say, right-wingery or religious mania.

Through history, ancestry and descendants have been among the most cherished aspects of life. The Egyptians carved family trees in stone. The Old Testament is chockablock with lists of who begat whom, establishing dynastic consciousness as a Judeo-Christian fundament. All over the world, property is inherited according to birth order, and in most places, at most times, children have been regarded as a type of wealth: a source of pride, status and, often, income. Yet today, a greenie feels justified in lecturing passersby about planning families and saving the earth,

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since individuals seem now to be meaningful chiefly for the resources they consume.

Weirdly, however, we live at the same time in an era obsessed with personal rights. Children have a “right” to attend Head Start programs, women have the “right” to breastfeed at work; men have a “right” to diaper-changing facilities in restaurant lavatories. And it is claimed that the aged have the “right” to subsidized prescription drugs and discount movie tickets. Underpinning all these rights, however, is one so fundamental that many civilized people would rather it not be mentioned at all. It’s so political, so controversial, my dear, so *conservative* to talk about having any right to life.

Yet life is all any of us really has. It is, quite literally, the Mother of All Rights, for without it we have no other. It begins without our knowing it, ends at a time and place usually not of our choosing, and yet, while we have it, most of us would fight like blazes to keep it. We all think our own lives are worth preserving; we go to great medical lengths to do so. How has it come to be so easy to think that other people shouldn’t have their own kick at the can?

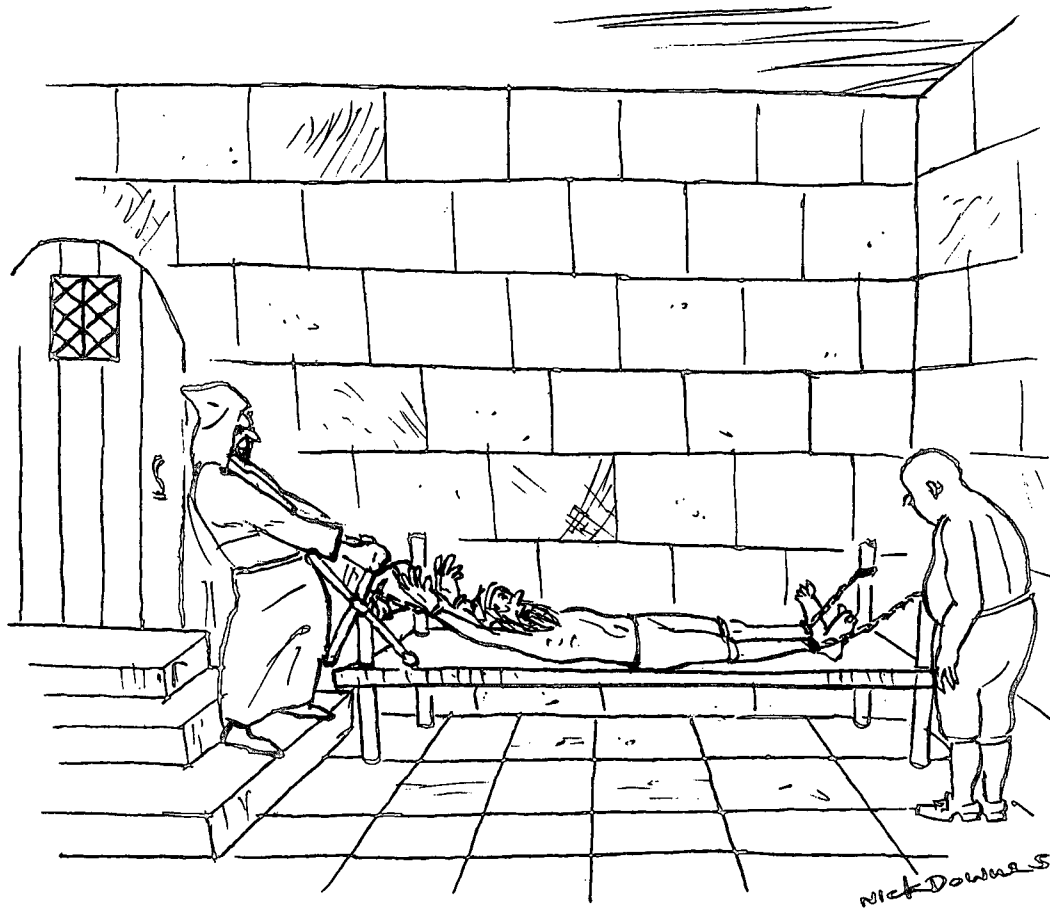
Those who support abortion believe that women’s priorities must come before those of their potential children. Thus a young woman who conceives at an inconvenient time in her life—college-aged women undergo roughly half America’s abortions every year—is encouraged to choose termination lest motherhood compromise her education. The woman who conceives at a convenient time, on the other hand, gets handed prenatal photographs of her developing child, and can make a tape of the heartbeat. If she’s tempted to have a glass of wine, or grab a cigarette, she’s confronted by a label warning of the risks to her gestating infant. It’s a funny old world: Abortion doctors dispatch unwanted “fetuses,” but at today’s crowded fertility clinics, those same organized clusters of cells are referred to as “babies.” Well, which is it?

The angry women waving placards outside the Supreme Court 30 years ago look dated now, not just because of their braids, afros, and big black Hillary-before-the-makeover eyeglasses. When they were crayoning “Keep Your Laws Off My Body” on signs, they didn’t know that ultrasound would show pregnant women, in black and white, a fuzzy but unmistakable—what’s the phrase?—inner child. They didn’t dream that legions of women would pour their hopes and savings into test-tube conception because they’d spent too much time at the office. No one back then suspected that, with special care, a 20-week-old bun could survive outside the oven.

Yet feminist rhetoric is just as excited as it was in 1973. According to women’s groups, just in time for the 30th anniversary of *Roe*, the Bush White House is waging a “War on Women.” I don’t know about you, but that sort of claim has the quality of desperation to me. Pro-abortion-rights activists are doubtless worried by what polls are showing: Since the mid-1990s, Americans have become queasier about abortion, though it is still widely supported if done early. Nonetheless, the National Abortion and Reproductive Rights Action League recently relaunched itself

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as "NARAL Pro-Choice America," downplaying the word "abortion" in its title. It used to be called liberation—now it's the right that dare not speak its name aloud.



"I suppose you take your chance with any bed and breakfast."

APPENDIX G

[Clarke D. Forsythe, an attorney, is President of Americans United for Life. The following is reprinted with permission. Copyright © 2003 First Things (February 2003).]

An Unnecessary Evil

Clarke D. Forsythe

When William Wilberforce rose in Parliament on the evening of May 11, 1789 to give his maiden speech against the slave trade, he argued that the trade was both inhumane and unnecessary for the British economy. His words were part of a conscious strategy that began in 1787, when the British Abolition Committee “concluded that the general, moral case against the slave trade had been made and that the way to induce a positive readiness to end the trade was to demonstrate that it was impolitic as well as unjust and inhumane.” Consequently, the Committee “more particularly directed their attention to the plea of political necessity which is frequently urged to justify . . . this traffic.” As the historian Roger Anstey observed, this was the beginning of a conscious program of “advocacy which was henceforth to be frequent in the whole abolition campaign.” That program took twenty years, until Parliament abolished the slave trade throughout the Empire in 1807.

The cause for life in America has yet to reach the second stage. The argument that the unborn are human lives has been largely won. It is now time for a coherent, sustained, and concerted effort to demonstrate that abortion is “impolitic”—bad for women as well as the unborn. As was the case with the slave trade, such a program is needed to counter the notion among many Americans that abortion is a “necessary evil.” In carrying their argument to Middle America, pro-lifers must go beyond preaching to the anti-abortion choir: they need to make their case in ways that appeal to those who are currently undecided or conflicted on the issue. As Chesterton put it, “We must either not argue with a man at all, or we must argue on his grounds, and not ours.”

A 1991 Gallup Poll on “Abortion and Moral Beliefs” found that 77 percent of Americans believe that abortion is at least the taking of human life, if not murder itself. More specifically, 49 percent considered abortion “murder,” while an additional 28 percent thought of it as “the taking of human life.” Several more recent polls confirm that virtually half of all Americans consider abortion to be “murder.” As sociologists James Davison Hunter and Carl Bowman rightly conclude, “The majority of Americans morally disapprove of the majority of abortions currently performed.”

Yet while many Americans believe abortion is wrong, they also believe it should remain legal. The *Chicago Tribune* aptly summarized the situation in a September 1996 editorial: “Most Americans are uncomfortable with all-or-nothing policies on abortion. They generally shy away from proposals to ban it in virtually all circumstances, but neither are they inclined to make it available on demand no matter what the circumstances. They regard it, at best, as a necessary evil.”

If Middle America—as Hunter calls the 60 percent in the ideological middle—

sees abortion as an evil, why is it thought to be “necessary”? While the 1991 Gallup Poll did not probe this question specifically, it did make clear that it is *not* because Middle America sees abortion as necessary to secure equal opportunity for women. For example, less than 30 percent believe abortion is acceptable in the first three months of pregnancy if the pregnancy would require a teenager to drop out of school (and the number drops below 20 percent if the abortion takes place after three months). Likewise, less than 20 percent support abortion in the first three months of pregnancy if the pregnancy would interrupt a woman’s career (and that support drops to 10 percent after three months).

Instead, many Americans may see abortion as “necessary” to preserve women’s health—and this despite the fact that such a view is based on easily refuted misperceptions. In fact, during our unprecedented experiment in abortion-on-demand over the past three decades, the health of untold numbers of women has actually been damaged. This is thoroughly documented in a recent book by Elizabeth Ring-Cassidy and Ian Gentles, *Women’s Health after Abortion: The Medical and Psychological Evidence* (2002). First, there is the direct harm of abortion to women—short term and long term. Women still die from legal abortion, and short-term harm may include infection and damaged reproductive organs. Long-term harm includes risk of infertility, psychological trauma, and increased risk of breast cancer (at the very least, from the delay of a first full-term pregnancy). In addition, there is the broader impact of indirect harm to women’s health. Abortion directly and substantially fosters an attitude and a culture of sexual irresponsibility. The rise in sexually transmitted diseases, including pelvic inflammatory disease, and the rise in hospitalizations for ectopic pregnancies show the results.

Behind the slogans about women’s freedom is the disaster of disordered lives. The social experiment with abortion has aggravated the very problems—like illegitimacy, child abuse, and domestic abuse—that it promised to solve. It has isolated women in their pregnancies and made them more vulnerable to violent abuse from uncommitted men. Can anyone say that legalized abortion has fulfilled its promise to reduce child abuse, or to reduce illegitimacy, or to reduce poverty?

Such misperceptions explain the seemingly contradictory polls showing that a majority of Americans believe that abortion should remain legal despite believing that it is murder. While the most committed pro-life Americans see legality and morality to be inextricably intertwined and thus view the polling data as contradictory, Middle America understands “legal” and “illegal” not in moral but in practical terms: Is criminalizing the procedure a realistic solution? It is commonly believed that prohibitions on abortion would not reduce abortion but would only push thousands of women into “the back alley” where many would be killed or injured, despite the evidence to the contrary. In 1957, for example, only 260 deaths could be traced to abortion. By 1972, the year before *Roe v. Wade*, only thirty-nine women died from illegal abortions, while twenty-seven died from legal ones. So much for the back alley.

Abortion advocates regularly do their best to spread such myths. For example,

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in 1995 when Congress first began to consider a bill prohibiting partial-birth abortion, abortion advocates bought a full-page advertisement in the *New York Times* showing a large coat hanger and the caption, “Will this be the only approved method of abortion?” Likewise, as Dr. Bernard Nathanson, a one-time pro-abortion leader, has written: “In NARAL we generally emphasized the drama of the individual case, not the mass statistics, but when we spoke of the latter it was always ‘five thousand to ten thousand deaths a year.’ I confess that I knew the figures were totally false, and I suppose that others did too if they stopped to think of it. But in the ‘morality’ of our revolution, it was a *useful* figure, widely accepted, so why go out of our way to correct it with honest statistics?”

While Middle Americans may view abortion as an evil, they view it as intractable. Likewise, they view fervent campaigns to prohibit abortion as unrealistic if not counterproductive, while they are drawn to realistic alternatives and regulations. They agree that there are too many abortions and would like to see them reduced. Abortion is not a galvanizing electoral issue for Americans because they don’t believe that much can be done about the issue legally or politically. But they are wrong.

Given the state of public opinion and the fact that 75 percent of Americans believe that abortion is at least the taking of human life, if not murder itself, effectively changing public attitudes will require a shift of emphasis and resources to educating Americans about abortion’s impact on women. The most direct and effective response to the myth of abortion as a “necessary evil” is to raise public consciousness concerning the damage abortion does to women. If Americans come to realize that abortion harms women as well as the unborn, it will not be seen as “necessary,” and the “necessary evil” may be converted into evil pure and simple. In this way, we may lay the foundation for a dramatic shift in public opinion in the years ahead.

APPENDIX H

[*Terry Eastland is publisher of The Weekly Standard. The following appeared on January 28, 2003 in the Dallas Morning News and is reprinted with Mr. Eastland's permission.*]

The Forgotten Option

Terry Eastland

Last month, "Dateline NBC" told the story of a young couple's decision to have a baby who had been diagnosed with Down syndrome. The story, which took place in 1998, is worth recalling as the nation continues to grapple with the morality of abortion.

In "Dateline"'s account, Greg and Tierney Fairchild (of Hartford, Conn.) receive the good news that Tierney is pregnant with their first child. But later tests reveal that their baby will have Down syndrome, a genetic disorder that can produce a wide range of physical and mental disabilities. For the Fairchilds, who both happen to support abortion rights, that prospect raises the question of whether they (or, to be precise, Tierney) will choose abortion.

The Fairchilds worry about the severity of their child's retardation and the unfair burden it might place on other children they hope to have. They learn their baby would have to undergo heart surgery. They go back and forth on abortion but appear close to choosing it.

As the legal deadline for making that decision draws near, Greg wonders about the adoptability of a baby like theirs and calls a local service. He is told it is "no problem" finding parents for babies with Down syndrome. The couple is taken aback.

"One of the things we hadn't considered," Tierney says, "was that . . . someone else would love to have [this child] and was prepared to handle it." Her husband adds, "[I]t even makes you question yourself. What is it exactly that I'm so worried about, if there are people lined up to adopt this baby?"

As you probably have guessed, the Fairchilds choose life, and Naia Grace Fairchild is born. She has Down syndrome and endures difficult surgery, and today she is a spunky 4-year-old, her parents' evident joy.

The question is why the Fairchilds made the choice they did, and the answer obviously involved their discovery that "people" were "lined up to adopt this baby." Quickly, it appears, they realized that the baby they came close to regarding as "unwanted"—to use the terminology of *Roe vs. Wade*, which legalized abortion—would be wanted by "someone else."

The Fairchilds' story is all the more remarkable when you consider that infants like theirs—those with "special needs"—would seem to be among the least adoptable. Yet interviews with Thomas Atwood, president of the National Council for Adoption, and others knowledgeable about adoption suggest that the interest in adopting special-needs infants is as strong nationwide as it was in Hartford in 1998 when Greg Fairchild made his inquiry.

Glenn DeMots, president of Bethany Christian Services (which has offices in 31 states, including Texas), cites many special-needs placements carried out by his

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organization, including one of an infant who died, as expected, before reaching her first birthday. Notwithstanding the acute difficulties of her brief life, she was unquestionably a wanted child.

While the number of people waiting to adopt an infant of any description is unknown, Atwood thinks there may be as many as 2 million couples who would be willing to take a newborn into their home—if one were available. Keep that number in mind as you ponder the many abortions in America—1.31 million in 2000, the most recent year for which the Alan Guttmacher Institute has collected statistics. In most cases the lives prematurely ended by abortion experienced that fate because they were deemed—for one reason or none at all, after much agony or upon casual reaction—unwanted. Note also that most abortions prevent the birth of what would have been “normal” babies.

To the extent pregnant women considering abortion were to choose adoption instead, the number of abortions would decline. Unfortunately, women in that circumstance aren’t thinking much about adoption.

Indeed, unmarried pregnant women—who get most of the reported abortions—now choose adoption much less often than they did in the early 1970s. That change would appear to be a result at least in part of the pro-abortion rights regime established by Roe, which has shifted the question an unmarried pregnant woman might ask herself from “Who will care for my child?” to “Shall I carry this baby or not?”

Kenneth Connor, president of the Family Research Council and himself an adoptive parent, makes a persuasive case to anyone who will listen that increasing adoption should be a key goal of public policy. “The forgotten option,” he calls adoption. No doubt it would be less forgotten if Americans were to understand that to say a baby is unwanted is to fail to consult a wider universe.

As the Fairchilds discovered, there are people out there ready, indeed eager, to open their arms.

APPENDIX I

[Tom J. Walsh, M.D., practices family medicine in Nevada. The following originally appeared in the Fall 2002 issue of Latin Mass magazine and is reprinted with permission.]

Lily

Tom J. Walsh

She was an absolute nobody in most anyone's estimation, but, then again, so was I. She was a pregnant 16-year-old awaiting her first obstetrical clinic visit at the County Hospital. I was the lone practicing Catholic resident physician in this renowned County Hospital Family Practice training program, maintaining adequate obscurity, stealthily avoiding prescribing the pill, participating in sterilizations, and the like.

Any of the other three resident physicians on the Obstetrical Service might have become involved in this patient's case as we efficiently worked up the fifty new obstetrical patients scheduled for this once-a-week, half-day clinic. The nurse gave me the heads-up as I reached for the chart: "Sixteen-year-old foster child raped on her sixteenth birthday by an older foster boy in the household . . . likely story."

I found her seated on the exam table in the obligatory exam gown, her eyes quickly welling with tears. The fleeting eye contact and positioning of her hands over her slightly protuberant lower abdomen, unconsciously shielding her now twenty-week pregnancy, gave me a different impression. In as non-threatening a manner as possible I began by addressing the clinical questions required for the history. It quickly became apparent that I was in the presence of a completely believable and heroic young woman who had made the decision to keep this pregnancy despite incredible circumstances. My heart went out to her immediately with supernatural affection. During the course of my evaluation she recognized my compassion and relaxed, the beauty and meekness of her soul flowing out to my privileged spirit. At the end of the visit I asked if she wished me to manage her entire obstetrical care by making her one of my own personal patients and her answer was a joyous "yes!" We spent a few more minutes together without much being said, probably like the early Christians in the catacombs just happy to be in each other's company.

She did everything right during the pregnancy: good nutrition, ideal weight gain, daily exercise, prenatal childbirth classes, and faithful attendance at all her appointments. Like most of my teenage pregnant patients she handled labor and delivery well, giving birth to a solid little boy who looked just like her.

Her resolute intention was to give this child up for adoption, and when that time came I knew I needed to be there, never mind my other responsibilities. I remember moving past the newborn nursery quickly, just getting a glimpse of the nervous adoptive parents standing in the hallway. The afternoon sun filled my patient's room and illuminated her with the yellow light that reflects off the walls and curtains of a County Hospital. She was sitting cross-legged in the middle of the bed with her baby cradled in her lap. She cried quietly, not to disturb the patient in the

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next bed. Her tears streamed down her face, dropping into the middle of her little boy's face, mixing with his tears as he joined her in this intense sorrow. She made an attempt to wipe away tears from her own and then his face without effect. Her emotion was uninhibited in my presence. In my twenty years in medicine I have witnessed no greater love and sorrow as I did this afternoon. *We are all children in this valley of tears begging for relief.*

APPENDIX J

[Alan Close edited the anthology *Men Love Sex*, which in his native Australia remains a benchmark of male writing on the emotions. His poetry, stories and non-fiction have been widely published in Australia and overseas. He asked that we make it clear that he “supports the right to choose,” but also that he thinks “young women and men need to be cautioned against repeating the mistake so many of us made—to see abortion as yet another contraceptive option without considering the long-term emotional repercussions which often follow a termination.” The following appeared in *The Weekend Australian*, Dec. 28-29, 2002, and is reprinted with Mr. Close’s permission.]

Voyage Around My Fatherhood

Alan Close

There is a line in Helen Garner’s novel *Cosmo Cosmolino* in which a character attempts to cope with the breakdown of her marriage. “To see a couple of any age lean towards each other across a restaurant table caused Janet’s heart to fracture like an egg.”

Random glimpses of parenting—my young nephew, naked and finally tired as he lies on his mother’s belly after his bath, my friend Mick dancing with his four-year-old at the pub, a father walking slowly down the street with his child—the small arm reaching up so high, the little hand lost in the big mitt, all the trust and responsibility this image evokes for me—such moments, similarly, can crack my heart like an egg.

Easy on the eye, admittedly, compared with much of the hard reality of parenting, they remind me, painfully, what is absent from my life. They lead me to question what might have gone wrong that I have missed out on children—and to wonder with occasional panic what direction my future can possibly take without the rudder of family life to steer it.

“Children suck the love right out of your bones,” Garner writes elsewhere. How can we who are childless find any reason for living that even comes close to this?

I didn’t choose not to have a child—how many of us do?—it is, rather, how my life has panned out. I’m 47, which means of course that I’m not too old. But if anything I feel readier now to be a grandparent than a new father. Watching men my age with small children, I have no doubt we were meant to do this business 10 or 20 years earlier, and I wonder whether emotionally and energetically my fathering days have passed.

I have been the father of several terminations, all but one of which were clear mutual decisions—as much as any can be. That one exception, however, was my girlfriend’s last-minute choice. She had been my partner for several years but our relationship was in turmoil after we had become involved with other people.

I doubt we would have stayed together even if we’d had the child—a boy, we were certain, and already named Jack. But I also have no doubt that I would have parented Jack with every gram of dormant love that lies hardening in my bones now. He would have been 13 this month. I can imagine, too easily, his gangly

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cockiness, the sullen, aggrieved tone in his voice and, also too easily, the frustration and fierce protectiveness this arouses in me as his father.

I look back at my life and understand that every other twist and turn and choice I've made were all but inevitable, as if I were blindly following a script my past had left in my hands. But who might fatherhood have made me? What life might I have now? My girlfriend's decision that day in June 1989 remains the one moment when my future could have swerved in a radically different direction.

For a long time I thought I did have children—the result of sperm donations made when I was 24. I'm sure this assumption dampened whatever drive I had to father children of my own. Only in my early 40s did something make me inquire after the fate of those donations. (I was single again and taking stock of what seemed to be the ruins of my life as I entered middle age.) To be told that my sperm never survived thawing and had been destroyed only months after I donated it sent me reeling. I was utterly unprepared for the shock and disappointment I'd feel—a distant shadow, I imagine, of what it must be like to lose a child.

These were two distinct turning points in my life—the moment I was told I was not a father after all and the moment the child waiting to be born as my son was sent off into another life instead.

I daydream about a knock on the door, a letter in the mail from a son or a daughter I never knew I had. I fantasize about the richness this would give me, the meaning I would instantly have in what otherwise too often feels like a life still waiting for direction.

Many women must learn to live with the knowledge they'll never have a child. No doubt because men don't have the same fertility deadline, we don't talk much of this.

For me the acid truth that I have probably squandered my children in terminations and contraception is etched deeper by that small, weak beacon of hope, the itch of desire, the sharp stab of pain that this is not the case.

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[Eve Tushnet is a freelance journalist in Washington, D.C. The views expressed here are her own and not those of the Capitol Hill Pregnancy Center. © Copyright 2003, News Corporation, Weekly Standard, All Rights Reserved (Issue date: 02/10/2003).]

Inside a Crisis Pregnancy Center

Eve Tushnet

The Capitol Hill Pregnancy Center in Washington, D.C., where I've been working as a volunteer for over a year, is a pro-life Christian ministry to pregnant women and poor families. Like most pro-life pregnancy centers, it offers free pregnancy tests, confidential counseling, referrals to outside services like child care, job banks, and housing, and basic material aid like diapers, formula, cribs, and clothes for mother and child. It also provides a childbirth class and a parenting class, and runs abstinence programs in nearby schools. CHPC is one of about 3,000 pro-life pregnancy centers in the United States, and one of some 600 in North America affiliated with the umbrella group CareNet.

Our little center is nestled in a half-gentrified residential neighborhood of Northeast Washington, 15 minutes' walk from the Capitol. We see about 1,000 clients a year, most of them under 25, virtually all of them unmarried, so our accumulated counseling experience gives us a certain perspective on the matter of why women get pregnant out of wedlock—as a record number of American women now do. (In 2001, 33.5 percent of U.S. births were to unmarried women.) We conduct extended interviews with most of our clients and usually cover a number of standard questions. In women's responses, I've noticed four main themes: fatherlessness, fatalism, an attenuated concept of marriage, and the intermittent use of contraception.

* “**What does the client's father want her to do if she's pregnant?**” There's a line on our counseling form for the answer to that question. I think I've filled it out once. I've counseled one or two teenagers who live with their fathers, and a handful of teens and adult women who speak with their fathers now and then. But for most of our clients, fathers are just not there. Growing up fatherless affects how women view their own relationships and their pregnancies. Because so few of our clients have known men who consistently met their family responsibilities, they rarely demand responsibility from the men they date. Even women who want children generally view adult men as a fleeting part of the household. Men flit in and out of women's lives, exotic but untrustworthy creatures, exciting but ultimately irrelevant to the formation of a family.

We see some boyfriends who want to be responsible. But men too suffer from the lack of strong models of paternal and spousal responsibility. Our observations coincide with the findings of Jennifer F. Hamer, author of a study of the attitudes of black non-custodial fathers published under the title “What It Means to Be Daddy” (though not with her policy prescriptions). Hamer believes that marriage is not a necessary or even a superior way to harness men's desires for fatherhood. But even the men she studied who tried to be more than “absent fathers”—more than

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statistics—didn't do many of the things that distinguish reliable fathers. Because they didn't marry the mothers of their children, they didn't refrain from fathering children by different women (thus splitting their resources and attention, and creating "drama"), or become stable fixtures in their children's homes. Women didn't demand this—and the women's mothers sometimes even shooed the men away, viewing them as threats, rather than encouraging men who wanted to take responsibility to do so. (In my experience, mothers are also at least as likely as boyfriends to pressure their unmarried pregnant daughters to have abortions.)

The women we counsel say they want to get married, just as the men Hamer interviewed want to be good fathers, but they have little sense of how to get what they want. Having sex with "this great guy who hangs around my high school all day, he's 22, he makes me laugh" is generally not a route to marriage. Nor does sleeping with every woman he dates prepare a man to be a reliable father. Not having good fathers themselves has left our clients more likely to fail in their ambition to make good marriages. A fatherless neighborhood quickly becomes a neighborhood of pregnancy scares. When marriage is a chimera, there's nothing to wait for, no reason to be chaste. There's nothing for a woman to demand from men, no reason for her to put "responsible" above "fun" on the checklist of qualities to look for in a potential boyfriend. When responsibility is almost unknown, where would a man acquire the notion that the best thing he can do for his girlfriend is stop having sex with her; or, if she conceives, that the best thing he can do for his child is marry and love the mother? Instead of attitudes conducive to marriage, fatherlessness fosters the second huge problem, fatalism.

* **"What led you two to begin having sex?"** Sometimes I can't ask this question. Not every counseling session builds enough intimacy and trust to broach it. But when I do ask, there's no real answer. For our clients, having sex is the default setting; it's *not* having sex that would take a conscious decision.

The women we counsel don't speak the language of empowered young women taking control of their sexuality. Instead, they sound profoundly disempowered; they speak as if their sexuality were not in their control at all. It's not that their boyfriends bully them: They simply have no sense that a dating relationship without sex is possible. Chastity is an "alternative lifestyle" so alien as to be nearly inconceivable.

A few of the young women we counsel buck this trend. They're the ones who sound brave and determined even in their frightening situation. These few come to the center because they've slipped up after deciding to stop having sex for a while. In general, they report that abstinence improved their relationships, but the allure of sex got the better of them one night. Because they have already struggled to practice chastity, they believe it is possible. If their tests come back positive, these women's lives swerve onto paths they have not planned, but they still sound more self-possessed and self-aware than most of our clients. Loral Patchen, director of the Teen Alliance for Prepared Parenting (TAPP) at Washington Hospital Center, recently told the Washington City Paper, "The idea that you're going to tell anyone

who's already sexually active to abstain usually isn't realistic. It isn't realistic for adults or for kids." Our experience belies this. We see the real women behind slogans like, "It's never too late for abstinence." We've seen that there is hope for women who want to try again. The Patchen approach pushes hopelessness under the guise of realism.

* **"What are your goals for this relationship?"** Fatherlessness warps women's views of marriage, but broader cultural trends do at least as much harm. Like so many Americans, the women we counsel view marriage not as a sacred vow, or a promise that can strengthen a relationship and help it last, but as an expensive ceremony validating but not changing a relationship. Marriage is postponed when couples can't scrounge up the money for a big wedding—confirming Miss Manners' observation that weddings become more and more elaborate as marriage becomes less and less meaningful. "We just can't afford it," is the excuse by which many cohabiting couples disguise their ambivalence about the idea of marrying.

Because marriage is not viewed as significantly different from cohabitation, there's no reason to prefer marriage and postpone sex. Unfortunately, when the cohabiting woman misses a period, she realizes that her relationship is much less stable than she'd imagined—much shakier than a marriage.

* **"Were you using any kind of birth control?"** The women we counsel generally know about birth control. They know about condoms, the Pill, Depo-Provera. Most of them use condoms intermittently and have used hormonal birth control at some time. But half of all unintended pregnancies in the United States occur when the woman is not using birth control. We see a lot of those women. They have the usual reasons; all contraceptive options have drawbacks. They're unromantic; they're hard to use correctly; and many have unpleasant side effects. Combine these problems with the wishful belief that pregnancy happens to other people, a deep ambivalence about the man you're dating, conflicted desires about having a child, and most of all a fatalistic desire to forget about the future and go with the flow—and you have a recipe for unwanted pregnancy.

* **"What would have to change in your life to make you feel good about having this baby?"** Public officials' tweaking a regulation here or funding an initiative there won't untangle the emotional roots of out-of-wedlock pregnancy. What's needed more than anything is realistic hope. Men and women need models of chastity, marriage, and fatherhood. They need to be able to imagine themselves as abstinent singles or married parents, and they need to know how to make realistic plans to move toward those goals.

How can hope be provided? My experience suggests a few possibilities. Personal relationships are crucial, and neither government nor bureaucratic charities can supply them. Mentoring can. This might come through a Big Brother or Big Sister relationship, or through marriage mentoring. Some churches in well-off areas have found "sister congregations" in poor areas, holding joint celebrations and building relationships based on friendship and reciprocity rather than on one-way charity.

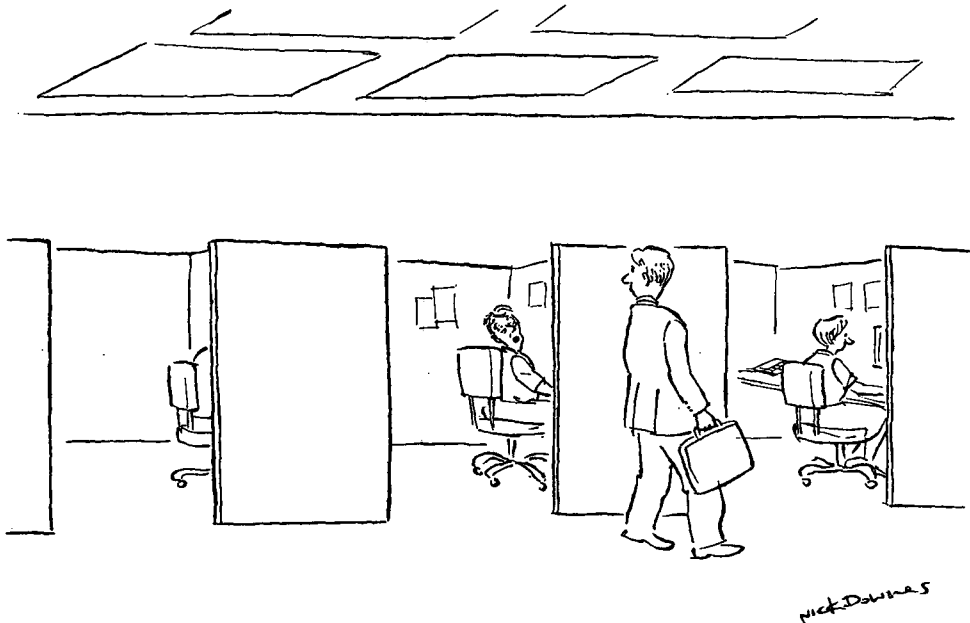
Pro-life pregnancy centers can focus not solely on discouraging abortion, but

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also on helping men and women orient their romantic lives toward marriage. Many of us were startled in our training for our work at Capitol Hill Pregnancy Center to learn that clients whose pregnancy tests came out negative also need to be counseled. We were so conditioned to view pregnancy centers as baby-savers, we'd failed to notice that virtually every negative test is also a sign that something is going wrong in a woman's life. Too often, women heave a sigh of relief at the results, but don't change their habits—and are back in six months with the old anxious stare and a double load of guilt.

Sex education curricula, then, should emphasize chastity and good marriages. Both "safe sex" and "abstinence-only" curricula tend to fall into the trap of trying to scare teens with statistics on pregnancy and sexually transmitted diseases. But teens are not very interested in reducing risk, and they're certainly not good at it. They *are* interested in romance, taking control of their relationships, and preparing for the future. Chastity counseling is what I do most often at the center.

Finally, since Capitol Hill Pregnancy Center is a Christian ministry, I should touch on religion. Almost all the women we see were raised as Christians and consider themselves Christians, but feel profoundly alienated from the heart of their faith. I've been surprised at how many women respond with interest and enthusiasm when they hear a brief, clear explanation of the essential Christian truths. "That makes a lot more sense," one teen said ruefully, than the confused and diluted notions she had brought with her. Such understanding is the best weapon of all against fatalism.



"For the love of God, what's it like outside?"

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