

the HUMAN LIFE REVIEW



WINTER/SPRING 2009

SYMPOSIUM: PRO-LIFE IN THE TIME OF OBAMA

WILLIAM MURCHISON • JOSPEH BOTTUM • RITA MARKER • KATHRYN LOPEZ
NAT HENTOFF • MARY MEEHAN • JACK FOWLER • GEORGE MCKENNA
W. ROSS BLACKBURN • ELLEN WILSON FIELDING • WESLEY SMITH

Featured in this issue:

James Hitchcock on Objections
Wesley J. Smith on Conscience in Health Care
Richard Stith on Abortion as Betrayal
Stephen Vincent on The Sanity of Dignity
Diane L. Virzera on Embryo Adoption
Erika Bachiochi on Palin, Abortion, & the Feminists
Gregory J. Roden on Overturning *Roe*

FRANCIS CANAVAN & RICHARD JOHN NEUHAUS, RIP

JAMES McLAUGHLIN • JOSEPH BOTTUM

Also in this issue:

William McGurn • Kathryn Jean Lopez • Frederica Mathewes-Green
Clarke D. Forsythe • Wesley J. Smith • David Goldman

Published by:

The Human Life Foundation, Inc.

New York, New York

ABOUT THIS ISSUE . . .

. . . as you can see, Winter/Spring 2009 is packed with timely information and inspiring reflection provided by a host of writers—from longtime contributors like William Murchison to some new voices we welcome here: Diane Virzera, an attorney in private practice in New York (“Unthawing Frozen Embryos: The Legal & Ethical Conundrum of Embryo Adoption,” page 85); and Erika Bachiochi, also a lawyer but right now a full-time mother of five who still finds time to write (“Palin, Abortion, and the Feminists,” page 95). We’d also like to welcome back Jack Fowler, a former managing editor of ours who is now publisher of *National Review* (“Postcards From the Edgy,” page 33).

Mr. Murchison, the senior editor who leads off our opening symposium, “Pro-Life in the Time of Obama” (page 7), has a new book out: *Mortal Follies: Episcopalians and the Crisis of Mainline Christianity* (Encounter Books). *National Review* praised Murchison’s “characteristic eloquence”—no surprise to his longtime fans here. Two other senior editors, Mary Meehan (“Broaden the Base!,” page 29), and Ellen Wilson Fielding (“Not Past Praying For,” page 52), also make important symposium contributions. We’re pleased to announce that all three will join us at our Great Defender of Life Dinner in October to share the award they so richly deserve; see page 110 for more news about this special annual event.

Sadly, two frequent guests at the dinner won’t be with us this year, Fr. Francis Canavan and Fr. Richard John Neuhaus, longtime friends of the *Review* who died this winter within weeks of each other. The essays we reprint here (pages 112, 123) are a painful reminder of why they will be missed by scores of readers who didn’t have the good fortune, as we did, to enjoy their delightful company.

William McGurn, another friend of the *Review*, was chief speechwriter for George W. Bush and now pens the weekly “Main Street” column for the *Wall Street Journal*. A Notre Dame alumnus, he went back to South Bend on April 23 and gave an address that deserves wide attention (“A Notre Dame Witness for Life,” pg. 137). We thank Mr. McGurn for permission to include it here; and also for telling us about a recently launched initiative called the Notre Dame Fund to Protect Human Life. (To learn more about it, visit their website at <http://ethicscenter.nd.edu/lifefund.shtml> or call (574) 631-5776.)

Clarke Forsythe, who writes in this issue about a new book on the English abolitionist William Wilberforce (“Zeal Plus Prudence Equals Effectiveness,” page 148), has a new book of his own: *Politics for the Greatest Good: The Case for Prudence in the Public Square* (InterVarsity Press). “This book is,” wrote Fr. Neuhaus, “both a guide and an encouragement for faithful strivers.” High praise from the man we all here at the *Human Life Review* consider the standard by whom pro-lifers will continue to measure their own performance.

ANNE CONLON
MANAGING EDITOR



the HUMAN LIFE REVIEW

Winter/Spring 2009

Vol. XXXV, Nos. 1 & 2

Editor

Maria McFadden

Senior Editors

Ellen Wilson Fielding
Faith Abbott McFadden
Mary Meehan
William Murchison

Managing Editor

Anne Conlon

Consulting Editor, Europe

Mary Kenny, London

Contributors

Lynette Burrows
James Hitchcock
Rita L. Marker
William McGurn
George McKenna
David Quinn
Wesley J. Smith

Business Manager

Rose Flynn DeMaio

Production Manager

Christina McFadden

Publishing Consultant

Edward A. Capano

Founding Editor

J.P. McFadden

Published by THE HUMAN LIFE FOUNDATION, INC.
Editorial Office, 353 Lexington Avenue, Suite
802, New York, N.Y. 10016. Phone: (212) 685-
5210. The editors will consider all manuscripts
submitted, but assume no responsibility for un-
solicited material. Editorial and subscription
inquiries, and requests for reprint permission
should be sent directly to our editorial office.
Subscription price: \$25 per year; Canada and
other foreign countries: \$35 (U.S. currency).
ISSN 0097-9783.

©2009 by THE HUMAN LIFE FOUNDATION, INC.
New York, N.Y. Printed in the U.S.A.

Introduction 2
Maria McFadden

Symposium: Pro-Life in the Time of Obama

William Murchison 7
Joseph Bottum 13
Rita L. Marker 17
Kathryn Jean Lopez 21
Nat Hentoff 25
Mary Meehan 29
Jack Fowler 33
George McKenna 39
W. Ross Blackburn 48
Ellen Wilson Fielding 52
Wesley J. Smith 57

I Object! 61
James Hitchcock

*The Importance of Conscience
in Health Care* 63
Wesley J. Smith

Abortion as Betrayal. 71
Richard Stith

The Sanity of Dignity 77
Stephen Vincent

Legality & Ethics of Embryo Adoption 85
Diane L. Virzera

Palin, Abortion, & the Feminists 95
Erika Bachiochi

Overturing Roe in a Heartbeat 101
Gregory J. Roden

Francis Canavan, S.J., RIP. 111
J. McLaughlin, F. Canavan

Fr. Richard J. Neuhaus, RIP 121
J. Bottum, R.J. Neuhaus

Appendices 137
William McGurn Clarke D. Forsythe
Kathryn Jean Lopez Wesley J. Smith
Frederica Matthewes-Green David Goldman

INTRODUCTION

We launch our 35th year of publishing the *Human Life Review* with the obvious question: What do we do, now that we are “Pro-Life in the Time of Obama”? Introduced with a lead article (“Our Resolutely Pro-Choice President”) by senior editor William Murchison, the symposium you’ll find on pages seven to 60 is a rich collection of responses to present times by an eminent team of dedicated pro-life thinkers. You’ll find a variety of angles, a number of proposals and some perhaps unexpected exhortations. What you *won’t* find is any hint of the argument—used by some prominent Catholic pro-lifers during the election—that the Obama administration’s policies, while supporting abortion, will actually *decrease* the number of abortions, by alleviating the need for them.

No one *can* seriously dispute the fact that we have our most pro-abortion president *ever*—his campaign even took the word “rare” out of the Democratic platform. His actions in his first hundred days, enumerated by several of our contributors, have greatly facilitated *increasing* the number of abortions. Nat Hentoff (on p. 25) notes the chilling irony: Obama has made history as the first black president, but also as the “most pro-abortion president in our history.” He’s also the “black genocide” president, because the abortion rate for black women is almost five times that of white and the president will be “raising those percentages.”

What *do* we do? Do we despair? Absolutely not. In the most fundamental sense, as Joseph Bottum writes (p. 13), the fight over abortion “will never be over until the slaughter of the unborn ceases,” and we must fight on, finding new ways to engage the culture and change hearts and minds. As you read through our symposium, you will find again and again the conviction that, as Jack Fowler writes (p. 33), we are mistaken if we believe our struggles are limited to the legislatures and courts. “Our greatest successes are to be found in the (relentless) cultural struggle to articulate and sing the beauty of the innocence of unborn life.”

And there have been some rays of hope. At an April 29 press conference, President Obama verbally flip-flopped on the Freedom of Choice Act—FOCA, which would basically eliminate all federal, state, and local abortion restrictions—saying it was not his “highest legislative priority,” and stepping back from his campaign promise to Planned Parenthood. Kudos ought to go, as Professor George McKenna notes in “Power to the Parishes” (p. 39), to the thousands who joined the postcard campaign against FOCA and other pro-choice legislation, organized by the United States Conference of Catholic Bishops—although, as you will read, both Professor McKenna and Jack Fowler chastise many Catholic bishops and priests for doing too little, too late or, worse, sabotaging the Church’s pro-life message.

We can be *cautiously* relieved: Many warn that Obama and his pro-abortion supporters have no intention of giving up, but are concentrating on “stealth FOCA”—an incremental strategy to pass FOCA, piecemeal. Still, as McKenna writes, maybe it has taken almost hitting rock bottom for pro-lifers to get moving. “The good

news is that the bad news is so bad that good people are starting to rally.” A recent Gallup poll reported that, for the first time since the poll started asking the question (in 1995), a majority of Americans identify themselves as pro-life, and Obama’s extremism on abortion seems to be galvanizing more citizens to get involved in pro-life activities. This is the time, then, for seizing opportunities to make inroads in the culture, and our contributors have thoughtful and savvy advice on how to proceed. Mary Meehan, for example, urges us to “Broaden the Base” (p. 29) to reach out to those outside of one’s “comfort zone” and gain new allies in the fight for the unborn. Wesley J. Smith asks us to be “willing *not* to be liked” (p. 57), reminding us that in the “bitter cultural debate over slavery,” the most “despised people in the country” were not the slaveholders but the abolitionists!

Ellen Wilson Fielding writes in “Not Past Praying For” (p. 52), that we must resist being marginalized, so that we can continue to engage the culture:

We must remain capable of imagining a day when abortion as a public national issue is past. We need to resist the temptation of developing the personality of the permanent majority—cranky, paranoid, distempered, consumed with issues of ideological purity, and dismissive of the opposition. More than half of all Americans agree either in whole or in part with us on abortion. That is not currently reflected in Congress’ makeup, because the life issues do not carry for many of these fellow Americans the urgency that they should. But although the culture offers a slippery moral surface on which to slide about, we are neither as weird as the media make us out to be nor as inexorably, unalterably cut off from mainstream Americans as we ourselves sometimes fear.

Rita L. Marker’s powerful contribution on p. 17 (“What Now?”) is a wake-up call: Focusing exclusively on the plight of the unborn is dangerous, because the pro-death movement has made huge gains in the cultural and legal acceptance of euthanasia and assisted suicide. Since November 2008, when Washington State passed the “Death with Dignity Act,” the road to death on demand has “expanded from an two-lane country road into a superhighway.” On end-of-life issues, alerting our fellow pro-life citizens to current struggles is *key*; pro-euthanasia and pro-assisted suicide forces are all too happy to propagandize and build support under the radar.

If trying to engage our pro-choice opposition civilly is often a challenge, sometimes it seems the most painful engagements are with our own side. Though united in dedication to the protection of life, we have fierce divisions when it comes to political and legal strategies. In our Spring 2007 issue, *Review* contributor James Hitchcock wrote “Abortion and the ‘Catholic Right,’” in which he argued that some Catholic pro-lifers were voting *against* pro-life politicians, and being encouraged to do so in the pages of the Catholic newspaper *The Wanderer*. Responses were many and heated, for and against Professor Hitchcock’s assertions. In our Winter 2008 issue we published Hitchcock’s “Part II”, in which he described and addressed the responses he received, followed by my own essay in a similar vein.

INTRODUCTION

In our last issue (Fall 2008), Christopher Manion, a columnist criticized by Hitchcock, wrote defending *The Wanderer* (“Abortion and the ‘Catholic Right’: A Response to James Hitchcock”). On page 61, Professor Hitchcock, in a “last word” on the exchange, answers particular charges in Mr. Manion’s article. If you would like to catch up on the entire exchange, please go to our website, at www.humanlifereview.com.

As Hitchcock points out, President Bush, in one of his last actions, instituted a conscience rule in an attempt to protect health-care workers. President Obama wasted no time in starting the process to rescind the rule, a dangerous sign, because, as Wesley J. Smith writes in his article “The Importance of Conscience in Health Care” (p. 63), it is increasingly the case that “abortion and assisted suicide proponents are starting to create policies that force health-care workers to participate in activities they deem both immoral and unprofessional as against the sanctity/equality of human life.” If these efforts are not halted, writes Smith, “dissenting health-care workers could be driven completely out of their professions.” A terrifying prospect: a health force full of “quality of life” devotees? Smith gives valuable instructions as to constructing conscience clauses so that they will protect life and the rights of health-care workers.

In our next article, Professor Richard Stith argues that “abortion is worse than ordinary murder, principally because it involves the betrayal of a dependent by a natural guardian.” Who could be more dependent, Stith asks, and on its own mother, than an unborn child? And from the abortion license have come other state-approved killings of the dependent—the handicapped, the mentally ill, the elderly. What does such a basic evil do to our society? “Accepting the killing of strangers eats away at our community from the outside in,” he writes. “Accepting the killing of our own children rots us from the inside out. How can any dependent lives be safe?” Still, his argument may seem harsh: We know that countless women and men who abort their children are not acting as calculating killers, and may be brought to despair over their actions when they realize what they have done. But here we must separate the act from the actor: We live in a culture that has created an alternate reality via “choice,” and for millions, their own complicity in the act of abortion has made it almost impossible for them to face the truth. Symposium contributor W. Ross Blackburn, in “Don’t Forget God” (p. 48), explains:

Abortion kills children, usually with the consent of the parents. This is the crushing reality of abortion, which effectively places abortion beyond intellectual argument or political (even moral) reasoning. In other words, we can speak truthfully about the humanity of the unborn and still make no headway. The reason is simple: Many who have been involved in abortion will not hear because it involves admitting to being a party to killing a child, perhaps their own. The guilt is too great. If one does not have a sense of where to go with that guilt, he will not be able to hear what abortion is. In fact, many people go in the opposite direction, actively supporting abortion in order to justify past decisions.

One of our cultural challenges is to help people see there *is* a place to go after

abortion, a place of forgiveness and new hope, not despair. Both Blackburn and Ellen Wilson Fielding urge us to pray—for those wounded by abortion, and for abortion advocates, that they may have a change of heart.

The death culture rationalizes abortion and euthanasia, Professor Stith writes, “by the idea that autonomy alone is the basis for human dignity.” Contributor Stephen Vincent, in “The Sanity of Dignity” (p. 77), writes about the concept of human dignity as articulated by the Catholic Church in the recent instruction *Dignitas Personae* (“Dignity of the Person: On Certain Bioethical Questions”). The bioethical questions explored include the moral status of embryos, in vitro fertilization, cloning, and the use of vaccines which have been created with cells from aborted babies. On some of the complex questions, Vincent writes, this Vatican document itself exemplifies the difficulties of bioethics today: Even “a definitive Vatican document written with the greatest care leaves well-informed experts doubtful or debating.” Vincent drew on the expertise of Professor Robert George, a member of President George W. Bush’s Bioethics Council, to help clarify the document’s points for our readers. “Perhaps the most significant ‘news bite’ of the instruction,” Vincent writes, “is that a long shadow is cast upon the practice of ‘embryo adoption.’” Our next article, by a newcomer to the *Review*, attorney Diane Virzera, is a valuable clarification of the issues involved in the “Legal and Ethical Conundrum of Embryo Adoption.” The emerging legal questions are set against a staggering backdrop: in the United States, there are already over 400,000 embryos frozen.

In the fall of 2008, thanks to a generous grant from a *Review* reader, the Human Life Foundation sponsored a series of pro-life talks on college campuses, part of the purpose being to introduce the *Review* to college students. We were fortunate to have as our speaker Erika Bachiochi, lawyer, author, and full-time mother of five young children, and she chose a timely topic, then-vice-presidential candidate Sarah Palin. Her “Palin, Abortion & the Feminists” (page 95) is a version of the talk she gave. It’s an engaging and spot-on analysis of the irrational (and hypocritical) feminist anger directed at Mrs. Palin and her family, because her success flew in the face of pro-abortion feminist doctrine, that children, especially special-needs children, “are a burden to women’s success, freedom, and equality.”

One of the most vociferous debates in the pro-life movement was whether or not the 2007 Supreme Court *Gonzales v. Carhart* decision, which upheld the federal Partial-Birth Abortion Ban Act of 2003, was a “good” or “bad” pro-life decision, writes Gregory Roden in our next article. Though critics “maintain that the Act will actually save few lives” and that the decision is therefore a “hollow victory at best,” Roden argues that “buried in the *Gonzales* opinion, and overlooked in the hubbub, is a most precious diamond in the rough.” The language of the *Gonzales* decision is markedly different from the *Roe v. Wade* decision when it comes to the big question: When does life begin? Because the language of the Partial-Birth Abortion Ban Act was very specific (in order to counter the reason the Supreme Court gave for the striking down of Nebraska’s similar ban, on grounds of lack of “sufficient

INTRODUCTION

definiteness”) it forced the Court to be more specific as well, “affirming for the first time that ‘a fetus *is a living organism* while within the womb”—you will read how significant this is in Roden’s view, and what hope he believes it holds for the future.

The winter of 2009 was a sad one for us. We lost two great friends and close allies: Father Francis Canavan, professor emeritus of political science at Fordham, an early contributor and editor of the *Review*; and Father Richard John Neuhaus, an extraordinary priest, author, thinker, and peerless leader in the pro-life movement. We have reprinted articles from both these great defenders of life (starting on page 111), with brief introductions, as well as a poem written by *First Things* editor Joseph Bottum in honor of Father Neuhaus. We also welcome friend and new contributor James McLaughlin, whose fond tribute to *his* dear friend Father Canavan is what my late father J.P. would call a “gem.”

* * * * *

We begin our appendices with a speech given at Notre Dame that *is* worthy of the University’s Catholic identity. William McGurn, alumnus, former chief speech writer for President George W. Bush, and now author of “Main Street” at the *Wall Street Journal*, spoke to the Notre Dame Center for Ethics and Culture on April 23, about the decision to honor President Obama, and how, despite that disgrace, “the witness for life is alive at Notre Dame.” Mr. McGurn wanted us to pass on the good news: the creation of the Notre Dame Fund to Protect Human Life, formed to support right-to-life activities at both student and university levels—please see our inside front cover for specific information on that. In the following appendices, Kathryn Jean Lopez finds hope, not hate, at this year’s March for Life; Frederica Mathewes-Green also sees that the coming-up generation has different and more enlightened views on abortion than do her peers; and Clarke Forsythe reviews a new book about abolitionist William Wilberforce and finds it rewardingly informed by the moral and intellectual virtue of prudence. In Appendix E, Wesley J. Smith exposes President Obama’s stem-cell hypocrisy: In the name of “science,” he’s unleashed funding for embryonic stem-cell research while *halting* funding for the promising research being done with *non*-controversial stem-cell sources (like human skin). Finally, we welcome David P. Goldman to our pages, an associate editor at *First Things*, whose analysis of “Demographics & Depression” we thought too good, and too important, to let you miss. As always, we depend on the unique art of Nick Downes to lighten our load—especially helpful in this packed double issue.

MARIA MCFADDEN
EDITOR

Our Resolutely Pro-Choice President

William Murchison

When Barack Obama won the presidency last year, a feeling more of inner warmth than of trepidation settled among even those populational and political segments that had opposed him. Here was a talented guy of some charm and seeming good will, yearning to bring us together in the post-partisan age of which he was always talking. He named some relative moderates to his economic team, even retaining George W. Bush's defense secretary. What, too, about those conservatives who had sought his election—Chris Buckley, Doug Kmiec, Jeffrey Hart, and so on? Could it be as they hinted, that, from a pro-life perspective, the most resolutely pro-choice senator of them all could be relied on to seek accommodation with the otherwise-thinking?

Well, frankly, no. Barack H. Obama couldn't be relied on for such a happy prospect: any more than his early glances and gesticulations could be relied on to signal support for the complex workings of the free market and corresponding hesitancy about big-government policies.

The most resolutely pro-choice senator of them all, by voting record, is now the most resolutely pro-choice president ever to suit up and try to steamroll opponents of the notion that aborting a baby isn't really such a big deal.

I write in early March, just after the President's announcement that henceforth it would be fine and useful and scientific to use federal dollars for embryonic-stem-cell research, in contradiction of the policy announced by President Bush in 2001. Obama depicted the move as "an important step in advancing the cause of science in America . . . protecting free and open inquiry." It was about "letting scientists do their jobs, free from manipulation or coercion . . . for the progress of all humanity." The high-flown words failed to cover completely the reality he was trying to drape—namely, that the upshot of the new policy would be the destruction of living human embryos.

It was one more instance of calculated disregard for, or boredom with, the bargain some supposed him to have made, for the votes of people troubled about destruction of human life: some official recognition of the reality of their concerns, some effort to find common ground.

By the time these words see print, heaven only knows how many more

William Murchison writes from Dallas for Creators Syndicate and is a senior editor of the *Human Life Review*. His new book, *Mortal Follies: Episcopalians and the Crisis of Mainline Christianity*, has just been published by Encounter Books.

shovelfuls of dirt the Obama administration will have sought to throw into the grave it hopes to dig for the political side of the pro-life cause. Not one Obama gesture thus far has been friendly, or even blandly amiable, to the cause of protecting unborn human life.

Further on in this issue, other writers will consider the urgent topic of what, in practical terms, to do now. Here I merely set the stage onto which others will stride. The news I bear is uniformly bad. Which, in a way, isn't a reality to deplore. We all understand the capacity of the Lord for upending the comfortable assumptions of those who make too much of their achievements and prospects. The main thing I intend here is to bring us up to date.

I begin with a slight course deviation—in reference to what many Americans believed about President Obama's intentions respecting the economy and the recession. He really wasn't going to do all those things he said he was, was he?—redistributing income, pumping up alternative energy with big-government bucks, taking the health-care system apart so as to reassemble it, moving dramatically to combat "climate change"? He really wouldn't try it all, would he, or anyway not all at once?

Oh, yes, he would: as he divulged in late January, just days after taking office, to the shock and astonishment of Americans who had virtually given up on the promise-keeping proclivities of presidents. He meant what he had said!

No less startling, however, was Obama's way of framing the narrative. He told the nation he didn't believe in bigger government—even as he proposed the biggest increase ever in U.S. government power and spending. Amazing. No more so, however, than his repudiation of all the warm, comforting words he spoke on the campaign trail about working to overcome differences on abortion. "I absolutely think [both sides in the abortion debate] can find common ground," he had said a year earlier at Messiah College's Compassion Forum.

On January 23, just three days after taking the oath of office before a monumental crowd gathered around the monuments of Washington, Obama tossed out by executive order the so-called Mexico City Policy, the Reagan-era policy of barring federal funds to pay for abortions overseas that take place in the course of family planning. Back the calendar flipped to 1993, when Bill Clinton overturned President Reagan's original order, only to see it restored by President George W. Bush in 2001.

"For too long," said Obama, "international family-planning assistance has been used as a political wedge issue, the subject of a back-and-forth debate that has served only to divide us. . . . It is time that we end the politicization

of this issue.” By—the unspoken implication—declaring victory for *our* side. Call it, if you like, the Pelosi Doctrine, the one our House Speaker was to enunciate a few days later: “We won the election.” “Common ground” has a unique property, it turns out. We’re to stand on it the way President Obama tells us to, without trampling the grass.

On from there. In late February, the White House Office of Management and Budget gave notice of its plan to revoke a last-minute Bush administration rule granting health workers the right to avoid participating in abortion or other activities at odds with their beliefs. Groups that receive federal money couldn’t, under the Bush rule, enforce an everybody-aboard rule saying, in effect, frankly, my dear, we don’t give a damn what you think about abortion. Now they’ll be able to say it. The National Women’s Law Center glowed with satisfaction: “Women across the country will be able to breathe easier once their right to information and needed services has been fully restored.” At no small cost to conscience.

In early March, nonetheless, another kind of job debate roiled the Washington waters. In place of the pro-choice Catholic Tom Daschle, who was to run the Health and Human Services Department, but turned out to have different ideas on tax-paying than other citizens did, Obama named the pro-choice governor of Kansas, Kathleen Sebelius. The president, perhaps, had not foreseen the furor the Sebelius nomination would touch off. Pro-life spokesmen and activists were not merely disappointed, they were dismayed. They thought the appointment reeked to heaven. George Weigel called Governor Sebelius “an abortion radical by any reasonable definition of the term.”

What was the matter? A lot. Here was a nominee (certain of confirmation for all anyone could tell in early March) to the most important federal job, besides the president’s own, having to do with policy on health and public welfare. This same nominee, as governor of a generally pro-life state, regularly vetoed pro-life legislation. One such piece of legislation she struck down was a bill strengthening the state’s parental-notification law. Two more bills she killed were meant to regulate sanitary conditions in abortion clinics. The governor likewise vetoed bills tightening conditions for the performance of late-term abortions. One of these would merely have obliged the doctor to report the diagnosis that supposedly rendered the operation essential.

If the governor, who claims personal opposition to abortion, sought to depict her vetoes as high-minded interventions in the name of fairness, there was something distinctly low-minded about her inclusion at a 2007 governor’s-mansion reception of none other than Drs. George Tiller and

LeRoy Carhart. Tiller, who proudly performs late-term abortions, is to stand trial on a 19-count indictment for performing just such abortions. Carhart, of *Stenberg v. Carhart* fame—the U.S. Supreme Court decision overturning Nebraska’s anti-partial-birth abortion law—went into the partial-birth line after he blamed pro-lifers for a mysterious fire that destroyed his barn. Yet here they were at the reception, drinking and eating taxpayer-funded refreshments. Fine company for the governor of a morally conservative state to be jollifying in the governor’s taxpayer-owned home!

The Catholic archbishop of St. Louis, Joseph Naumann, taking notice of the governor’s varied activities on abortion, has asked her no longer to present herself for Communion. She hasn’t, to my knowledge, taken him up on his proposal.

A president desirous of appointing such a lady to an influential post in his cabinet can’t be accused exactly of working overtime to find that “common ground” on which foes and supporters of abortion may mingle and clink punch glasses.

Such behavior might mystify if one didn’t buy into, as I myself do, the analysis of the president of the Susan B. Anthony List, which encourages pro-life women to enter politics (just as EMILY’s List encourages liberal women to do likewise). Marjorie Dannenfelser sees the Sebelius nomination as “further evidence of something gone terribly wrong for those seeking consensus on the abortion issue.” Something like what?

Dannenfelser comments: “[Obama] speaks of finding common ground on abortion, but then he makes a series of decisions that comprise the biggest overreach since the *Roe* and *Bolton* decisions. There appears to be complete cognitive dissonance in the mind of President Obama on the abortion issue. He seems incapable of comprehending his own words when it comes to abortion and ‘common ground.’ . . . The Sebelius nomination is just the latest in a growing line of pro-abortion policy decisions that are not supported by the majority of Americans.”

I agree. It isn’t the only evidence either of “cognitive dissonance” afloat in the Obama White House. As I have mentioned, there was early on—even before the inauguration—the sense that Obama was some kind of centrist capable of recognizing divergent viewpoints, and of the need for engagement between those viewpoints. Engagement hardly seems likely now, what with Obama pushing for adoption of a grand centralization scheme worthy of any old-European economic backwater. His slipperiness provoked Charles Krauthammer, the columnist, to charge him with “brazen deception.”

It seems all of a piece: soothing words, political postures meant to assure in whatever context, economic or cultural. Central to the enterprise, it seems

to me, of restoring the pro-life standard to the height it once enjoyed in national deliberations is recognizing that when it comes to pro-life questions, nothing is to be expected of our common-ground president. Nothing. He might mean it in some special way that sets his heart thumping, but when it comes to action, to deeds—he doesn't mean it, really. There's no there there.

Consider. A president conscious of the great divide in his country on the life question, and desirous of narrowing that divide, would do something to prove his intentions. For the act of overturning the Mexico City policy he would respond with—I don't know, possibly an appearance at the January 22 March for Life in Washington, D. C., in order to speak a few bland words, shake a few hands, show that the president "cares." He didn't, because he doesn't. That's my take on the matter. On which I'd love to be shown up as wrong.

What if even now he spoke in something like the following terms? "Despite the past support I have given the Freedom of Choice on Abortion Act (FOCA), I have concluded that our national nerves are strained, our consciences too stretched by the momentous nature of this issue, and I have asked the sponsor, Rep. Jerrold Nadler, not to introduce this bill this year. Perhaps later. Not now. Not when there is so much healing still to do."

I expect to hear such words about the time an expedition descends from outer space, announcing the discovery that the moon is made of blue cheese. Or possibly Stilton.

The Obama administration, in short, seems virtually a lost cause. Should pro-lifers despair? I do not think that is the tone of this present issue—despair. I see, as well, various reasons it should not be. I draw attention to a recent Gallup Poll, taken Jan. 30-Feb. 1. Respondents were told of seven actions President Obama had taken since Inauguration Day. Did they approve or disapprove? Seventy-six percent approved of naming special envoys for the Middle East, Afghanistan, and Pakistan. Seventy-four percent were glad the administration was limiting interrogation techniques on suspected terrorists. Fifty-six percent were happy that, thanks to their president, workers would be able to sue more easily for pay discrimination.

Thirty-five percent approved of Obama's trashing the Mexico City policy against using tax money to fund abortion-providing overseas-family-planning groups. Thirty-five percent. Less than half the percentage satisfied with the easing of interrogation techniques.

It may prove that those 50 Catholic bishops who said last October that as an election issue abortion deserved priority over even war and the economy—it may prove, I say, they were on to something, or a piece of

something. Getting the American people to turn aside from gazing on the spectacle of imploding economic structures and dreams seems impractical. Until, until . . . certain other things come to mind, such as the common thread that links moral concerns of many sorts, only we don't always see it. Moral concern over too much love of what the world offers. Concern over the instruments of human gain: pride, vanity, and gluttony, even more than subprime mortgages, product bundling, and Ponzi schemes.

The imperishability of the abortion issue has to do with its status as moral issue: as, in some sense, the supreme moral issue. It's a bit much to expect that the cleverest politician—certainly the cleverest campaigner—of our day can twist and dodge with skill enough to avoid the consequences of moral promises unfulfilled. You don't do that, even in our wildly inflamed times. You can try, but you don't do it.



"Yes I'm sitting down—now what's the problem?"

After Obama

Joseph Bottum

It happens every four years—maybe every two years: Anytime there’s an election in this country, the pundits and political experts take to their soapboxes and proclaim the death of pro-life politics. Aren’t the unwashed yokels in Utah, Alabama, South Dakota, and Oklahoma an embarrassment? The sooner we stop paying attention to them, the sooner the nation’s politics will regain its equilibrium.

The fact that we heard exactly this after the elections in 1986 and 1990 and 1992 and 1996 and 2006 suggests it’s more a hope than an analysis, and the wish-fulfillment in much of the commentary is clear. The supporters of abortion, especially when they are Republicans, always give the impression of people painting a façade in the hope that somebody will come along to build the house behind it.

After what was dubbed the “values election” of 2004, the Democrats did make some noises about the need to broaden the party’s appeal to pro-life voters, and their choice of Bob Casey Jr. to run against Rick Santorum for Pennsylvania’s Senate seat in 2006 was one result. For that matter, the opponents of abortion have shown themselves willing to admit any number of compromises as small, incremental steps toward their goal—a curious fact, given the standard media coverage, which always paints the pro-life position as extremist. Still, the general pattern has been clear for more than twenty years: The Democratic party is the party of support for *Roe v. Wade*, and the Republican party is the party of at least official opposition.

Now the 2008 election has brought us the presidency of Barack Obama, the most consistent supporter of legalized abortion ever nominated by a major party. And that does seem to give more bite to the claim that the political battle over abortion is finished. If pro-life voters can’t defeat a candidate who rejected even the Illinois version of the Born-Alive Act—legislation designed precisely to force supporters of abortion into an untenable and unpopular position—then they can’t defeat anyone.

Despite some Catholics’ claims to the contrary, the new president’s approval of legalized abortion is unmistakable. Unlike Bill Clinton, Al Gore, and John Kerry, Barack Obama refused to make even verbal gestures toward compromise or nuance during the presidential campaign. The flatfooted

Joseph Bottum is editor of *First Things*. A version of this column appeared in the January, 2009 issue of *First Things*.

answer he delivered at the Saddleback Forum—that a decision about when life begins is “above my pay grade”—proved that he has internalized the peculiar logic of *Roe v. Wade* and *Casey v. Planned Parenthood*, which cast laws against abortion as government’s unconstitutional intrusion into private metaphysical decisions. But his line from earlier in the campaign—that he didn’t want young women “punished with a baby”—proved that he has also internalized what stands behind those decisions: a worldview in which life is not a gift but a burden to be shouldered only when we will.

On abortion, Obama is the complete man, his support so ingrained that even his carefully controlled public speaking can’t help revealing it. He’s not a fanatic about abortion; he’s what lies beyond fanaticism. He’s the end product of hard-line support for abortion: a man for whom the very question of abortion seems unreal. The opponents of abortion are, for Obama, not to be compromised with or even fought with, in a certain sense. They are, rather, to be explained away as a sociological phenomenon—their pro-life view something that will wither away as they gradually come to understand the true causes of the economic and social bitterness they have, in their undereducated and intolerant way, attached to abortion.

The result is already clear, with the new president’s removal of presidential orders that restrict the federal funding of embryonic-stem-cell research. The Mexico City policy (which requires all groups that receive federal funds not to perform or promote abortion abroad) has gone, within days of the inauguration. Back in 1992, the Clinton administration gave social policy at the United Nations and other treaty organizations—all the second-tier jobs in international affairs—to the far Left as part of its spoils in the Democratic victory, and the first signs suggest that the Obama administration will do the same.

The Freedom of Choice Act promised by the new Congress is as extreme a measure as the nation has ever seen, invalidating for the entire country all restrictions on abortion before viability, including parental notification, waiting periods, and partial-birth-abortion bans. Obama was one of its sponsors in the Senate, and in July he announced at a Planned Parenthood event that “the first thing I’d do, as president, is sign the Freedom of Choice Act. That’s the first thing that I’d do.” (In point of fact, the Freedom of Choice Act is unlikely to gain cloture in the Senate.)

It’s possible to read the appointment of Rahm Emanuel as chief of staff, the nomination of Hillary Clinton as secretary of state, and Lawrence Summers’s overseeing of the National Economic Council as signs that Obama is willing to resist on several fronts the leftist agenda of the more radical members of his party. On the life issues, however, he’s given no such signals.

Certainly he will invest no energy in stopping Congress from overturning the Hyde Amendment, which prohibits federal funding of abortion.

All this means that Obama is unlikely to resist when the abortion extremists in Congress hijack or extend the White House's new economic and social legislation. Nancy Pelosi in the House and Dianne Feinstein in the Senate, for example, are certain to include, in health-care reform, provisions that mandate abortion training for doctors and abortion services for hospitals. And while Obama's political advisers may regret the political objections that will result, the president himself will see it only in those terms: a problem of electoral politics, rather than a problem of constitutionality or ethics. Resist the far Left on some things, but pacify them with complete support on the life issues—that seems, so far, the method of the Obama team, and it is a method wholly in keeping with what we know of the new president's own predilections. He has already said that his Supreme Court nominations will begin with the litmus test of support for *Roe v. Wade*.

Confronting this situation, the Republican party needs to listen to those who advise it not to dismiss the life issues. Many things contributed to the Democrats' victories in 2006 and 2008, but opposition to abortion simply wasn't one of them. The pro-life voters were, in fact, the one group that stayed consistently with the Republicans. As Karl Rove pointed out after the election, "Suggestions that we abandon social conservatism, including our pro-life agenda, should be ignored. These values are often more popular than the GOP itself. The age of sonograms has made younger voters a more pro-life generation. And California and Florida approved marriage amendments while McCain lost both states. Republicans, in championing our values agenda, need to come across as morally serious rather than as judgmental. More than four million Americans who go to church more than once a week and voted in 2004 stayed home in 2008. They represented half the margin between Obama and McCain."

More to the point, such advice is probably unnecessary. The dismissal of the Mexico City policy polled as unpopular, and, without resistance from the White House, the congressional Democrats are certain to push beyond the general public's views on the life issues. When they do, the Republicans will be forced to trumpet the Democrats' extremism. That's an inherent pressure on the politics of opposition, and it will keep the life issues in the news, whatever pro-*Roe* Republican pundits and activists wish.

Meanwhile, what should the pro-life movement do? The reasoning offered by some of the Catholic public figures who supported Obama was embarrassingly bad, but we should not, for that reason alone, admit to the

perpetual tying of the pro-life cause to the Republican party. The Republicans have done some good and some ill for the cause since *Roe v. Wade* was decided in 1973, but, however one weighs it up, the results are not full repayment for the support pro-lifers have given the party over those years. The coming fights promise no new seriousness from the Republicans. They talk a better game than they play, in Congress at least, and they have often been better on the life issues when they are out of power than when they are in.

The first analyses of the poll results suggest that evangelicals voted for Barack Obama's Democratic ticket in 2008 at slightly higher rates than they had voted for John Kerry's in 2004, although good numbers of them didn't vote at all in the 2008 election. Catholics did show up in apparently the same numbers as they did in 2004, and about 51 percent of them voted for Obama (a lower percentage than the national average, but still following Catholic voters' general trend of mirroring the national result).

The extent of the Democrats' overreach will determine some of whether the religious and social-conservative voters return to the national Republican party. If, for instance, under health-care legislation, Catholic hospitals are forced to provide abortions—and if those hospitals summon the will to resist—we could see a pro-life issue become the major rallying point for conservative politics.

Generally speaking, however, Obama's victory means the abortion fight is off the national stage for the next few years. In the wake of the nominations of Justices Roberts and Alito, some in the pro-life movement imagined the time was right to try a silver bullet—a single piece of congressional legislation or a state referendum that would induce the Supreme Court to overturn *Roe v. Wade*. All that now needs to be set aside. The current members of the Court aren't going to give us more on abortion, and Obama's nominees are certain to be far worse.

It is, rather, in the state legislatures and in the grooming of local candidates that the movement has its best chances to advance. We are, more or less, back where we were in 1992. Better off, in some ways: The intellectual argument against *Roe* is now far more robust and complete, for example. But worse off, in other ways: Barack Obama is no Bill Clinton, and even Clinton's mantra of "safe, legal, and rare," devoid as it was of practical effect, remains beyond Obama.

After every election, out in full howl come the voices declaring that the fight over abortion is over. And, after every election, those voices prove wrong. That's because, in the long run, the fight will never be over until the slaughter of the unborn ceases. And it's also because the supporters of abortion will not rest with their electoral victory. They are going to push and push until, at last, we stop them.

What Now?

Rita L. Marker

“In order to answer the question, ‘Where do we go from here?’ . . . we must first honestly recognize where we are now.”

—Martin Luther King Jr., Aug. 16, 1967

Today we are on the road to death on demand.

Assisted-suicide advocates have a specific objective—the complete transformation of assisted suicide and euthanasia into medical treatments for any person, for any reason. Since November, that road has expanded from a two-lane country road into a superhighway.

Oregon—Isolated No Longer

Oregon’s assisted-suicide law went into effect in 1997. Since then, all Oregon-licensed physicians—including dermatologists, plastic surgeons, and weight-control specialists—have had the power to prescribe assisted-suicide drugs for their patients.

Each subsequent year, Oregon-style laws were introduced in other states. But, until November 2008, all of those proposals failed. Oregon remained isolated, viewed as a quirky state where sprout-chewing liberals passed bizarre laws.

In 2006, frustrated by years of defeated efforts, Compassion & Choices (the former Hemlock Society) and the Oregon-based Death with Dignity National Center formulated “Oregon Plus One,” a new strategy based on the belief that if they focused all of their efforts and resources on just one state and won, roadblocks to their agenda would disappear. After laying careful groundwork, they launched a campaign in Washington State.

They were successful. In November 2008, Washington voters passed the “Death with Dignity Act,” a virtual mirror image of Oregon’s law.

The Washington law passed for several reasons. The fact that proponents of the measure had a 4-to-1 funding advantage certainly played a role. Even more important, however, was that the majority of voters bought the “Yes” campaign’s mantra that ten years of legalized assisted suicide in Oregon showed that the practice is transparent, safe, abuse-free, and even beneficial to overall health care—despite proof to the contrary. (See, for example, “Oregon Plus One,” *HLR*, Summer 2008.) Unfortunately, the “No” campaign

Rita L. Marker is an attorney and executive director of the International Task Force on Euthanasia and Assisted Suicide.

failed to provide any of that available proof to the voters, and the measure passed overwhelmingly with a vote of 58 to 42 percent, rocketing assisted-suicide activism to new levels.

The Onslaught Begins

Even before Washington's new law was scheduled to go into effect in March 2009, states across the nation were subjected to unparalleled assisted-suicide activity.

On December 5, in a case spearheaded by none other than Compassion and Choices, Montana District Court Judge Dorothy McCarter ruled that, under the Montana constitution's right-to-privacy and right-to-dignity provisions, doctors are protected from prosecution if they assist their patients' suicides. (It is no small irony that Montana already has the highest suicide rate in the nation—twice the national average.) The judge said that it would be up to the legislature to provide any guidelines.

This led state representative Dick Barrett, who agreed with McCarter's ruling, to draft an Oregon-style bill that would have set the same meaningless rules and guidelines contained in the Oregon and Washington laws. In an uncharacteristically honest comment, Compassion and Choices legal director Kathryn Tucker said there was no need for the legislature to set guidelines that would, in any way, restrict how a doctor carries out the practice of assisted suicide. "It's very unusual that a physician would be governed by a statute telling them how to practice medicine," she said. Barrett did not go forward with his bill.

Although the state immediately sought a stay of the ruling pending appeal, McCarter failed to grant it. Until the final disposition of the case in the Montana Supreme Court (which could take months or longer), McCarter's ruling stands.

Other states were soon targeted for legislative action.

Hawaii saw the introduction of three bills in January. As in the past, Oregon's law was the model. But the 2009 bills had a new twist. They would require a monitor to be present when the lethal dose is administered. Far from being protective, as some seemed to think at first glance, the additional provision explicitly states that the monitor is to be present when the drugs are administered "to the patient," not *by* the patient. In essence, the Hawaii bills specifically permit homicide as well as assisted suicide under the label, "Death with Dignity."

Also in January, an altered Oregon-style "Death with Dignity Act" was offered in New Hampshire. Unlike Oregon's and Washington's laws, the proposal permits non-residents to obtain the prescription for assisted suicide.

Furthermore, a person who may have a very long life expectancy would be eligible for the cost-saving treatment of a lethal overdose. The bill's definition of "terminal" is an incurable and irreversible condition, for the end stage of which there is no known treatment which will alter its course to death and which "will result in premature death." Note that the person need not be in that end stage. Thus, a person who has been diagnosed with early Parkinson's disease or emphysema would be considered "terminal" for the purpose of assisted-suicide eligibility, as would someone with quadriplegia, multiple sclerosis, or a myriad of other life-shortening conditions.

Other state bills were soon on the radar screen. For the first time in more than ten years, assisted-suicide bills were drafted or proposed in New Mexico and Massachusetts. And, as of late February, like a volcano poised for eruption, rumblings in other states signaled imminent activity.

What Now?

Can we become a society where assisted suicide is common? Where it is considered normal? Can we go from being horrified by assisted suicide, to tolerating it, and eventually supporting it? Will we, in the not-too-distant future, feel guilty for not "choosing" assisted suicide?

The answer is "Yes" to all of those questions, unless we work now to prevent such a nightmare scenario.

It isn't that people favor assisted suicide. They just haven't thought about it and, when they hear "assisted suicide," they erroneously assume it isn't relevant to their own lives or those of their loved ones. That needs to change and we can change it.

We don't have to stay on this course. We don't have to sit back passively, watching as states fall by the wayside. We have the power to change the destination. But we need to act *effectively*, and act *now*, to change the course we're traveling.

There is much work to be done and everyone can do something. The first step is to educate ourselves and others about the very real threat of assisted suicide and, then, to make opposition to it a high priority. Here are some small suggestions that can have big results:

- **Include assisted suicide on the agenda for meetings, conferences, and conventions.**

Until now, even among those who consider themselves pro-life, the topic of assisted suicide has remained on the back burner at best. Consider, for example, the fact that at conferences and conventions, assisted suicide is rarely the subject of a general session. When it is on the agenda, the topic is usually covered in one of many concurrent workshops. A handful of people

take up a few chairs in a small room, while the vast majority of attendees are filling rooms to hear about traditional pro-life issues (abortion, stem-cell research, pregnancy counseling, etc.) We can all work within our own organizations to make certain that assisted suicide is addressed.

- **Start the conversation.**

Ask questions that will make others think. For example, most pharmacists in Washington and Oregon had paid little attention to the assisted-suicide measures there until after they passed. Only then did they become concerned. Ask your pharmacist, “If assisted suicide is legalized in this state, will you fill prescriptions for it?” If he or she says, “I don’t know” or “I haven’t thought of it,” you can calmly respond, “I hope you won’t.” Those are just a few words. They are non-confrontational. But they can definitely make someone aware that this is an issue they should consider.

- **Write letters to the editor.**

Letters to the editor are the most widely read part of any newspaper. Whenever there is a news story about assisted suicide, use that as an opportunity to write a short letter to the editor—and do focus only on the topic of assisted suicide. Include a point that will cause the reader to say, “I never thought of that.”

These are very small beginnings. But they can be an incredibly effective way to change the direction we’re headed. And if we don’t begin now, we will not merely slide down a slippery slope. We will careen over the edge of a precipice.

Lives Depend on Us

Kathryn Jean Lopez

It's going to get worse before it gets better. Everywhere you look, there are indications of this.

The candidate of hope and change has done what Democratic presidents do. In his first week in office, with a stroke of the pen, he restored federal taxpayer funding of abortion—repealing the Mexico City Policy that prohibited it. Within 60 days of his inauguration, he opened the U.S. Treasury doors wide onto a Brave New World—one in which embryo destruction is not only government-funded but encouraged as even more evidence of hope and change, and portrayed as anything but the clone-and-kill operation it really is. The president said—like many who've erred on the side of death before him—that he was against so-called reproductive cloning: “We will ensure that our government never opens the door to the use of cloning for human reproduction. It is dangerous, profoundly wrong and has no place in our society, or any society.” Which means that he is pro-cloning, as long as you kill the clone and don't raise it as a child.

President Obama did this during an economic crisis, which should be quite an eye-opener to those who—in last year's campaign—dismissed the importance of his pro-abortion record and his overall radicalism on life issues. Evidently, when life begins is no longer above his “pay grade.”

His budget increased money going toward the “Party of Death,” as my colleague Ramesh Ponnuru, author of a book by that name, might put it.

When he held a White House health-care summit, luminaries of the abortion industry—including the head of Planned Parenthood, Cecile Richards—were prominently included.

His administration has already started work on rescinding George W. Bush-era “conscience clause” regulations that protect doctors who have conscience issues with performing abortions. (It used to be that all doctors, having taken the Hippocratic Oath to “do no harm,” would have had such ethical qualms.) Overseeing the regulations is the secretary of Health and Human Services. As I write, that promises to be the current Kansas governor, Kathleen Sebelius—who once held a fundraiser for notorious partial-birth-abortionist George Tiller at the governor's mansion. At HHS, she is likely to oversee new policy that will require doctors to either perform abortions or lose their

Kathryn Jean Lopez is the editor of National Review Online (www.nationalreview.com) and a nationally syndicated columnist.

jobs. This won't leave the health-care industry unaffected. She will also oversee the direction of abortion-related monies.

Our country is sliding backwards, erring on the side of death and supporting the abortion industry. Radical Department of Justice appointees and pro-choice Catholics are in prominent positions to ensure that. Don't be surprised if federal court nominees reflect the same ideology.

You get the idea. After months of a Catholic-for-Obama law professor, among others, making the case that an Obama administration would not be a grave offense to life, we know better.

But this all could be a good thing.

Really.

In the first place, it reminds us that, whatever you thought of George W. Bush, elections do matter. "Pro-life" vs. "pro-choice" does matter. We need more than those basics; we need leadership. But the basics are not nothing. They are a foundation to start with.

We may not have the power, politically. But what we can do is change hearts and minds. And as the Party of Death uses the party in power to advance their agenda, we can engage people in a country that is largely for restrictions on abortion, and errs on the side of life.

If I were a wealthy philanthropist, I would support organizations that are doing the legwork to change hearts and minds. These are groups that are providing on-the-frontlines support, touching the lives of women and men and families hurt by abortion. Readers of *The Human Life Review* have read about Michaelene Fredenburg and her Abortion Changes You initiative. Hers is an effort to reach out to the walking wounded—to people who have been left behind by "choice," living silently and painfully with their regrets.

Another example, right in my backyard, is the New York-based Sisters for Life, a Catholic religious order that, in many ways, mothers the pro-life movement. They are a living, working, loving response to the too-often-repeated debating point that abortion opponents do not care about babies after they are born. The Sisters provide assistance for as long as it's needed—to mother and child, and also to those who need assistance long after an abortion has taken place.

The threat posed to Catholic hospitals by the promised Freedom of Choice Act provides an opportunity to highlight the impact of religious hospitals and doctors on the American health-care system. It also makes clear that talk about religious liberty is more than just high-minded rhetoric: These principles have real-world implications. Catholics in Connecticut, rallied by their churches and the Knights of Columbus, recently saw this as lawmakers tried to restructure the Catholic Church there as retaliation for its opposition to same-sex marriage.

Slowly, Americans are realizing that so-called “hope and change” has consequences. Bearing that in mind, and bearing our current circumstances in mind, everyone who opposes abortion needs to take a step back.

During a September 2007 debate in North Carolina, former Massachusetts governor Mitt Romney refreshingly said:

I think all of us—I believe almost all of us in the room would say that we’d love to have an America that didn’t have abortion. But the truth of the matter is that—(applause)—that’s not what America is right now. That’s not where the American people are right now, and so I’d like to see *Roe v. Wade* overturned and allow the states and the elected representatives of the people and the people themselves have the ability to put in place pro-life legislation.

And of course it’s our aspiration that at some point we’ll see a nation that doesn’t have abortion. But until that time, I certainly believe that allowing states and citizens and their representatives to fashion their own laws to protect the sanctity of life is very, very important.

I recognize that for many people, that is considered an act of murder, to have an abortion. It is without question the taking of a human life, and I believe that a civilized society must respect the sanctity of a human life. But we have two lives involved here: a mom and unborn child. We have to have concern for both lives. And so the expression of our compassion and our consideration—and work to change hearts and minds—and that’s the way, in my view, we’ll ultimately have a society without abortion.

The message that abortion changes people’s lives—it ends lives and it makes a mess of and downright destroys lives of men, women, and their families—is a real one and one that has potential to change the culture. Compassion needs to play a key role in our rhetoric and our personal approach to the politics. And if a politician is willing to say it, that is of some value.

Further, we need to embrace converts. The pro-choice side has always accepted past pro-lifers (Al Gore, Tom Daschle . . .). The crime of this past primary season, to my mind, was the treatment of Mitt Romney. Politically aware readers are aware of his faults, which I am not writing here to re-chronicle or defend. He does not, to put it mildly, have a perfect pro-life record. Just Google the YouTubes from his campaigns for the U.S. Senate and the governorship. But as governor, he did more to articulate principles of life than most politicians dare to, taking on the entire state of liberal Democrats and the all-powerful Harvard, which was rushing to the same Brave New World Barack Obama is now ushering in. In an environment where whatever Michael J. Fox advocates for has to be good, this was not the obvious smart political strategy on Romney’s part.

Romney said that when he came to realize the precipice humanity was facing on the life issues, he had a bit of a conversion. His message in North

Carolina—the assertion that abortion hurts women—wasn't an obvious, poll-tested political strategy. It suggests a certain amount of understanding of the dire door we've walked through on life, in a country of legal abortion and cloning (only the state of the medical art now prevents the latter).

Lives depend on us. With every political move, with every conversation, with every choice of how to protest, we must be prudent and compassionate, even as we hold on to principle. We need to move beyond the same old articles and win people over where they are—Democrat and Republican, religious and atheist. We need to show we understand the debate is about real people and real lives and real pain and real dilemmas.

The current situation is dark. But it gives us an opportunity to wrestle with the abortion culture in new and creative ways, and move our movement out of the embryonic state.



“One’s from the Brooking’s Institute, the other’s from the Heritage Foundation.”

President Obama and “Black Genocide”

Nat Hentoff

Barack Obama has made history in two unprecedentedly dramatic ways: He is the first black American president, but, in a chillingly grim breakthrough, also the most pro-abortion president in our history. In his unbroken record of voting against saving the lives of babies born alive after an ineffective abortion, Obama, who proudly reminds us he used to teach constitutional law, has given us his constitutional analysis of the Illinois Born Alive Infants Protection Act.

On the Illinois State Senate floor on March 30, 2001, Obama said: “If we’re placing a burden on the doctor that says you have to keep alive even a pre-viable child . . . then we’re probably crossing the line in terms of unconstitutionality.” The abortionist, then, has a *constitutional* right not to be held accountable for that murder?

I cite that coldly revealing statement in the context of a speech Senator Obama made to one of his most cherished causes, Planned Parenthood, on July 17, 2007: “With one more vacancy on the [Supreme] Court, we could be looking at a majority hostile to a woman’s fundamental right to choose for the first time since *Roe vs. Wade*—and that is what is at stake in this election.”

Well, as he likes to say to his critics on various issues, “I won!”—and there are very likely to be vacancies on the Supreme Court. During that speech to the Planned Parenthood Action Fund, Obama provided a key criterion for his nominations to the court: “The issues that come before the Court are not sport, they’re life and death. And we need somebody who’s got the heart—the empathy—to recognize what it’s like to be a young teenage mom. The empathy to understand what it’s like to be poor or African American.”

Although the pro-life movement has been gaining, especially among the young, how can we confront this president with a sufficiently imposing percentage of the voters repelled by a leader of the free world advocating “black genocide”? That’s what Jesse Jackson called abortion before, scanning the polls, he decided to run for president. I once asked him if he had any regrets about his change of commitment. He sort of frowned, paused, and said, “I’ll get back to you on that.” He hasn’t.

Nat Hentoff has authored many books, including *The War on the Bill of Rights and the Gathering Resistance* (Seven Stories Press, 2003). Later in 2009, a sequel to this book, entitled *Is This America?* will appear in bookstores.

But the facts of “black genocide” are indisputable when the research source is the Guttmacher Institute, decidedly not a pro-life organization (it used to have ties to Planned Parenthood). Said Susan Cohen, Director of Government Affairs at the institute, last summer (in her article, “Abortion and Women of Color: The Bigger Picture,” *Guttmacher Policy Review*, Vol. 3, No. 3) “In the United States, the abortion rate (number of abortions per 1, 000 women of child-bearing age) for black women is almost five times that of white women.” From another Guttmacher study comes a further alarming fact: “Black women are 70 per cent more likely to have had at least one abortion preceding the current one.”

President Obama has been, and will be, raising those percentages through executive orders and such legislation as the Freedom of Choice Act, which he vigorously supports—increasing his notoriety as the “black genocide” president.

We pro-lifers should take note of how Canada’s Campaign Life Committee (the political division of that nation’s pro-life movement) prepared for President Obama’s visit in February to Ottawa, his first visit to another nation’s leader. Addressing Obama in a public message, the president of CLC told the prominent visitor: “Every day, Mr. President, people with your ethnic background die in astounding numbers—4,000 African-American babies by abortion every day in the United States.” He added, as reported by LifeSiteNews.com, “Abortion is the number one killer of African Americans in the United States.”

In this country, the National Right to Life Committee, the U.S. Conference of Catholic Bishops, and many other pro-life organizations and individuals are—in direct messages to the White House and Congress, newspaper and television advertisements; public meetings, et al.—keeping the heat on what could become our leading terminator of black children.

Focusing, as all of us pro-lifers should, on Obama’s insistent campaign vow that he would “bring people together,” Chicago Cardinal Francis George, president of the Conference of Catholic Bishops, said the following in a full-page ad in the February 13 *New York Times*:

The recent election was principally decided out of concern for the economy, for the loss of jobs and homes and financial security for families, here and around the world. If the election is misinterpreted ideologically as a referendum on abortion, *the unity desired by president-elect Obama and all Americans at this moment of crisis will be impossible to achieve. . . . Aggressively pro-abortion policies, legislation and executive orders will permanently alienate tens of millions of Americans, and would be seen by many as an attack on the free exercise of their religion.*” [Emphasis added.]

Also adding to Obama’s creation of disunity is his clear record of opposing

all bans (including the Supreme Court's) on partial-birth abortion, which Henry Hyde (whom I was privileged to have as a friend) accurately described as "an unspeakable horror." He also spread the unspeakable truth—which I had discovered in my reporting—that, contrary to the assertions of the ACLU and other mythmakers on abortion, the horrors are "mostly done in the fifth and sixth month to healthy women and healthy fetuses."

This speaking truth—to a president dedicated to loosening all restrictions on abortion—should be a key part of pro-lifers' strategy to prove to him that if he persists, he will alienate tens of millions of Americans, or maybe more, from much of the rest of his program as well. Every survey I've seen, for example, demonstrates that many "pro-choice" (how I hate that lethal term) Americans are disgusted by the realities described in Henry Hyde's unsparing account: "Four-fifths born, the baby's tiny arms and legs squirm and struggle to survive. Then its skull is punctured, and the wound deliberately widened; its brains are sucked out; the remains of the deceased are extracted. In the words of the abortion lobby, the baby 'undergoes demise.'"

That description, alongside President Obama's factual record of serially trying to thwart every attempt to end this barbarism, should be widely available in open letters to him signed by a challenging diversity of Americans—in newspapers, on broadcast and cable television, and on the Internet. The signers would include leaders of every religious faith, and even some atheists. (I volunteer.)

All of this confrontation with the man I have undiplomatically called "a baby killer" in my columns is based on the ever-contemporary strategy of the wisest Supreme Court Justice in our history, Louis Brandeis: "Sunlight is the best disinfectant."

Extending that truth-liberating force in our challenging of President Obama, there are, as I've noted, many Americans cringing at the practice of puncturing a live baby's skull who are not pro-life. They include sizable numbers in the Obama base who are liberals, as I can attest from my own reporting—and indeed within my own family and friends to whom I am a puzzling pro-lifer. Increasingly added to that section of the Obama political base are many black Americans who campaigned and voted for him, as a growing number of black preachers speak urgently of "black genocide" in their sermons, and elsewhere. Moreover, black pro-life groups emphasize that a large percentage of Planned Parenthood's abortion clinics are located in black neighborhoods, hardly accidentally.

The most complete, thoroughly documented record of the acts and intentions of the Abortion President is the 197-page *Barack Obama on Abortion*, published by the National Right to Life Committee, 512 Tenth St.

N.W., Washington, DC 20004 (<http://www.nrlchapters.org/obamabook>). Included is testimony from Jill Stanek, a registered nurse who worked in the Labor & Delivery Department at Christ Hospital in Oaklawn, Illinois. I first heard details of the murders of born-alive babies when I interviewed her years ago. In a September 2000 committee report of the U.S. House Judiciary Committee, she told of one of those babies “left to die on the counter of the Soiled Utility Room wrapped in a disposable towel. The baby was accidentally thrown in the garbage, and when they were later going through the trash to find the baby, the baby fell out of the towel and on to the floor.”

Another nurse in the hospital at the time added that she had “happened to walk into a Soiled Utility Room and saw, lying on the metal counter, a fetus, naked, exposed and breathing moving its arms and legs.” Similar testimony through the years has not changed President Obama’s dissent against the view that “you have to keep alive even a previable child.”

But in this nation, the life force continues. A one-paragraph story in the February 20, 2009 *New York Times* reports that “the Arkansas senate completed action on a bill banning what abortion opponents call partial-birth abortion and establishing criminal penalties for physicians who perform it.

“Three senators of the 35-member chamber voted against the bill, and a fourth abstained; all are Democrats. The House of Representatives has already approved the legislation, 84 to 6. Mike Beebe, a Democrat, has said he will sign the measure. The abortion procedure would be a felony and would expose the doctor to civil liability as well.”

At this year’s March for Life in Washington, three days after President Obama was inaugurated, Pastor Luke Robinson, who is black, said to our first black president:

“Please, Mr. President, be that agent of change that can commute the sentence of over 1,400 African American children and over 3,000 children from other ethnic groups sentenced to die every day in this country by abortion. . . . At the conclusion of your term in office, may it never be said that you presided over the largest slaughter of innocent children in the history of the country—and that African Americans became an ever increasing minority under your hand.”

This question should be asked of the “change” President by more Americans of all ethnic groups—and all ages.

Broaden the Base!

Mary Meehan

Every time the Democrats win a presidential election, the pro-life movement faces disaster at the national level. Skilled lobbying may avert the worst possible outcomes during Barack Obama's presidency, as it sometimes did during Bill Clinton's. Certainly, the movement must make a strenuous effort to hold its ground over the next four years. An activist who wrote two letters to members of Congress last year should write at least six this year. Someone who drew 100 to a pro-life rally last year should aim now for 300 and more media coverage. This, aided by outstanding lobbying on Capitol Hill, is the best way to tell the Obama Administration that it will pay a heavy price for any pro-abortion moves.

Yet defensive work is just that. No matter how skilled, it cannot win legal protection for unborn children. Decades of work have shown that the pro-life movement cannot win with Republicans and independents alone. It needs many Democrats—and not just conservative ones. Broadening the base substantially is the only way to win. It's also the only way to ensure legal protection that will be effective because it has deep and widespread popular support.

Outreach will be difficult for some pro-lifers. All of us, whatever our political stance, feel more comfortable around those with whom we agree on most issues. Yet the tendency to stay within one's comfort zone is a major barrier to serious political work. The 1960s antiwar movement offers a prime example. Some within that movement realized that many older people and rural people were against the war in Vietnam. But efforts to spur the movement to appeal to those groups were largely ignored. Attempts to tone down the wacky and self-indulgent behavior of some antiwar demonstrators were also ignored. The war could have ended much sooner than it did had the antiwar movement moved beyond its provincialism, reached out to other groups, and practiced self-discipline.

The pro-life movement has similar problems. While conservatives and Republicans have helped the movement immensely, they also have given it a partisan image and have kept it ideologically narrow in membership. They have forgotten the great value of coalition politics and the fact that joining a coalition does not mean approval of any other member's position on anything except the coalition goal. Some never think of welcoming liberals, feminists,

Mary Meehan, a senior editor of the *Human Life Review*, is a Maryland writer and a political independent.

secularists, gays, and Democrats to the pro-life cause. The very idea might shock them. “What? You want us to go out and organize the Outcasts of Poker Flat—and then welcome them back into town? You gotta be kidding!” They forget that the outcasts happen to be running Poker Flat at the moment.

Those who try to win liberal recruits to the pro-life cause do not launch personal attacks on them or on people they admire (although well-stated attacks on issues are fine). They are more likely to put a lively spin on liberal slogans. At the most recent March for Life, someone carried a sign that proclaimed: “The audacity of hope: No More Roe / The audacity of love for all our children.” Another marcher’s sign declared with great enthusiasm: “Yes We Can! / Yes we can overturn Roe! / Change we can believe in / Yes We Can!”

There’s a critical need for pro-life organizing work within the Democratic party, many of whose members don’t agree with official party support of abortion. But serious political work requires serious money. If pro-life donors start investing in pro-life Democratic groups and candidates, they might be surprised by what they can accomplish. And this would send Republicans a much-needed message: that they no longer can take pro-life voters for granted.

The fact that people of deep religious conviction predominate in the pro-life movement makes it similar to many other movements in U.S. history. The civil-rights cause of the 1950s and 1960s, for example, was based squarely in the African American churches. But in its early days, under the leadership of Rev. Dr. Martin Luther King Jr., it was far more skilled in recruiting white Christians, Jews, and nonbelievers than the pro-life movement has been in recruiting non-Christians.

A few specific problems: a) Many pro-life groups erect symbolic cemeteries of the unborn to remind the public of the terrible death toll of abortion. The gravestones often consist of crosses only. This confirms the stereotype that abortion is a Christian issue alone—or, worse, promotes the idea that only Christian deaths count. I don’t think cemetery organizers believe this; but they should ponder the way their message may be perceived. b) Many pro-life groups hold meetings in churches. That’s perfectly appropriate for, say, Lutherans for Life; but it sends the wrong signal when a group is supposed to be open to everyone. Again, it’s a matter of moving out beyond leaders’ comfort zones and having meetings at a public library or other neutral place. And of quite possibly drawing a larger crowd and winning new and energetic activists. c) Some public demonstrations against abortion look like religious processions. Hands-in-the-air praying, or megaphone-led rosaries, may be appropriate in some church settings. But in a march or demonstration that’s addressed to civil authorities and demands a change in public policy, they

are out of place. When religious people fail to use restraint and common sense in the public square, they make themselves irrelevant there.

An example from another issue may help make my point about outreach. Reporting on “the Troubles” in Northern Ireland years ago, I interviewed John Hume, the key Catholic political leader there. He had done much to get the Irish peace process underway and to keep it on track despite great discouragement. Knowing that high unemployment was a major contributor to violence, he had moved mountains to get investment and new jobs into his troubled land. I told him that I had talked with labor people in Derry, his home base, who had complained that the new jobs expected there would be mainly retail and tourism jobs instead of higher-paid factory jobs. Hume responded, “Do they not want them, then? Is that what they said?”

Well, no, not exactly.

Some pro-lifers are so isolated from secular people, liberals, Democrats, gays, and feminists that I want to ask them: “Do you not want them, then? Is that what you’re saying? And how do you expect to gain legal protection for unborn children unless you win over large numbers of people who are undecided or on the other side?”

Several steps can make a major difference. First, pro-life groups should welcome everyone who defends unborn children and should make this clear on literature and websites. This includes having photos and videos that show babies and other people of different ethnic and racial groups. Too many pro-life websites feature whites overwhelmingly or even exclusively. What does this say to African Americans, Asian Americans, and Hispanics? And in western states, how about the Cherokee, Shawnee, Navajo, and other tribes who were here long before the rest of us?

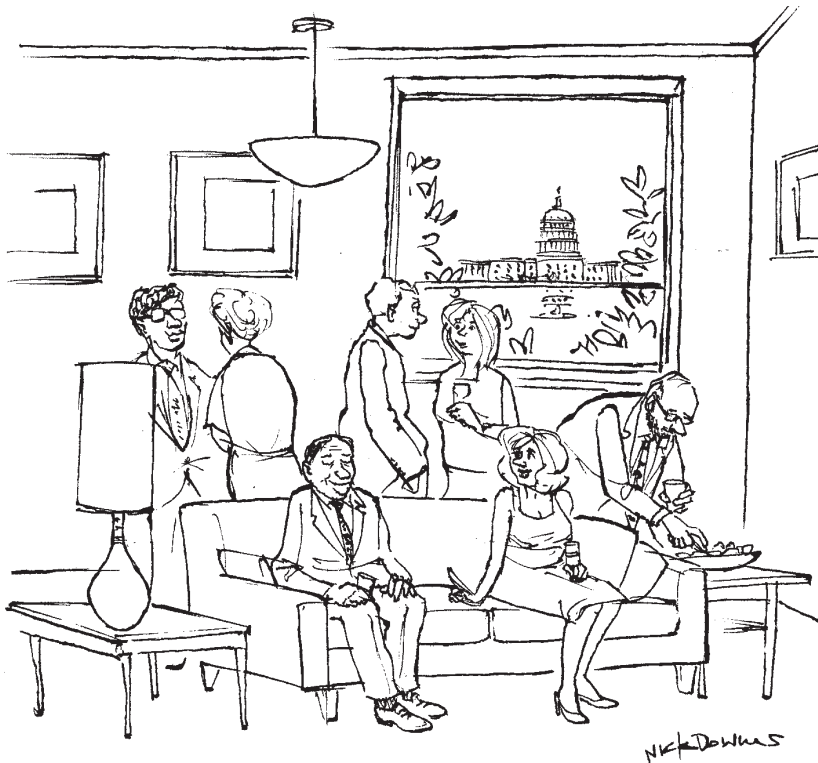
Second, people should avoid words that cause needless ill will. One example is the strange and grating way in which many Republicans refer to “the Democrat Party.” This goes against history, since the institution in question has been called the Democratic Party for 180 years. That’s the official name. Using “Democrat” as an adjective also goes against good grammar; “Democratic” is the proper adjective to use. The ungrammatical usage, apparently meant to annoy Democrats, resembles the name-calling little kids engage in when they can’t think of anything better to do.

Third, it’s important to take the best and highest principles of liberals and show how they lead to a pro-life position. It was a liberal hero, Thomas Jefferson, who wrote about the right to life in the Declaration of Independence. Liberals have a strong tradition of defending those who have little or no power: sharecroppers, migrant workers, other working people, poor people,

mental patients, refugees, people with disabilities. Unborn children are the poorest and most defenseless of all human beings, and liberals really belong on their side. Then, too, real liberals oppose discrimination. Abortion involves lethal discrimination against the unborn children of the poor and minorities and also against children with handicaps. It is terrible for born children who hear about it and feel threatened by it, and it harms women in deep ways. On many issues, moreover, liberals do not worship at the shrine of choice. They are firmly anti-choice on racial discrimination, domestic violence, rape, torture, and usually on the death penalty and war. They should add abortion to that list. Some already have.

Making these points in talks on university campuses, I find that students listen well and ask thoughtful questions. Students from the opposition sometimes come out, and I welcome them. As long as they can have their say, they, too, are willing to listen.

It's time for the pro-life movement to speak to them and to everyone else in the country.



“Not the unknown but highly placed source?”

Postcards From the Edgy

Jack Fowler

My kids don't go to Catholic school any more.

What has that got to do with the Freedom of Choice Act?

Plenty. And you'll know that soon enough. But let me tell the story of heartbreak at St. Anonymous in Somewhere, Connecticut.

There were numerous reasons why we defected, after a decade of making this medium-sized parish school the center of our lives. Of our five children, two went through K to 8, one went K to 5, another K to 2 (the littlest guy was a baby when we high-tailed). I ran the Bingo program there for a number of years (which surely has reduced my time in Purgatory by multiple eons), donated lots of money, my wife Sharon and I both coached and sponsored basketball teams—you get the picture. Fully involved. Just the kind of folks who, when they fall, fall big.

It wasn't a straw that broke the proverbial camel's back. It was a beam.

A few years ago, on a Saturday afternoon in March, Sharon and I, toddler on lap, sat on the stage of the cafe-gym-atorium at the kick-off ceremony of the school's basketball tournament. It was a major annual event, and this year's was a significant anniversary. There, to mark it, and bearing a commemorative citation as earlier pronounced in the *Congressional Record*, was our federal representative.

Will Rogers allegedly never met a man he didn't like. Our solon (a Catholic) never met an abortion she wouldn't defend or fund.

Standing aside this poster politician for the “personally opposed” was the school's principal. And the parish priest.

Did I mention he was the pro-life vicar for the Archdiocese?

A few nights before this formal Catholic-school event—the kind from which pastors or, should they lack the courage to do so, their bishops are supposed to preclude the participation of pro-abortion lawmakers, lest the Church's admonition against political support for legal abortion be undermined—I approached the principal. I was in the school building (running Bingo as usual) and, well, there he was, unexpectedly. “Here comes the loon,” he no doubt thought as he realized I: 1) obviously wanted to speak to him, 2) had an about-to-drop-a-bomb-on-you look in my eyes, and 3) was unavoidable.

I told him the formal invitation to a pro-abortion lawmaker for a

Jack Fowler is publisher of *National Review*.

Catholic-school function was wrong, and that it clearly undercut the Church's teaching on both the evil of abortion and, more importantly, the need to respect innocent human life. This was not a trivial matter. "If the Congresswoman was known to have said something racist you wouldn't invite her because you would believe that would send a wrong message to the school community on race. But she defends [not only "defends" but champions] killing innocent children in the womb, and we find her welcome here at an official school event."

So said I, adding that she should be disinvented.

(A few years earlier I had caused a ruckus with him when a teacher castigated my daughter for not collecting coins for UNICEF, despite my objecting to such. I gave the teacher both barrels: I was strongly opposed to my kids having any association with an organization—the United Nations—that funded forced-abortion population-control programs; and I was steamed that this position seemed to be too nuanced for a Catholic-school teacher, and that the teacher would override my moral instructions to my children. Sometimes the toughest thing to be, in a Catholic institution, is a practicing Catholic.)

"There are many views . . ." mumbo-jumbo came the principal's response. Then he disappeared quickly into a dark stairwell. A broken neck was preferable to discussion. And so the show was on.

But one can hope! Maybe the Congresswoman's car would break down on Saturday. Maybe the pastor would ask her on the QT to find an excuse to not show.

And maybe pigs will fly. Come Saturday, there they stood, in cheery glory, mid-court, hugging and clapping and selling out the unborn. And the born: What a neat message was taught that day to Catholic schoolchildren. And their parents. When all is said and done, all this teaching on abortion and defending the unborn is—when it comes to the electoral process—well, it is all for show.

Have you ever been a spectator to an abomination? I was. And a participant too, in silence. The cock crowed—and I denied. Maybe: There seemed to be no upside to being a skunk at this garden party. So I hung my head in despair—an appropriate sin to match the moment. As it hung, slowly shaking, I had one clear thought: "We are done here."

And so we were. I assume never to be missed (at least once they got another poor boob to take over Bingo).

So: What in the name of Father Drinan, Doug Kmiec, and Joe Biden does any of this have to do with the Freedom of Choice Act?

Nothing legislatively. But everything culturally.

As a former professional pro-life warrior, the once Managing Editor of this mighty little journal, I have manned the parapets in the abortion wars, and lobbied the lawmakers over everything from conscience clauses and the Hyde Amendment to party-platform language and executive-branch appointments.

As a movement, we must never give up the fight to restrict the brutality inflicted upon the innocent. Nor should we lose hope that someday our Supreme Court will overturn its *Roe* and *Doe* and related opinions that found the right to abortion in penumbras that only vainglorious jurists could see.

But as a movement, we are mistaken if we believe the successes of these fights are limited to legislatures and courts. Our greatest successes are to be found in the (relentless) cultural struggle to articulate and sing the beauty of the innocence of unborn life.

For who will seek a legal abortion if no one believes that abortion is a good “choice?”

Since I’m picking on the clergy already, I’ll carry that through to the end, and stick to my comfort zone of the Catholic pew. Strewn on them—a few weeks after the recent federal elections—were little pencils and post cards, one for each Senator and the local Congresswoman.

Three weeks earlier, three months earlier—not a peep about the upcoming elections and their deadly consequences for the unborn. Not a mention of the fact(s): that if The One We Have Been Waiting For (from Chicago, not Heaven) was elected, he would appoint jurists to cut away the few tangential restrictions placed upon the abortion right in over 35 years of struggle; that he would, with the swipe of his pen, issue executive orders that poured taxpayer dollars into directing and funding abortions abroad; that conscience clauses would stand in peril; that with a compliant Congress he could obliterate the Hyde Amendment and its sibling restrictions on abortion funding; that together, he and Congress, through the Freedom of Choice Act, would move to place the evil of *Roe* into the written laws of our land.

If anything was ever a day late and a dollar short, it was this postcard campaign to battle FOCA. Where, Father; where Your Excellency, where was your umbrage and leadership when we really needed it, before your flock went to the ballot box?

Yes, yes, yes: This bishop wrote a letter published in the diocesan paper, and that one appeared on Fox, discussing abortion and the elections. But “anecdotal” is too charitable a descriptive of the efforts to inform the faithful.

FOCA? Before the elections, if you had asked the typical Catholic pew-sitter what “FOCA” was, would you be surprised if he answered some sort of French cheese, rather than a dire threat to our Nation’s meager—yet

critically important—laws that have kept some abortionist’s scalpel from innocent babies in the womb?

And now, after the election, the horses out of the barn, galloping into the distance, *now* we are supposed to get religion; *now*, when the numbers are against us—and legislation is, in the end, all about numbers—*now* we are called to consider, as Catholics, the mathematics of politics, *now* we are urged to focus on FOCA.

Does anyone really believe we can smite it with postcards?

Despair is a sin. So I pray: “Please, O Lord, intervene. Affect the dynamics that set agendas in our Nation’s Capital, so that this terrible law will not gain final passage.”

Can you imagine that spectacle: He Who Will Bring Change, smug and righteous at the FOCA signing ceremony. On the desk in front of him the many special pens that would be used (one for each letter of his name) to give final legal approval to this heinous law, his staff minions having already decided who will receive them as mementoes of a historic occasion. Behind him, a backdrop of the grinning lawmakers and smirking Planned Parenthood potentates, lustily applauding. Watching at home, a people who still largely consider abortion to be murder, who support its restriction, and who still find it inconceivable, pardon the word, that *Roe* and *Doe* allow abortion up until the moment of birth.

Well, whether my prayer is answered, or the foul event I envision happens, the fact is that our clergy cannot consider the abortion issue to be a minor matter, or a settled matter, or a matter that does not deserve their regular attention.

Surely there are many teenagers sitting in the congregation who need to hear—repeatedly—the Church’s defense of innocent life in the womb. Teenagers, heck—there are plenty of adults who need to be reminded of this beautiful teaching, regularly. They also need to hear—regularly—about the reasons, practical and spiritual, why one should treat the body as a temple.

I cannot recall the last time I heard a sermon where the subject was sexual mores. As for abortion, well, in too many parishes it is the subject of a homily once a year, on that October Sunday set aside for such. (At another parish I attended, one year the priest’s pro-life sermon was silent on the right to life; in fact it was an environmental screed—the closest he came to mentioning the unborn was warning pregnant women not to eat fish caught in the Long Island Sound because they might contain mercury.)

We parishioners deserve guidance in saving our souls and living good lives in accordance with our faith. We need priests who will be fearless when

it comes to telling us what to do and not do to gain salvation. That means elaborating on the what-not-to-do's. Even the Lord Himself, when asked to tell us how to pray, allocated much of the precious verbiage of the Our Father to trespasses and avoiding temptation. If directly and regularly confronting morality is good enough for Jesus, why not for Monsignor Mahoney and Bishop Smith?

Those who ask for and receive the mantle of being moral and spiritual leaders in our communities—God bless them for it—must make discussing abortion and defending Church teaching on life a priority. If they do so, as individual clergymen, the collective communal impression they will create will be clear: We are not nonchalant about the life issues. They are not an afterthought.

Without a clear and sincere effort to instruct on faith and morals, with the purpose of changing our culture's mindset, FOCA and any other twisted law that the mind of Henry Waxman might conjure up will sail through a Congress whose pro-life members are a shrinking minority.

A final thought here. Poll after poll shows that many who would think of themselves as “pro-choice” over the notorious hard cases—rape, incest, life-of-the-mother, et al.—are intolerant of “convenience” abortions. Oddly, convenience cuts both ways in the abortion struggle.

You know the tale. Poor Father Mulcahy gave a sermon on abortion in 1991, and after Mass two ladies accosted him and said they were feminists, were offended by his homily, and were never coming back. And they did not. Another couple walked out during the homily—he could sense from the pulpit their belligerence against his pro-life message. And since then, poor Father has been gun-shy to ever discuss abortion (who needs the aggravation? Best not upset the congregation—can't afford to lose any more of them anyway), and came himself to believe, over the years, that abortion was really a political issue of which he'd best steer clear.

It is so very convenient for a priest or minister to *not* talk about abortion. So much *agita* can be avoided by sticking to safe topics that inspire no walk-outs.

But abortion is damned inconvenient for the fetus struggling to avoid the scalpel. And that is why our clergy must embrace whatever inconvenience their vocation places upon them as teachers. Our clergy remain in an immensely powerful position to influence our culture, and to develop its love for innocent human life. They can influence the mindset of the citizenry. So educated, and so influenced, the opposition to abortion and the defense of the unborn would be no afterthought to voters, who would bring such conscious sentiments with them to the polling stations on Election Day.

JACK FOWLER

Without that, what victory is to be had?

The fate of FOCA and its progeny—if such were ever to occur—rests in our culture’s mindset on abortion and life. Until those most responsible for informing and shaping that mindset fully embrace their responsibility to consistently teach their flocks that abortion is wrong and that innocent human life must be protected—and that the Church’s institutions are not welcoming to those lawmakers, such as my Congresswoman, who defend “choice” at the expense of the unborn—the likelihood of our prevailing politically and legally will be as slim as the postcards being used to fight FOCA.



NICK DOWNES

“Don’t mention his head.”

Power to the Parishes

George McKenna

Last fall the leaders of the Right-to-Kill movement got the ultimate reward for years of labor in the swamps of American politics. They won not just a heavily pro-abortion Congress but a president so committed to abortion that his position went beyond those of the most reliable abortion supporters in Congress. In 2002 even Rep. Jerrold Nadler (D.-N.Y.) and Sen. Barbara Boxer (D.-Calif.) voted to support the Born-Alive Infants Act, which said that if an aborted baby managed to come out alive, the hospital would be required immediately to call in a doctor (other than the one who had just tried to kill the child). Yes, even Jerrold Nadler and Barbara Boxer supported that law. But not Barack Obama. In that same year, Obama, then an Illinois legislator, voted against a similar state bill, and the following year he killed it in committee, explaining that such a law would be “one more burden on a woman and I can’t support that.”

So that’s where we are. What’s next? Most readers of this journal are probably familiar with the following developments. Even so, it is good to remind ourselves:

- *Federal funding for abortion and abortion advocacy in other countries.* As one of his first official acts, Obama signed an order to direct U.S. funds to organizations like Planned Parenthood that perform or promote abortions overseas, overturning the “Mexico City Policy” first put into place by President Reagan.

- *The Freedom of Choice Act (FOCA), in whole or by installments.* To its credit, the U.S. Conference of Catholic Bishops last winter alerted the public to this bill, introduced in the last two Congresses, which it called the “most radical abortion legislation in U.S. history.” Going well beyond *Roe v. Wade*, FOCA would push abortion into every corner of the country, and to a degree greater than anything contemplated by *Roe* or its successor cases. It would cancel all existing state limitations on abortion, even parental-notification laws; it would require states to allow partial-birth and all other late-term abortions, to allow abortions by non-physicians, and to provide taxpayer-funded abortions; and it would wipe out any existing “conscience clauses” in state or federal law allowing medical personnel to opt out of performing

George McKenna is Professor Emeritus of Political Science at City College of New York. His latest book, *The Puritan Origins of American Patriotism* (Yale, 2007), is now available in paperback.

or assisting in abortions.

Thanks in part to a vigorous campaign by the bishops to get people signing postcards to their senators and representatives, FOCA seems to be on hold for now. Last February a writer for *Time* magazine characterized it as a “mythical” bill because it had not yet been introduced in the new Congress. This was a curious argument. Here is a little item students learn in American Government 101: Bills can be introduced *at any time* during the two-year life of a Congress. At the time her article appeared, this Congress was a little more than a month old. Not long afterwards, FOCA’s chief sponsor in the House of Representatives, Jerrold Nadler, stated that he was poised to reintroduce it now that its former Senate cosponsor, one Barack Obama, was in the White House. In the meantime, what seems to be happening is a stealth campaign to get pieces of FOCA enacted serially, in separate bills. For example, H.R. 570, a bill with 27 sponsors in the House, would eliminate the pro-life “conscience shield” put in place by President Bush shortly before leaving office.

- *Embryo killing.* Last March, President Obama reversed the Bush administration’s limits on federal financing of embryonic-stem-cell research. This despite last year’s scientific breakthrough permitting researchers to derive stem cells from adult skin tissues—cells that work much more efficiently than those harvested by killing embryos. This highlights the fact that the push for embryonic stem cells does not derive from science but from ideology, from the fevered pursuit of research money, and perhaps from a large reserve of spitefulness. (“Take that, you religious nuts.”)

- *Abortion advocates in strategic posts.* Hillary Clinton at State, Eric Holder as Attorney General, Rahm Emanuel as Chief of Staff, and Kathleen Sebelius at Health and Human Services are all strong abortion supporters. (Sebelius even held a celebration for George Tiller, the notorious late-term abortionist in Kansas.) Those are names you are likely familiar with, but have you heard of *Melody Barnes*, director of the White House Domestic Policy Council? She is a former board member of both the Planned Parenthood Action Fund and EMILY’S LIST (a pro-abortion PAC). Then there is *Ellen Moran*, the new White House Communications Director. She’s been the executive director of EMILY’S LIST. And don’t forget *Dawn Johnsen*, head of the Justice Department’s Office of Legal Counsel: a former legal counsel to NARAL, who has suggested that abortion should be protected under the 13th Amendment, the amendment outlawing slavery. Nor should we leave out *Richard Holbrooke*, Obama’s Special Envoy for Afghanistan and Pakistan. When he served as ambassador to the United Nations during the Clinton administration, Holbrooke was notorious for his hardball tactics in pushing

abortion onto developing countries in Africa and South America and allying the U.S. with international NGOs with the same mission. And what about *David Ogden*, the Deputy Attorney General? During his career as a lawyer for the “adult entertainment” industry, he has attacked legislation banning child pornography—and so, not surprisingly, he has argued against parents’ being notified that their 14-year old girl had an abortion, saying that there is no “qualitative” difference between minors and adults. I have italicized these names because I don’t want you to forget them. Over the long run the second- and third-tier individuals in the Obama administration may be able to do more mischief than big shots like Clinton and Holder, because they generally fly below the radar and, some of them at least, aren’t as tied up in battles unrelated to abortion. By the time you read this article there will be dozens more of them in key posts throughout the administration.

So that’s the bad news. The good news is that the bad news is so bad that good people are starting to rally. The Catholic Bishops didn’t just give people postcards to write their senators and representatives, they spelled out in robust language why FOCA is a monstrous piece of legislation. The Bishops’ General Counsel’s Office noted that “it would impose on the entire country an abortion regime far worse than anything wrought by *Roe [v. Wade]* or cases decided under it,” and concluded, “It is difficult to recall any other single piece of legislation that, in a single stroke, would have such a comparable impact on the government’s ability to regulate abortion.” This tough talk is especially welcome to those of us who have been disappointed by the Bishops’ performance in the past. There is no point in recounting the events of the late 1970s and early 1980s, when feminist Democrats intimidated the Bishops into silence, then into evasions like the “seamless garment,” which permitted Democratic politicians to say, “I voted for abortion but against capital punishment and nukes, so on balance I’m pro-life.” (I know, that’s a crudely reductionist version, but politicians are in the business of crude reductionism.) What’s important now is that the Bishops are starting to recover their nerve. They may even have started before last fall’s election. I have read every word of *Forming Consciences for Faithful Citizenship*, the Bishops’ voting guide published last fall, and I could find no reference to “the seamless garment.” On the contrary, the Bishops pointed to a very visible seam in warning against “a moral equivalence that makes no distinctions between different kinds of issues involving human life and dignity.” Driving the point home, they concluded: “*The direct and intentional destruction of innocent human life from the moment of conception until natural death is always wrong and is not just one issue among many. It must always be opposed.*”

(My italics.) If the American Catholic hierarchy keeps this up, it may once again be on a collision course with the Democratic hierarchy, and maybe this time it won't flinch. There are some encouraging portents: When, last fall, House Speaker Nancy Pelosi said that the question of when a fetus becomes a human being ("an issue that I have studied for a long time") has never been resolved by the Church, she set off an explosion still heard round the world—from New York, where the usually easygoing Cardinal Egan wondered how, in the age of ultrasound, anyone with "the slightest measure of integrity or honor" could fail to perceive the humanity of unborn children, to Rome itself, where the Holy Father took the occasion of a very brief meeting with Pelosi to remind her, in the careful language of the Vatican Press Office, that both "the natural moral law and the Church's consistent teaching" require the protection of human life "from conception to natural death." (No photo-op was allowed for the woman who describes herself as "an ardent, practicing Catholic.")

Pelosi may be some kind of Catholic, just not a practicing one, at least if the term "practicing" includes what a person practices and defends as consistent with one's faith. In her practice as a congressional leader she has led the fight for unrestricted abortion, abortion funding, and stem-cell research that kills embryos; she has fiercely opposed almost all restrictions on abortion. Sadly, she is not alone among the self-declared Catholics in Congress, starting with a former senator who is now vice president. In roll call after roll call, nearly all of them have voted for abortion and against restrictions on it. They are Democrats first; Catholics when lining up for Communion or (better still) ashes.

Democratic Party, abortion. How I wish there were not that association! As late as the 1970s there was not. As a former Democrat with some remaining Democratic sympathies I would be more comfortable addressing the abortion issue in nonpartisan terms. But the fact is that since 1980 the Democratic Party has welded itself to abortion. It has done so through its national platform and national party leadership, through the groups that fund Democrats for election and reelection, and by the party's congressional leaders. Yes, there is a handful of declared pro-life Democratic politicians in Congress, most of them from red states, and some pro-life Democratic interest groups. I wish them all well, but they are pitifully small in number and wholly without influence in party councils.

This does not mean that the Republicans' hands are clean. Pro-abortion Republicans, selling themselves as "fiscal conservatives," are constantly trying to strip the pro-life plank from the national party platform, and in some places, like much of the East and West Coasts, they have taken over

the party. Even some pro-life Republicans have been known to chuck their principles for political reasons, as we saw last March when Kansas senator Sam Brownback, deciding that his state was more important than his morality, endorsed fellow Kansan Kathleen Sebelius for Secretary of Health and Human Services. Then there is the silence: Republican presidents and presidential nominees develop lockjaw whenever they are challenged to speak out on abortion. Not since Ronald Reagan has one of them used the bully pulpit to hold forth at any length on the subject. Nevertheless, with all their silence, ambivalence, and backsliding, Republicans remain more reliable allies of pro-lifers than a Democratic party officially committed to the preservation and expansion of “abortion rights.”

But right here is the chink in the Democrats’ armor. Did anyone notice that “a woman’s right to choose” was hardly mentioned by Democrats in the last general election? That was because Democratic pollsters have discovered that it always loses more votes for them than it gains. It loses *Catholic* votes. The core of Obama’s winning coalition in 2008 was composed of blacks and Hispanics, union members, Catholics, and white liberals. Four of those five groups contain large percentages of social conservatives—people generally opposed to abortion on demand, gay marriage, gun control, affirmative action, and bans on public prayer. They may not be sufficiently opposed to march in demonstrations, but their views show up in public-opinion polls—and sometimes in the voting booth. Does anyone really believe that Obama opposes gay marriage? Of course he doesn’t, but he said he did because most blacks and Latinos hate it, and, as it turned out in the fall election, they (along with Mormons) played a key role in California’s adoption of Proposition 8 outlawing gay marriage in that state.

Here are the ingredients for a subversion, if not a reversal, of the Democrats’ winning margins. A strong “pro-family” platform by Republicans, embracing opposition to abortion and conservative positions on a few other social issues, would not make a majority of blacks and Latinos turn Republican, but it could peel off enough Democratic support in those communities to tip the balance in a close election. As for union members and their families, many of them are Catholic, and strong appeals from Catholic leaders could lure some away from the Democrats.

This brings us back to the issue of Catholic leadership. The top man in Rome is doing just what he should, calling out abortion politicians who claim to be ardent Catholics and repeating the Church’s stand on human life from its earliest moment. At the middle level, the American Bishops, while not doing all they could, are at least getting back some of the spine that they

once exhibited in opposing the culture of death. The real challenge ahead is at the local level, among church pastors and the parish activists who serve with them. I have heard military experts say that while an army needs a good officer corps, in the end it is only as good as its sergeants. Pastors are the sergeants of the American Church, to most church-going Catholics the most visible and accessible members of the cloth; Sunday after Sunday, they are the ones who speak to the people in the pews, and what they say—or fail to say—can have consequences, especially if their congregants like and trust them. In my own limited observation, it appears that in fighting the culture of death their performance is uneven. Many are superb sergeants, others blow an uncertain trumpet, and some are AWOL.

Nancy Pelosi's long years of theological study notwithstanding, Church teaching has always unequivocally condemned the killing of children in the womb. Pastors today are outspoken in supporting other perennial Church teachings, like charity and peace. Why should they hesitate to speak out on abortion? Part of it may simply be the fear of losing congregants. I once heard a pastor address the abortion issue, then pause to observe that one member of the congregation "just walked out." Whether the pastor ever addressed the issue again I do not know, but my guess is he probably thought twice before doing it.

Yet the fear factor alone is not enough to explain why the cat could get the tongue of a pastor. If he were talking about civil rights and some bigot stomped out of his church, I doubt that he would be deterred. Something else is going on. Suppose we step back a moment and view a larger picture of today's Catholic political culture.

Some 25 percent of Americans identify themselves as Catholic, which on paper makes them a powerful voting bloc—except that they are not a bloc. It is a scandal that in the 2008 presidential election 54 percent of Catholics voted for a candidate radically committed to abortion, but let us look at the figures more closely. A National Survey of Religion and Politics at the University of Akron last year divided white Catholic voters into self-identified "modernists," "centrists," and "traditionalists." The centrists voted for McCain by a margin of 32 percentage points, and traditionalists by a margin of 22 percentage points. This happened despite the fact that the Republican candidate was saddled with an unpopular war, an unpopular lame-duck President, and an economy going off the cliff. But modernist Catholics liked Obama—a lot: Sixty-six percent of them voted for him. *Despite his declared intention to violate a major ethical doctrine of the Catholic Church, among all white Christian groups Obama got his largest support from modernist Catholics.* They were even more pro-Obama than modernist WASPs.

Many of the self-identified modernists do not go to church very often, so they have little effect on parish conversations. But many others do. Many, in fact, are parish activists, serving as deacons, lectors, choir members, leaders of various parish committees—and pastors. Almost all of them are philosophically pro-life, but many would dispute the Bishops' position that abortion "is not just one issue among many" but the "preeminent" issue. They still cling to the old seamless garment, putting the abortion issue on a par with capital punishment, "social justice," and peace. Even within this framework, abortion gets shortchanged by the modernists. Modernist priests rarely mention it in the pulpit, and when they do they put it in a strangely defensive context: "Yes, we care about abortion, but we also care about born children suffering the ravages of" Local parishes generally highlight ministries to feed the hungry and house the homeless, and some of them do have active right-to-life groups. But in my experience, even within the seamless garment, the right-to-life strand is very thin, sometimes barely visible.

The neglect of the life issue at the local level can't be blamed entirely on the pastors; they live day to day with the activists in their congregations, and they feel the vibrations. It is not cowardice on their part as much as it is a prudent calculus of what can be done and how far people can be urged to go. In the end, some pastors get tongue-tied when they have to use the controversial A-word. They know that for some members of their congregation it's not cool to talk about it.

I don't mean to condemn the Catholics who voted for Obama. Probably most did so not because they shared his enthusiasm for "abortion rights," but because of the Iraq war and the failing economy, or because they thought Republicans were mean to poor people, or simply because they have always been Democrats. Could some be brought to the point of actively fighting Obama's abortion agenda? It takes a good deal of political sophistication to turn on the person you put into office, but they may be able to manage it, especially if they are starting to suffer some degree of buyer's remorse. Nevertheless, the main target of pro-lifers should be the *non*-modernists, the people who voted for McCain by large margins in 2008. In most parishes they probably constitute the majority of the practicing Catholics. (Centrist and traditional Catholics, the McCain supporters, together represent 12 percent of the American electorate, while modernists stand at 7 percent.) At this point they remain largely a silent majority, pro-life in sympathy but for a variety of reasons hesitant to get involved in pro-life activities. It could be fear of bringing their morals into politics, after years of hearing the old

“personally opposed, but” from pro-abortion politicians. Or the thought of getting involved in anything controversial makes them uncomfortable. But they can be reached. One would like to say, “mobilized,” but that is too strong a word. They can be informed, their *awareness* level can be raised, and that is almost as good. Everything I have written in the opening pages of this article has either been kept from them or euphemized by the mainstream news media.

Some years ago, when the facts about partial-birth abortion started trickling out and the campaign against it began, I was gathering signatures on a petition outside my church to ban it. As is usual on Sunday after Mass, people wanted to get home, so I wasn't getting many customers. Those who did sign made no comment, until a man in his early 30s came up and asked me what partial-birth abortion meant. As I got into the explanation he interrupted me: “THEY DO WHAT?!” I said yes, they shove a scissors into the baby's head and then . . . He was stunned, and perhaps incredulous, wondering if I hadn't engaged in a flight of hyperbole to get him to sign up against something that was bad, or bad enough anyway—but not *that*, not what I had just said. Here was a young man whose literate speech suggested that he must have been decently educated, who must have watched and read national news somewhere—yet, in the midst of the fight over partial-birth abortion, he had no idea what is involved in the procedure. How could that be?

Well, perhaps he read the *New York Times*, which at first never even used the term but instead referred to “a certain type of late-term abortion procedure,” and then later used medical-sounding gobbledygook invented by abortionists: “intact DX abortions.” If he watched or listened to network news he would have at least heard the term partial-birth abortion, but it would have been “so-called partial-birth abortion,” or “what opponents of abortion call ‘partial-birth abortion.’” And still nobody would have described it for him.

And so today. The essential facts about abortion—how it is being pushed and expanded, where it is leading the nation, and what the opposition is saying and doing—are not being accurately reported by the American news media. This is the work that will have to be done in local Catholic parishes, by pastors and laypeople willing to get the facts and disseminate them. Once that gets done, mobilization almost comes of itself. In the 19th century, before there was an anti-slavery movement there was anti-slavery talk, anti-slavery literature and pictures, anti-slavery songs and prayers. This was the soil growing the movement that finally broke into the nation's consciousness. And it started at the local level, in deeply religious Protestant congregations.

Today it is much the same. Evangelical Protestants are getting the word

out to their own membership, and they will play a vital role in pushing back against the policies of the administration and Congress. Much of the remaining challenge is to make church-going Catholics also aware of the facts. There are plenty of resources out there; the abolitionists would envy us for what we have. They had to depend on the mails for getting and receiving information, and local postmasters in many places refused to deliver abolitionist materials. Today, countless Internet sites—such as Priests for Life, Feminists for Life, Sisters of Life, LifeSiteNews, and the online version of this journal—are a click away, supplying reliable information that doesn't get through the mainstream media. In minutes this can be cut, pasted, and posted in parish bulletins. Guest speakers can be invited to parish halls, intercessory prayers for the unborn can be read during Mass, newsletters can be mailed out—there are no limits to the number of imaginative ideas. What it will take is leadership. The best thing would be if that leadership came from the “sergeants” of the Church, the local pastors. But when that doesn't happen, leadership will have to come from the corporals and privates in the pews. One way or the other, the success or failure of the Catholic Church's role in the battle against the culture of death is not going to turn on pronouncements of the Holy Father or the bishops, however forceful they may be. It is going to be decided by what happens locally, in the churches where the faithful gather every Sunday to participate in the Mass and hear the word of God. How many divisions has the Pope? We'll see.

Don't Forget God

W. Ross Blackburn

Don't Forget God. At the beginning of the Obama administration, this is a word primarily to the Church. While not disparaging the contribution of those who do not identify with the Church (for example, how much poorer would we be without the persistent, tough-minded work of Nat Hentoff?), the pro-life movement is largely a Christian movement, and the Church has a vital and distinctive role in the work. While forgetting God may seem unlikely in a movement largely animated by God, there are several things the Church would do well to remember in this time.

Don't forget God rules

Obama's policies threaten many unborn lives. Yet "the Most High rules the kingdom of men and gives it to whom he will" (Daniel 4:25, 32). The implication, however counterintuitive to some, is that God appointed Obama.

This does not mean that God is always pleased with earthly rulers. Often the opposite is the case, and God deals accordingly. Sometimes God brings rulers down (Pharaoh, Herod), sometimes He grants repentance and lifts them up (Manasseh, Nebuchadnezzar). The Bible never suggests that God has lost control over His world due to a particular ruler. Even Jesus, before being sentenced to death, told Pilate that his power extended only as far as God allowed.

God loves life. God appointed Obama. How these fit together may not be clear. But we trust that they do fit together. What seems to be a setback is an opportunity for the Church to remember that the battle is the LORD's. The practical point is not to get discouraged, for discouragement saps the strength of the Church at a time when it is particularly called for. God's ways and thoughts are higher than ours, and He can work all things together for good. It may well be that we will one day look back, as Joseph did, and see God's hand in times when He appeared to be absent. In the meantime, we keep our hand to the plow, we trust that Obama can push no further than the LORD will allow, and we pray for our president.

Don't forget God in public life

If there is a sacred cow in our public life, it is an understanding of the separation of Church and state that insists that religion should have no influence in public life. In seeking to honor the principle, we have, perhaps

W. Ross Blackburn serves as the rector of Christ the King, an Anglican fellowship in Boone, North Carolina, and teaches Biblical Studies at Appalachian State University.

unwittingly, agreed that public discourse must be “secular,” meaning that it carries on without reference to God.

The cost is great, for at least two reasons. First, sidelining God in public discourse fails to appreciate that religion always informs public policy. For example, when Obama claims he has freed science from ideology, he has simply replaced George Bush’s ideology with his own. The point is that some perspective, whether it is called religious or ideological, governs the choices we make, and the moral weight we assign to those choices. While he might not call it such, Obama governs from a perspective every bit as religious as George Bush’s. No one is freed from religious/ideological perspective in matters of public policy. Arguing from a “secular” perspective only restricts the Church from doing what others are doing anyway. Abortion advocates chastise pro-lifers for imposing their religion on others. The pro-life movement would do well to point out that abortion supporters do exactly the same thing, even if their “religion” excludes God.¹

Second, by agreeing to sideline God in public discourse we forsake the fundamental reasons abortion is wrong. Why is abortion wrong? Because the child in the womb is created by God, and is important to Him. Because the unborn child is made in His image. Because God cares about women in crisis. Because God has a special concern for the weak and the vulnerable, the fatherless and the widow. Because God has said “thou shalt not murder.” Because abortion destroys the lives and families of people God loves. Remove God and, ultimately, we have difficulty arguing why life, born or unborn, is particularly important. That animal rights are increasingly held on (or above) the level of human rights, as Wesley Smith often points out, shows us where the argument leads in the absence of God.

This does not mean that God must always be on our lips. But we must be careful not to argue from a faulty foundation that excludes God. For instance, it has been notoriously difficult for abortion advocates to answer the question of precisely when a “fetus” becomes a “person.” Rick Santorum’s well-known query of Barbara Boxer displays the absurdity of the notion that personhood (the point at which life is worthy of protection) is *conferred*, a foundational assumption upon which abortion is often justified.² Yet, while pressing that point, we need to be careful not to justify that foundation by arguing from it elsewhere. For instance, Benjamin Horne has recently argued that personhood is established at conception, since human DNA is present at that point.³ While his conclusion would be welcome from a pro-life perspective, it still buys into the idea that personhood is conferred. Arguing that some physical property constitutes personhood, whether DNA or mental awareness or whatever, is the same move others make to justify killing certain people,

whether it be the unborn, the disabled, the aged, or others. Horne's observation is worth noting and appreciating, and it certainly affirms the humanity of the conceived child from a scientific perspective, but it is not a reliable foundation upon which to build.

Another example is the argument that *Roe* needs to be repealed because abortion should be decided on a state level, or open to the democratic process (instead of judicial fiat). Consider Mona Charen's recent *National Review* article concerning Obama's stem-cell policies.⁴ In a perceptive demonstration of how Obama's policies are ideologically driven (despite his claims otherwise), Charen writes that "science cannot answer questions like 'When is human life worthy of respect and protection?' Those are inherently political questions that can only be answered by the whole society." Well, no. Even a democratic consensus supporting *Roe* would not make abortion right, and would be no sturdier a foundation than a Supreme Court decision. And while we should work for the repeal of *Roe*, sending the matter to the states only shifts the locus of effort.

Don't forget God's grace

Abortion kills children, usually with the consent of the parents. This is the crushing reality of abortion, which effectively places abortion beyond intellectual argument or political (even moral) reasoning. In other words, we can speak truthfully about the humanity of the unborn and still make no headway. The reason is simple: Many who have been involved in abortion will not hear because it involves admitting to being party to killing a child, perhaps their own. The guilt is too great. If one does not have a sense of where to go with that guilt, he will not be able to hear what abortion is. In fact, many go in the opposite direction, actively supporting abortion in order to justify past decisions.

But there is a place to go. To a God that has sent His Son to bear the sin of the world, so that we can be cleansed and forgiven, completely reconciled to Him. Here is the word that only the Church can speak: "If we say we have no sin, we deceive ourselves, and the truth is not in us. If we confess our sins, [God] is faithful and just to forgive us our sins and to cleanse us from all unrighteousness." "The saying is trustworthy and deserving of full acceptance, that Christ Jesus came into the world to save sinners." "A broken and contrite heart, O LORD, you will not despise."⁵

Remembering God's grace is vital, for at least three reasons. First, there are many for whom abortion is the one issue that keeps them from God. Both the silence and the voice of the Church in matters of abortion can confirm this. The silence of the Church conveys the notion that abortion is somehow

unforgivable (for it is something we don't discuss), as does the voice of the Church if she condemns abortion while failing to proclaim the availability of God's grace for those involved. As much as possible, we would do well to speak of the reality of God's grace as often, *and at the same time*, as we speak of the reality of abortion.

Secondly, the number of people affected by abortion is vast. Consider the mothers and fathers and friends and clinic workers and abortion advocates involved in the 50 million abortions since 1973, and the vast scope of abortion becomes apparent. These are people who not only need to know the forgiveness and healing of God, but can be powerful advocates for the unborn and their families. Unsurprisingly, many powerful advocates of women and unborn children have been through abortion themselves, and understand their advocacy as part of God's redemptive work. But this won't happen unless the Church is clear that the sin Jesus bore includes abortion, and that God loves those who have chosen abortion as much as He does those who have not.

Finally, remembering God's grace reminds the church of who we are—sinners saved by grace—lest we be tempted to consider ourselves better than others, and thereby cast the first stone. Besides, abortion is *our* story as well. Our attitudes will determine our effectiveness.

Don't forget this is God's work

Finally, because it is God's work, contending for lives needs to be done in God's way. This means that it is done because we love God and our neighbors, whether the unborn child, the mother, the father, the clinic worker, the abortionist, or the politician who promotes abortion. It means that we pray and walk wisely. But, most of all, it is work done with God. Pro-life work is His work. Jesus said: "Apart from me you can do nothing." The power of the Church comes from abiding in Christ. We abide in Him. He will see it through.

Now may the God of peace who brought again from the dead our Lord Jesus, the great shepherd of the sheep, by the blood of the eternal covenant, equip you with everything good that you may do His will, working in us that which is pleasing in his sight, through Jesus Christ, to whom be glory forever and ever. Amen. (Hebrews 13:21-22)

NOTES

1. Timothy Keller, *The Reason for God* (New York: Dutton, 2008), 3-21, does a fine job of demonstrating how all people are motivated by faith commitments, and the dark history of peoples who insist on removing God from public life.
2. <http://www.nrlc.org/news/1999/NRL1199/boxsan.html>
3. Benjamin D. Horne, "The 14th Amendment and the Acquisition of Personhood," *HLR* 33(3): 73-81.
4. Mona Charen, "False Choices" (<http://article.nationalreview.com/?q=Y2U2OTg5MTQ4OTI5ZmNjN2I2YTl3NWQwNDg4YzBjYjk=>)
5. 1 John 1:8-9; 1 Timothy 1:15; Psalm 51:17.

Not Past Praying For

Ellen Wilson Fielding

On January 22, 1973, the day the Supreme Court legalized abortion in *Roe v. Wade*, Barack Obama was eleven and a half years old. Although he spent his early school years in Indonesia, he had moved back to Hawaii in 1971—at least a year after Hawaii had legalized abortion. He was then near ten years of age.

Barack Obama is effectively a member of that large cohort of the population that grew up with legalized abortion. It was not part of a political or social revolution that he either applauded or resisted, but a fact of life, well before he reached adolescence. Of course, many of our more stalwart pro-lifers today are part of the same population. Being born after, say, an arbitrary cutoff date like 1958 does not “condemn” someone to pro-abortion convictions, nor does it absolve anyone from the responsibility of working out, though perhaps arduously and over some time, what is very wrong with our country’s current legal permission to cut off the lives of its youngest members.

Nevertheless, it does indicate a different mindset, a different starting point, from those people awakening to political or social consciousness earlier—even a few years earlier. Maintaining the status quo in fundamental matters is generally the default position of most people—even most Democrats—most of the time. It also tends to be the default position of the legal profession (in which Obama was trained), as arguments from precedent and *stare decisis* indicate.

On top of this, two other influences on Obama as child and young adult might have influenced his opinions on human-life issues. First, he lived his late childhood and adolescence in Hawaii, which is a prime contender for the title of the most liberal state in the Union. Second, he was not brought up in a religious tradition. (He attended a Catholic school in Indonesia from kindergarten through third grade, but this reflected the religious views of neither his mother nor his stepfather.) His mother has been described as not formally religious, though “spiritual”; the father who dropped out of the picture when Obama was two was apparently a lapsed Muslim; his Indonesian stepfather thought religion was “not very useful in life,” as reported by Obama; and his maternal grandparents in Hawaii, though they had been reared in the Methodist and Baptist traditions, were not churchgoers. Obama’s

Ellen Wilson Fielding, a long-time senior editor of the *Review*, is the author of *An Even Dozen* (Human Life Press). The mother of four children, she lives in Maryland.

eventual entrance into the United Church of Christ long after childhood seems, from things he has said, to have been at least partially propelled by a sense of solidarity with the black churches that sustained and supported the civil-rights movement and by his observation of their importance in Democratic black politics. (This is not a charge of religious hypocrisy or cynicism. We all have multiple motivations for our religious affiliation, just as we do for every other kind of affiliation.)

We know to our cost that religious affiliation does not guarantee a commitment to defend the lives of the unborn, and lack of religious faith doesn't preclude that commitment. However, as a general rule, even in those more liberal churches that institutionally accept abortion or decline to call it sinful, religious belief at least prods its adherents to grapple with the issue, even if their reason for doing so is to find a way to safely shunt the right to abortion past their conscience.

The product of this confluence of factors constituting the “when,” “where,” and “how” of Obama’s early years is now occupying the White House. Barack Obama appears to handily beat even Bill Clinton’s commitment to totally unrestricted abortion, having extended that commitment during his years in Illinois not only to partial-birth abortion, but also to guaranteeing aborting mothers a dead baby at the end of the “procedure.” (See his rock-solid opposition to Illinois’s Live Baby legislation, which would have required medical personnel to give ordinary medical care to infants born alive after abortion or miscarriage.) As I write, the newspapers are reporting on his administration’s plans to at the very least severely restrict the conscience exceptions for health-care workers and facilities, as well as his intention to open up fetal-stem-cell research.

How should we who are so much more than casually pro-life be responding, as the first of at least four years of an Obama administration gets under way? The experts (I am not one of them) can wrestle with the legal, legislative, and organizational strategies most likely to be productive in those areas. Thinking on a more personal level about the daunting roadblock that Obama and the Democratic Congress pose to restoring public safeguards and respect for human life, this is what I come up with.

We need to pray. Oh, I know that most pro-lifers have been praying for years, and not just on sidewalk duty outside abortion clinics. But I have been meditating on all my fruitless interactions with pro-choice relatives, neighbors, and colleagues—the kind of people who helped vote Obama in the first place. It is relatively easy to sympathize with a mother who, often under duress or extreme pressures personal and financial, strangles maternal

instinct and undergoes an abortion. It is particularly easy to sympathize with her if she is psychologically and emotionally traumatized by her abortion, or if she has since come to repudiate it. (It is harder, humanly speaking, to dredge up much milk of human kindness if she thinks she is doing just fine and scornfully dismisses post-abortion trauma as the kind of thing that only visits the mentally unbalanced.)

But for me (and perhaps for many readers), it is hugely difficult to walk a mile in the shoes of abortionists, Planned Parenthood and NARAL executives, pro-abortion politicians, religious ministers who defend abortion, and most of the secular media, who consistently portray pro-lifers as out-of-sync religious freaks stridently shouting simplistic slogans and waving pictures of fetal remains.

And in fact the reactions of all these people can tempt us to respond in kind. It is very, very easy for me to demonize and, well, *hate* the people who financially feed on abortion, or use it to preach gospels of self-absorption, or airily wave away ethical dilemmas by saying the end justifies the means. Unfortunately my own religious tradition tells me I don't have the option of that kind of self-indulgence. I can't hate Obama and wish him ill, just as I can't hate the teacher who sets up and knocks down anti-abortion straw men in her classroom, or the politicians who often make it quite clear that they despise their pro-life constituents. I am not permitted to hate the Sunday-school teacher who considers devotion to this "single issue" monomaniacal, or the doctors and medical personnel who refer women in crisis to the nearest Planned Parenthood clinic, or even the in-laws whose liberal attitudes come off as much cooler and more cosmopolitan to some of the younger generation in the family.

Not only does my religion frown on hating persons rather than acts, but this kind of animosity is almost always hugely ineffective in changing minds or winning arguments. People don't like being hated. They pick up on contemptuous attitudes or the dismissive sense that someone considers them past praying for. The first step in the possibility of changing minds (and a *lot* of minds need to be changed) is praying for them, wishing them well. I believe this is not "just" an effect of the action of grace, but a psychological truth, because people are more likely to be attracted to someone who appears well disposed toward them.

Praying for our opponents, or (for the agnostics among us) wishing them well in aspects of their lives that don't include agitating for abortion, doesn't really have that much to do with determining the kind of rhetoric that should reign in the halls of Congress, or the degree to which pro-life political leaders should schmooze with pro-abortion ones (though dedicating much time to

socializing with Nancy Pelosi would require perhaps more than heroic virtue). It doesn't solve the problem of deciding which sorts of cooperative endeavors would likely pay pro-life dividends, and which would dissipate our message and influence. Those are necessary prudential assessments that don't precisely correlate with saying a prayer for the First Family or doing a favor for a coworker who has converted his office into an Obama Shrine. However, it is definitely *not* a recommendation to lapse into the kind of emotive California-speak that forgives evil because it refuses to notice it. No good can come of the trumpet giving an uncertain sound. But while we are clearly and consistently making the case for the sanctity of human life and ingeniously taking action on every front to make it a legal reality, we need, more than ever at the start of a dispiritingly difficult four-to-eight years, to work on including our pro-abortion opponents as members of the human race.

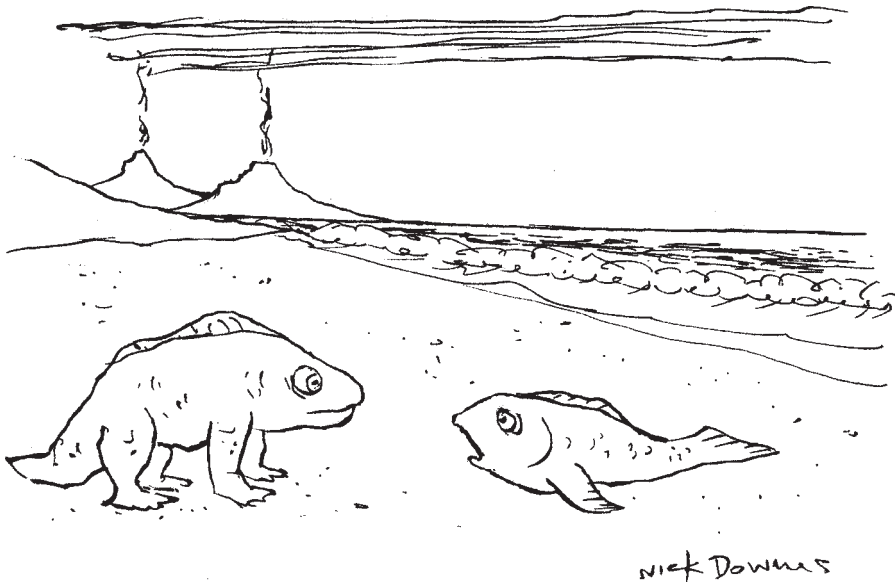
Abraham Lincoln—whom I refuse to surrender to President Obama, despite the Illinois connection and the pre-presidential train ride—had it right on this as on so many subjects. During the course of the Civil War, he aimed to be mindful that someday the war would be over and we would be united as one nation again. This day was more likely to be hastened by thinking of the enemy (who still had to be fought—Lincoln was always pressing his generals to push on and get the whole nightmarish Civil War done with) as a fellow countryman. Some of Lincoln's generals had difficulty grasping this point; one wrote Lincoln exultantly after Gettysburg about driving the invader out of "our" (Northern) soil, which provoked in Lincoln the hugely frustrated and impassioned response that there was no "our" soil and no invader; the whole point of the Union resistance to secession was that both Northern and Southern states were part of one Union.

We too, must remain capable of imagining a day when abortion as a public national issue is past. We need to resist the temptation of developing the personality of a permanent minority—cranky, paranoid, distempered, consumed with issues of ideological purity, and dismissive of the opposition. More than half of all Americans agree either in whole or in part with us on abortion. That is not currently reflected in Congress's makeup, because the life issues do not carry for many of these fellow Americans the urgency that they should. But although the culture offers a slippery moral surface on which to slide about, we are neither as weird as the media make us out to be nor as inexorably, unalterably cut off from mainstream Americans as we ourselves sometimes fear. There are ways to speak to people, there are areas of common concern, there are doubts among many about where modernity seems to be taking us, there are flare-ups of the awareness of a natural law that make it

possible, often, sometimes, to piece out the working vocabulary of a common language. And from time to time, there are spectacularly encouraging changes of heart.

Therefore, added to my personal agenda for the Obama presidency is a resolution to pray for him daily—yes, to pray for a (wildly unlikely) U-turn on abortion and other life issues, but also just to pray for him, because that is the way these things work best. There are precedents; few, but dramatic. Abortionist and abortion activist Dr. Bernard Nathanson's conversion comes to mind. And, less dramatically, so does Ronald Reagan's change from a California governor once willing to support liberalized abortion legislation to a stalwart defender of the unborn.

Do I expect Obama or collaborators like Pelosi and Harry Reid to experience such spectacular conversions? No. Humanly speaking, such Damascus Road transformations are unbelievable to me. But—there are precedents. It could happen.



"Who's evolving? The tide ran out on me."

Standing for Life in the Era of Obama

Wesley J. Smith

Human exceptionalism—the belief in the immeasurable intrinsic moral value of all human life—suffered a profound setback in 2008 with the election of President Barack Obama and a Democratic Party-controlled Congress. Ironically, the “culture war” issues such as embryonic-stem-cell research, abortion, assisted suicide, etc., had very little impact on this outcome. Widespread economic panic swept Obama into office. In this sense, his election was not in the least a public mandate to destroy the ethic of the sanctity and equality of human life.

True as that statement may be, it and \$2.00 will buy you a small cup of coffee at Starbucks. The fact is that those who stand implacably against the belief in the intrinsic dignity of human life now hold almost unfettered power in much of the country. As a consequence, the next four years will see the erosion of policies and revocation of laws that defend human exceptionalism—such as the Bush embryonic-stem-cell federal funding restrictions that Obama revoked on March 9—and the potential institution of new proposals that threaten to deepen the erosion of the sanctity/equality of human life—such as medical rationing and the Freedom of Choice Act.

In such a toxic environment, it will be more important than ever to speak truth to power. But being vocal alone will not be enough. To turn the powerful cultural tide that is currently flowing will require realism, patience, and the self-discipline to be *effective*. Toward this end, I humbly offer the following suggestions:

Know When to Hold 'Em and When to Fold 'Em: It is a hard thing; but we will have little influence over public policies for at least the next two years. But all is not lost, just made far more difficult. Operating effectively in this environment will require hard choices about when and where to invest finite energies and resources and when, reluctantly, to make a tactical retreat.

For example, for more than seven years, embryonic-stem-cell opponents ably defended President Bush's ESCR funding restrictions. But this tactic became untenable once President Obama took the oath of office. Prudence thus requires that a new line of defense be established, for example, standing fast to protect the Dickey Amendment—the federal law that prohibits federal money from being used to actually destroy embryos—from being revoked.

Wesley J. Smith is a Senior Fellow in Human Rights and Bioethics for the Discovery Institute, Associate Director of the International Task Force on Euthanasia and Assisted Suicide, and a special consultant to the Center for Bioethics and Culture.

(The Obama policy permits embryonic-stem-cell lines to be researched upon only after they are derived.) This is not to say that the lifting of the Bush policy shouldn't have been criticized. I certainly criticized it. But it *is* to say that depleting resources in policy fights that cannot be won will only make it much more difficult to succeed in controversies in which there is hope of prevailing.

Know the Facts: We live in a postmodern age in which narratives matter more than facts. This has even poisoned the scientific field, with some scientists redefining basic biology in order to win political points. Take as just one example the redefinition of the word “embryo.” Embryology textbooks state that a new human embryo—that is, a new human being—comes into existence upon the completion of fertilization, at which point it has its own unique genetic makeup and its sex has been determined. Yet many “science” organizations have redefined the meaning of the word “embryo” to begin when the (now) “pre-embryo” (or other euphemism) implants in the womb.

This corruption of language and the scientifically unwarranted changing of meaning make cogent debate very difficult—which of course, is the purpose of the tactic. I suggest overcoming this problem by researching and citing objective scientific sources as a way of “footnoting” your arguments to provide proof of the accuracy of your statements. Doing so will then permit ethical analyses based on accurate facts rather than the convenient fiction the other side prefers.

Argue from Secular Human-Rights Perspectives: I think it is important to understand that arguing for the sanctity/equality of human life in the public square is not the same thing as proselytizing for one's faith. As one potential example, if you say in a debate about assisted suicide, “Only God can take a life,” you will lose the support of everybody who doesn't believe in God or who doesn't wish to impose his own religious views on wider society.

To have the widest impact, it is important to make arguments that can be accepted by the greatest number of people, and that means arguments based on rationality and human rights—compelling examples of which are widely available with regard to all issues of concern to readers of this journal in, to take one example, the voluminous work of the atheist pro-lifer Nat Hentoff. This is not to say that you can't or shouldn't discuss the religious aspects of these matters if that is your perspective. But it is to say that religious arguments are best and most effectively made in contexts that call for exposition of relevant religious viewpoints.

Don't Sweat the Double Standard: Your opponents will be able to make assertions that are wholly or partially false, and will probably not be called

to account. This can be maddening, but losing your temper about it will only harm your own credibility. Just think of the double standard the way rocket scientists think of gravity: It is simply part of the environment that has to be overcome. Calmly reciting objective citations as suggested above is a good way to maneuver around this obstacle.

Don't Get Personal: Advocates for the sanctity/equality of human life are often insulted, called names, vilified, and subjected to slanderous calumny. That never feels good, but it is always a mistake to return the fire in kind because even if you didn't start the name calling, *you* will be the one accused of being nasty. (See discussion of the double standard, above.)

The best way to deflect such attacks is to stay calm and retain your sense of humor. For example, you could say that even if you are Genghis Khan, that doesn't mean what you said is untrue. Then, challenge your opponent to rebut your factual assertions and moral analyses rather than engage in name-calling. Or to put it another way: When in the public square, discipline yourself to always walk the extra mile and turn the other cheek. Indeed, a willingness to accept opprobrium with a smile on your face has the power to turn audiences around.

Don't Bring up Hitler: There is no question that many of the issues we face today can logically be analogized to some of the evils perpetrated by the Third Reich. For example, babies born with disabilities were killed by the thousands in Germany circa 1939-45, a practice now occurring by the scores in the Netherlands as its euthanasia license continually expands. This fact does not mean, however, that you should bring up Hitler. Quite the contrary: Making that connection will often turn your audience off. In this regard it is better to allow audiences to make that connection themselves—as often happens. Then you are free to agree and bring up specific historical analogies without being seen as a verbal bomb-thrower.

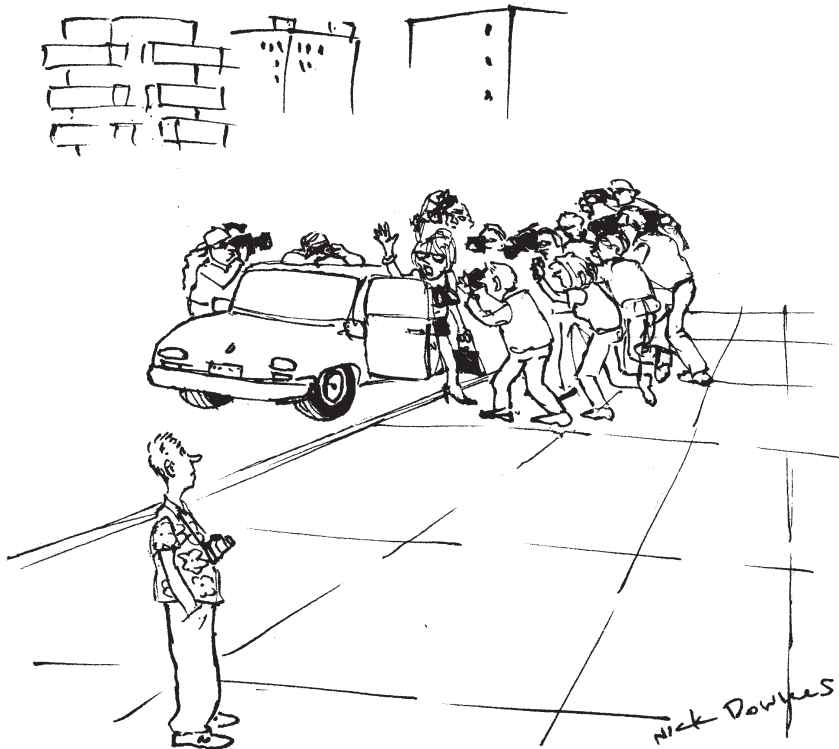
Be Willing *Not* to be Liked: During the bitter cultural debate over slavery between 1830 and 1860, the most despised people in the country weren't the slaveholders, or even the widely disdained slave traders. No, the unequivocal opponents of slavery—abolitionists—were the most unpopular group, because they forced people to focus on the immorality of involuntary servitude and they threatened the economic interests of wide swaths of the population. Indeed, abolitionists were mobbed, run out of towns on rails, censored—even murdered—and that was in the North! In the South their literature was burned by postmasters and bounties were put on their heads.

People who identify with the positions taken by writers that appear in this journal generally don't have to fear deadly attack like the abolitionists did. But, to put it mildly, standing against assisted suicide, abortion, and/or

removing food and fluids from people with cognitive disabilities is not a prescription for attaining popularity. This lack of esteem doesn't bother activists so much, but it is often the cause of cowardice among supposedly reliable politicians. Still, if not being liked bothers you, learn to shrug it off and to wear their scorn like a badge of honor.

Speak in Love: Most important, if you are going to stand up for the defenseless and vulnerable, do so in love. I am not speaking of the elementary requirement that advocacy never include threats of harm or violence. Indeed, speaking in love isn't a question of "how" at all. It is the reason "why."

The next several years are going to be very difficult and disheartening for people who accept the philosophy of the Human Life Foundation. But this time in the wilderness will eventually pass. Hastening that longed-for day will require courage, fortitude, and indomitability. Most of all, it will require love—both for those on behalf of whom advocacy is mounted and especially for those who understand not what they do. Indeed, by anchoring activism in love, lives will be saved and hearts will be changed. And therein is to be found the power to lead our culture out of the darkness and into the light.



"Hey, you—Don't you know who I am?"

I Object!

James Hitchcock

[**Editor's Note:** The following is *Review* contributor James Hitchcock's reply to Christopher Manion's "A Response to James Hitchcock," Fall 2008. Mr. Manion was responding to two previous *HLR* articles by Professor Hitchcock: "Abortion and the 'Catholic Right'", Spring 2007, and "Part Two," Winter, 2008. To read all three previous articles, please visit our website at www.humanlifereview.com.]

My two articles were "replete with errors," but Manion says he does not have space to document them.

One alleged distortion was my response to his criticism of President Bush for saying that history might vindicate him. But Manion did make the absurd claim that thinking he might be vindicated by history showed Bush to be a "Darwinian Marxist."

I did not say that Manion admits that for Ron Paul "unborn life gets lost in the desert." I quoted Manion's line ironically, because it applies to Paul's states-rights philosophy, even though Manion cannot see it.

Dr. Paul is personally opposed to abortion and would never perform one. He is also opposed to virtually any Federal legislation that would protect the unborn.

Pro-lifers did not rally against Senator Lieberman in 2006 because his opponent was also pro-abortion.

I have never defended Linda Chavez, whose name I barely recognize.

Perhaps Bush has "destroyed the Republican Party." But how did he "set the pro-life movement back a generation"—by appointing Justices Roberts and Alito to the Supreme Court, by the Mexico City Policy, by speaking up for Terri Schiavo, by enacting the conscience clause for medical personnel?

Bush has "pushed the Republican Party to the Left." Perhaps he did in some ways. But did he do so on the pro-life issues? The White House under Bush took stronger pro-life stands than under any other president, but Manion makes it clear that Bush should be anathema for other reasons.

I never said that pro-lifers should not criticize Bush. On the contrary, there is a special moral obligation to monitor the actions of those whom one supports. Rather I object to *The Wanderer's* implication that Bush (and therefore Senator McCain) are beyond the moral Pale, possibly even worse than pro-abortion Democrats. (During the recent election *The Wanderer* at one

James Hitchcock, a professor of history at St. Louis University, is the author of *The Supreme Court and Religion in American Life* (Princeton University Press, 2004). His two-part article, "Abortion and the 'Catholic Right,'" appeared in the Spring 2007 and Winter 2008 issues of *HLR*.

point called McCain a dangerous psychopath.)

The “obscure thread” that Manion says does not exist is *The Wanderer’s* position that all American wars, at least since the Civil War, have been unjust. In a recent issue the Belgians were declared to have committed atrocities against the Germans in 1916.

Manion’s rehearsing of the divisions within the pro-life movement over the Helms Bill and related issues is an irrelevancy. I have never written about that debate but rather about the division in which some conservatives do not regard abortion as the primary public issue.

Manion is correct about the nature of a coalition. My point is that some on the Catholic Right are no longer willing to be part of an anti-abortion coalition that includes George Bush, John McCain, *The Weekly Standard*, and anyone else who is not a “true conservative.”

Manion often cites Senator Santorum’s criticism of McCain, without recalling that *The Wanderer* in 2006 declared Santorum unreliable and urged his defeat.

I do not of course think that *The Wanderer* has sufficient influence to determine the outcome of a national election. However, in its home state of Minnesota it appears that pro-life Senator Norm Coleman has lost by fewer than a hundred votes, and it is not at all implausible that the margin of his defeat was provided by *Wanderer* readers who were persuaded that it was wrong to vote Republican in 2008.

The crux of Manion’s problem with me lies in his statement that, had Bush acted differently, “Hitchcock could have had his war.” (He also speaks of my “abiding devotion” to the war.) The simple fact is that Manion does not know what I think about the war, because I carefully refrained from revealing my opinion in my two articles. I did so precisely because people who disagree about the war should be able to agree about abortion. Manion and others who have responded to my articles automatically assume that I support the war, that indeed that it is the reason why I wrote the articles. But they offer no proof, because there is none. They, not I, try to force people to choose between the war and abortion.

Most assuredly, as Manion says, the war contributed heavily to the Republican defeat in 2008 and thereby to the weakening of the pro-life movement. *The Wanderer* cheered that defeat.

Manion alludes to an interview he did with me in *The Wanderer*. He does not mention my comments about Barry Goldwater, and there lies the rub. Goldwater epitomizes “true conservatism” for Manion and others. But Goldwater was fanatically pro-abortion, something that Manion and other “true conservatives” have never been able to deal with.

Defending the Hippocratic Oath:

The Importance of Conscience in Health Care

Wesley J. Smith

In 1860, as the slave controversy was raging to the boiling point, an ambitious—but mostly failed—regional politician from Illinois traveled to New York City to give a speech that he hoped would boost his dark-horse bid to win the Republican nomination for president. That address made Abraham Lincoln president.

Lincoln came to New York to talk about slavery, *the* moral issue of the day, indeed, the only one that really mattered politically. Lincoln was adamantly opposed to “the peculiar institution,” as it was then known. But he was no abolitionist; at the time, abolitionism was a very unpopular movement. Indeed, he opposed the abolitionists’ constant agitation for immediate emancipation, believing that slavery would collapse of its own weight if it were prevented from spreading beyond the states where it then existed.

But Lincoln’s hopes were turning to ashes. As he took the stage at Cooper Union on February 27, the Slaveocracy was on the march. In 1856, feelings on both sides of the slavery divide had been badly inflamed when the abolitionist Sen. Charles Sumner was caned nearly to death while sitting at his Senate Chamber desk. The attacker—a Southern congressman—not only faced no punishment but was cheered as a hero in the South. The infamous *Dred Scott* decision had declared that no black man had any rights that any white man would ever be required to respect. The issue of whether slavery would be permitted in Kansas had set off a years-long mini-civil war in the territory. In October 1859, John Brown’s murderous raid on Harper’s Ferry irremediably alienated the South from the rest of the nation. Secession was in the air.

Lincoln now understood that the Slave Power would never compromise—politically or legally—and moreover, that it would no longer even countenance dissent in thought. This was, at last, too much, and at Cooper Union, he spoke in eloquent defiance. Asking rhetorically, “what will satisfy them,” he answered:

This and only this: cease to call slavery *wrong*, and join them in calling it *right*. And this must be done thoroughly—done in *acts* as well as *words*. Silence will not be

Wesley J. Smith is a Senior Fellow in Human Rights and Bioethics for the Discovery Institute, Associate Director of the International Task Force on Euthanasia and Assisted Suicide, and a special consultant to the Center for Bioethics and Culture.

tolerated—we must place ourselves avowedly with them. Senator [Stephen A.] Douglas's new sedition law must be enacted and enforced, suppressing all declarations that slavery is wrong, whether made in politics, in presses, in pulpits or in private. We must arrest and return their fugitive slaves with greedy pleasure. We must pull down our Free State constitutions. The whole atmosphere must be disinfected from the taint of opposition to slavery, before they will cease to believe that all their troubles proceed from us.¹

But men of goodwill like Lincoln refused to be cowed. Their consciences told them that slavery was evil and they would continue to agitate for its eventual end. Proving that the darkness does indeed hate the light, the election of Lincoln—a decidedly moderate antislavery man—led to secession and horrific war.

We have come a very long way from those darkest of days in our nation's history. Indeed, last year the first African-American was elected president and his wife—a direct descendent of slaves—is now our First Lady.

But the more things change, the more they stay the same. Once again the nation is divided bitterly over profoundly important moral issues, including over the propriety of activities relevant to this journal's existence, such as physician-assisted suicide and abortion. Once again, as in Lincoln's day, advocates on one side of a crucial moral argument seek to stifle dissent.² But now, matters are being taken a step beyond—with abortion and assisted-suicide proponents starting to create policies that force health-care workers to participate in activities they deem both immoral and unprofessional as against the sanctity/equality of human life. If these early efforts are not stopped, dissenting health-care workers could be driven completely out of their professions.

The Coming Coercion

For years, the culture of death has been promoted into the heart of Western culture through that most succinct of all sound bites: “choice.” But to many of its supporters, “choice” is a one-way street. Under this emerging view, patients are entitled to demand whatever legal death-causing medical procedure they desire, but health-care professionals are not entitled to refuse to participate; they must either comply or find another provider for that patient who will.

This coercive trend may have begun in 2002, when New York City mayor Michael Bloomberg—reacting to pressure from NARAL and other abortion-rights activists—created a program mandating abortion training for all OB/GYN residents working in the city's public hospitals. Only those doctors who oppose performing abortions based on moral or religious grounds were exempted from the requirement, an opt-out right known generally as a “conscience clause.”³ Without it, medical students who wish to become

obstetricians and who morally oppose abortion would not be able to receive training in New York City and maintain fidelity to their beliefs.

As the culture of death has advanced, such conscience clauses are falling into disfavor, with newer laws and proposals instituting requirements that prevent conscientious objectors from exempting themselves from involvement in abortion, assisted suicide, and other objectionable medical services. Victoria, Australia's new abortion law is a case in point.⁴ The law establishes a right to abortion through the 24th week of gestation, and permits doctors to terminate a pregnancy anytime prior to birth if the physician "reasonably believes that the abortion is appropriate in all the circumstances" and "has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in all the circumstances."⁵ The law also imposes on every doctor a *duty to cooperate* with a patient's request for an abortion:

If a woman requests a registered health practitioner to advise on a proposed abortion, or to perform, direct, authorize, or supervise an abortion for that woman, and the practitioner has a conscientious objection to abortion, the practitioner must—(a) inform the woman that the practitioner has a conscientious objection to abortion; and (b) refer the woman to another registered health practitioner in the same regulated health profession who the practitioner knows does not have a conscientious objection to abortion.⁶

In other words, practitioners in Victoria *must either perform the abortion or act as the procuring agent of the termination on behalf of the patient*. This means all health practitioners are *legally required to be complicit* in terminating a pregnancy when asked, regardless of their moral views about its ethical propriety.

A similar "must refer" clause was written into an assisted-suicide-by-the-back-door bill introduced in California in 2008, known as AB 2747. As originally drafted, the bill would have granted terminally ill patients—defined in the bill as those with one year or less to live—the right to demand "palliative sedation."

Palliative sedation properly defined is a legitimate medical intervention utilized in rare cases of irremediable suffering at the end of life undertaken late in the disease process. The intent of palliative sedation is to ease suffering, not end life. But under the bill, the patient could have demanded palliative sedation from his doctor once he was diagnosed as having one year or less to live. Demonstrating the intent of the bill's authors, AB 2747 redefined the term from its proper meaning into an act of intentional killing:

"Palliative sedation" means the use of sedative medications to relieve extreme suffering by making the patient unaware and unconscious, while artificial food and

hydration are withheld, during the progression of the disease, leading to the death of the patient.⁷

In other words, patients would have been able to demand to be put into an artificial coma and dehydrated to death.

But what if the doctor did not think palliative sedation was medically appropriate in the circumstances or had a moral objection to causing a patient's death? Like Victoria's abortion law, the original version of the legislation required doctors to either comply or be complicit by finding a doctor who would fulfill the patient's desire:

If a physician does not wish to comply with his or her patient's choice of end-of-life options, the health care provider shall do both of the following: (a) Refer or transfer a patient to an alternative health care provider; (b) Provide the patient with information on procedures to transfer to an alternative health care provider.⁸

These sections were ultimately deleted from the bill and AB 2747 passed into law in a form that only requires doctors to provide information to terminally ill patients. But even though the quoted sections of the bill were not enacted, AB 2747's original language is a vivid illustration of an emerging trend to force all doctors and other medical personnel to participate directly or indirectly in death-causing acts in the medical context.

Another failed California bill gives us another glimpse of the coercion to which health-care facilities and professionals could be subjected if the culture of death continues to grow and thrive. AB 374 (2007) would have authorized doctors to legally write lethal prescriptions for their terminally ill patients to use in suicide, as now permitted by statute in Oregon and Washington. But unlike those two states' laws, the California proposal would have forced facilities that disagreed with assisted suicide—for example, Catholic nursing homes—to permit them to take place on their premises.

The duty would have been imposed obliquely, one might even say by stealth. The relevant sections were 7198 (b) and (e), which stated:

7198 (b): No professional organization or association, or health care provider, may subject a person to censure, discipline, suspension, loss of license, *loss of privileges*, loss of membership, *or other penalty for participating* or refusing to participate in good faith compliance with this chapter. [Emphasis added.]

Here's the sneaky part: Subsection (e) would have allowed *only* acute-care hospitals to refuse to permit assisted suicide from taking place at their facilities.

(e) Notwithstanding any other provision of law, a general acute care hospital, as defined in subdivision (a) of Section 1250, may prohibit a licensed physician from carrying out a patient's request under this chapter on the premises of the hospital if the hospital has notified the licensed physician of its policy regarding this chapter.

By explicitly identifying acute-care hospitals as the *only* type of facility that could bar assisted suicides from taking place on-site, the legislation would have required nursing homes, hospices, group homes, etc. to permit assisted-suicide practice on their premises. Moreover, it would have prohibited these facilities from asking patients intending to commit suicide to leave (since that could be deemed a “punishment”); from punishing or sanctioning any employee who cooperated with the assisted suicide; and from preventing doctors who wrote lethal prescriptions from being on staff. Had AB 374 become law, Catholic and other religiously oriented nursing homes would have been forced to choose among the following options: shutting down; violating the law and facing the consequences; selling the facility; and passively cooperating in the assisted suicides of patients.

Making Hippocrates a *Persona Non Grata*

At the end of George W. Bush’s presidency, his administration sought to protect dissenting health workers from having to choose between keeping their jobs and acting consistently with their religious and moral beliefs. Toward this end, the Department of Health and Human Services promulgated a Federal Rule that protects health-care workers from employment discrimination in facilities that receive federal funds when they refuse to provide a requested medical service based on religious or moral conscience.

These rules were vociferously opposed by professional medical associations such as the American Medical Association, the American College of Obstetricians and Gynecologists (ACOG), and the American Hospital Association.⁹ Indeed, an ACOG ethics-committee opinion published in 2007 demonstrated a decided hostility to establishing a right to conscience for OB/GYNs:

Although respect for conscience is important, conscientious refusals should be limited if they constitute an imposition of religious and moral beliefs on patients. . . . Physicians and other health care providers have the duty to refer patients in a timely manner to other providers if they do not feel they can in conscience provide the standard reproductive services that patients request. . . . Providers with moral or religious objections should either practice in proximity to individuals who share their views or ensure that referral processes are in place. In an emergency in which referral is not possible or might negatively impact on a patient’s physical or mental health, providers have an obligation to provide medically indicated requested care.¹⁰

These medical associations certainly were not alone. During the 2008 election, Sen. Barack Obama expressed adamant opposition to the (then) proposed rule,¹¹ and, as this is written, the Department of Health and Human Services has begun the bureaucratic process of rescinding the rule.¹² Even before the Final Rule was published in the *Federal Register*, Sens. Hillary

Rodham Clinton (D-N.Y.) and Patty Murray (D-Wash.), introduced a bill to prevent the Rule from going into effect.¹³ Immediately following its promulgation, Connecticut—joined by California, Illinois, Massachusetts, New Jersey, Oregon, and Rhode Island, and supported by the ACLU—filed suit to enjoin the regulation from being enforced.¹⁴ Looking to the future, many observers worry that the proposed Freedom of Choice Act (FOCA) would, among other pro-abortion provisions, prevent any state from enacting a law protecting the conscience rights of health-care workers or facilities that do not wish to be involved with abortion.¹⁵

Newspapers throughout the nation also predictably editorialized against the conscience clause. The *New York Times* called it an “awful regulation,” and a “parting gift to the far right.” The *St. Louis Post Dispatch* went so far as to opine: “Doctors, nurses, and pharmacists choose professions that put patients’ rights first. If they foresee that priority becoming problematic for them, they should choose another profession.”¹⁶

In other words, a health-care professional who wishes to follow the orthodox view of the Hippocratic Oath should now be treated as a *persona non grata* in medicine! This is an astonishing contention, one that must not be allowed to become the conventional view.

Fashioning Proper Conscience Clauses

Fashioning proper conscience-clause legislation is easier said than done. For example, the Bush regulations are overbroad, creating a double-edged sword that could protect people who decline to save lives as well as those who refuse to end them. Here is the relevant text:

Section 2 (d): Entities to whom this paragraph (d) applies [generally, those that receive federal funds via Medicare, Medicaid, etc.] shall not

(1) Require any individual to perform or assist in the performance of any part of a health care service program or research activity funded by the Department if such services or activity would be contrary to his religious beliefs or moral conditions.

(2) Discriminate in the employment, promotion, termination, or the extension of staff or other privileges to any physician or health care personnel because he performed, assisted in the performance, refused to perform, or refused to assist in the performance of any lawful health service or research activity on the grounds that his performance or assistance in performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of the religious beliefs or moral convictions, concerning such activity themselves.¹⁷

This language not only protects physicians and nurses who do not wish to participate in assisted suicide, but could also prevent hospitals from disciplining a doctor who refuses to provide wanted life-sustaining treatment because of a moral view that maintaining patients with a “low quality of

life” is either immoral or an unconscionable waste of limited medical resources—a bioethical concept known as Futile Care Theory or medical futility. (For more on medical futility, see Wesley J. Smith, “Futile Care Theory: Assisted Suicide’s First Cousin,” *The Human Life Review*, Summer 2008.)

To avoid such an absurd result, and to ensure that conscience clauses not become a cover for discrimination or lead to chaos within the health-care system, I suggest that we consider at least three crucial distinctions in crafting nuanced conscience-clause laws and regulations. First, conscience clauses should distinguish *between* elective procedures—*e.g.*, interventions not immediately necessary to save the patient’s life or prevent serious physical harm—and non-elective procedures. *Such a distinction would* protect health-care workers who refused to participate in procedures “of choice” if their conscience so dictates, whether it be rhinoplasty, abortion, or assisted suicide, while not permitting doctors to refuse to save the life of someone like, say, Terri Schaivo because of a moral belief that cognitively disabled patients are not “persons” and thus should not be maintained.

Second, to prevent conscience clauses from becoming safe harbors for discrimination, the requested procedure should generally be what violates the conscience of the health-care worker, not bias against the patient. In this way, for example, an oncologist would not be able to refuse to treat a lung-cancer patient because the patient smoked, nor could a pharmacist refuse to fill a prescription for drugs to fight AIDS because she believes the patient is gay.

Finally, those covered by conscience clauses should be bona fide health-care professionals such as nurses and physicians. Custodians or bandage suppliers, as two examples, should not be allowed to refuse their goods or services because they disapprove of legal medical procedures that take place where they are employed or with which their employers do business.

The culture of death advanced exponentially in 2008: The election of President Obama and a strongly Democratic Congress strengthened political forces that vociferously favor abortion rights. Washington State legalized assisted suicide by voter initiative. A Montana judge declared a state constitutional right to assisted suicide. Such political and cultural shifts have placed believers in the traditional Hippocratic Oath on a collision course with some of their patients’ desires and employers’ demands. One viable answer to this dilemma—and one in keeping with a culturally diverse society—is the conscience clause. No doubt there will be nuances within nuances to consider in drafting good policies not considered in this article. Moreover, as the widespread negative reaction to the Bush regulation

demonstrated, opposition to conscience clauses is likely to be fierce. The issue of conscience in health care is likely to be one of the most politically explosive for years to come.

NOTES

1. As quoted in Harold Holzer, *Lincoln at Cooper Union: The Speech That Made Abraham Lincoln President* (New York, Simon and Schuster, 2004), pp. 282-3.
2. For example, “pro life” protesters face picketing restrictions that would not be countenanced for, say, a labor dispute. A Montana judge declared a state-constitutional “fundamental” right to assisted suicide, which would prevent the people of that state from outlawing the practice—at least for the terminally ill. (*Baxter v. State of Montana*, Montana First Judicial District Court Lewis and Clark County, Cause No. ADV-2007-787, Decision and Order, December 5, 2008), while the proposed federal “Freedom of Choice Act” would dismantle all state-enacted regulations on access to abortion.
3. Bootie Cosgrove-Mather, “Abortion Training Ordered for NYC Docs,” CBS News, April 5, 2002.
4. Abortion Law Reform Act of 2008. The law permits abortion for any reason before 24 weeks. Section 5 states that “A registered medical practitioner may perform an abortion on a woman who is more than 24 weeks pregnant only if the medical practitioner— (a) reasonably believes that the abortion is appropriate in all the circumstances; and (b) has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in all the circumstances.”
5. *Id.* Part 2 (5).
6. *Id.* Section 8 (1).
7. AB 2747, Section 442 (d).
8. *Id.* Section 442.7.
9. Rob Stein, “Rule Shields Health Workers Who Withhold Care Based on Beliefs,” *Washington Post*, December 19, 2008.
10. The American College of Obstetricians and Gynecologists, “The Limits of Conscientious Refusal in Reproductive Medicine,” ACOG Committee Opinion, Number 385, November 2007.
11. Julie Rovner, “Bush’s Last-Minute ‘Conscience’ Rules Cause Furor,” *All Things Considered*, NPR, December 18, 2008.
12. *Federal Register*: March 10, 2009 (Volume 74, Number 45) [Page 10207-10211].
13. U.S. Senate Bill 20, “A Bill to Prohibit the Implementation or Enforcement of Certain Regulations,” introduced November 20, 2008.
14. Arielle Levin Becker, “Connecticut, Other States Sue to Block ‘Conscience Rule,’” *Hartford Courant*, January 16, 2009.
15. Ben Arnoldy, “Catholic Groups Fear Abortion Rights Bill,” *Christian Science Monitor*, December 5, 2008.
16. Editorial, “An Unconscionable Conscience Rule,” *St. Louis Post Dispatch*, December 24, 2008.
17. 45 CFR Part 88, “Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law,” Final Rule, *Federal Register*, Vol. 73, No. 245 / Friday, December 19, 2008 / Rules and Regulations, p. 78098.

Abortion as Betrayal

Richard Stith

Abortion is worse than ordinary murder, principally because it involves the betrayal of a dependent by a natural guardian. Furthermore, abortion is emblematic of wider lethal betrayals of radically dependent persons. All these betrayals are rationalized precisely by the victims' lack of autonomy-based dignity. Christianity counters by affirming the concern and respect due to those who helplessly suffer worldly disdain.

* * *

Suppose we were to find out that over a quarter of the nation's grandparents are killed each year by their teenage grandchildren, often through deliberate dismemberment. Wouldn't responses such as "This is murder!" somehow understate the matter?

Yet such a reaction to the current right to kill unborn children throughout pregnancy is about as hard-hitting as one can find in most pro-life writing. At best, the sheer number of slayings may be brought to the fore, as Cardinal George of Chicago did most powerfully before the last election, when he called us a nation "drenched in blood."

But doesn't even the cardinal's language somehow understate the full horror of abortion, just as it would be insufficient to express our shock at the massive mutilation of grandparents? What lie still unspoken are the multiple evils involved in betrayal of *weak* and *dependent* persons *naturally* in our care. Besides being a living human being, the unborn victim of abortion has three additional characteristics: weakness, dependency, and membership in a natural family. Each of these augments the evil of abortion.

First, the victim of abortion is not an adult, but a helpless child. Cardinal Ratzinger (now Pope Benedict XVI) pointed out, in 1991, that abortion is part of "a true war of the mighty against the weak With the complicity of States, colossal means have been used against people at the dawn of their life. . . ." ¹ When we read of troops or terrorists slaughtering the weak—the very old, the very young, the very disabled—this seems more inhuman than the killing of vigorous adults. There is something in us that naturally responds

Richard Stith teaches at Valparaiso University School of Law and serves on the board of directors of University Faculty for Life. He presented this paper at a conference on "The Family: Searching for Fairest Love" at the Notre Dame Center for Ethics and Culture, November 8, 2008. An earlier version was published as "Abortion Is More than 'Murder'" in *XV Life and Learning* 105-113 (2006), edited by Joseph Koterski, S.J. (a slightly shorter version appeared in *New Oxford Review*, Nov. 2005, pp. 17-20).

to weakness with compassion and deference. The *Catechism* supports this feeling when it states, “Those whose lives are diminished or weakened deserve special respect” (#2276). When a blind man is robbed of a wallet, our humanity is more deeply injured than when a sighted person has his wallet stolen. The thief has committed an act not only wrong but shameful.

Hans Jonas has argued that our treatment of babies stands out as a kind of archetype for decency. He points to “the newborn, whose mere breathing uncontradictably addresses an ought to the world around, namely, to take care of him.”² Abortion, instead, tramples upon him. The legalization of abortion past ten to twelve weeks, the point at which even a child can recognize a child in the womb, is shameless, disgraceful, ignoble.

Second, the unborn child lives in a relationship of dependency. It is worse for a caretaker (a lifeguard, a nurse, a family member) to kill a disabled person than for a stranger to do so, because of the greater betrayal. This dimension of abortion was brought home to me when I was teaching in Ukraine. I saw a prolife poster there with an unborn child sucking its thumb and asked if the caption “не Зрадь мене, мамо” meant “Don’t kill me, Mommy.” I was told no, that it meant “Do not betray me, Mommy.” *Of course*, I thought, *if there is a life, then there is a child; if a child, then a mother; if a mother, then a betrayal.*

And, our third point, a mother’s betrayal is not just any betrayal by a caretaker. Parental duties are perhaps the most fundamental we can imagine. Pope John Paul II, in *Evangelium Vitae* (#11), first criticizes abortion and euthanasia for being “attacks [which] strike human life at the time of its greatest frailty,” but he immediately adds that even “more serious is the fact that, most often, those attacks are carried out in the very heart of and with the complicity of the family—the family which by its nature is called to be the ‘sanctuary of life.’” By officially authorizing abortion throughout pregnancy, current American law willingly tempts and enables mothers and fathers to turn violently against those little lives that utterly depend on them. Our entire legal system, and those who support it, is itself complicit in an act three reasons worse than ordinary murder.³

Some abortion supporters claim there can be no betrayal where there is no person in the full sense to be betrayed. The long answer here would point to the continuity of human development from conception to adulthood and to the fact that a mere change in location (in this case, a movement from inside to outside the uterus) cannot result in a change in the inherent nature or dignity of that developing being. A shorter answer would point out, with Stanley Hauerwas, that one need not be a person in some full sense in order to be a child.⁴

Other abortion supporters argue overtly that natural family ties have no significance unless they are autonomously assumed. A mother may know she is taking the life of her offspring and yet incur no moral guilt as long as she has never autonomously chosen to accept and rear the child. Choice trumps both life and family.

Mother Teresa, in her Nobel Prize acceptance speech, drew the obvious conclusion: “If a mother can kill her own child, what is left for me to kill you and you to kill me?”⁵ If the ancient maternal archetype of devoted care is renounced, what confidence can we still have in one another? Accepting the killing of strangers eats away at our community from the outside in; accepting the killing of our own children rots us from the inside out. How can any dependent human lives be safe?

If we accept that a mother can kill even her own child, why should scientists quail at the dissection of embryos and fetuses unrelated to them? Given that a mother can legitimately destroy her child before birth or during birth, why not doctors after birth, since location cannot seriously be thought to make a difference in a being’s inherent dignity? Federal judge Robert Beezer of the Ninth Circuit has argued that the teaching of the U.S. Supreme Court is that other non-viable people can be treated like fetuses.⁶ Dare aging parents ask for care from those who know their siblings were aborted?

According to *The New York Times*, Dr. Eduard Verhagen of the Netherlands, who freely admits to active euthanasia of newborns in apparently irremediable pain, says he could not do the deadly deed to his own suffering child, but would ask someone else to do it.⁷ Of course, he’s fooling himself if he thinks such abstention would make him a better father, but his admission does show the deep-seated character of respect for the life of one’s own offspring. We tear out the roots of human trust when we authorize the killing of our own children.

Pope John Paul II indeed found the pursuit of individual autonomy to be a root cause of many sorts of betrayals of the weak and vulnerable. The drive for autonomy aims at freedom from all kinds of burdensome dependents. The Pope wrote, in *Evangelium Vitae* (#12), that “a life which would require greater acceptance, love and care is considered useless, or held to be an intolerable burden, and is therefore rejected in one way or another. A person who, because of illness, handicap or, more simply, just by existing, compromises the well-being or life-style of those who are more favored tends to be looked upon as an enemy to be resisted or eliminated.” Those unable to bargain out their rights and duties—such as the unborn or the mentally disabled—thus come to count for very little. Their destruction is rationalized by the idea that autonomy alone is the basis for human dignity. Rights are

possessed only by “the person who enjoys total or at least incipient autonomy and who emerges from total dependence on others . . . there is no place . . . for anyone who appears completely at the mercy of others and radically dependent on them” (*Evangelium Vitae*, #19). Abortion reasons: *Because* the unborn child stands in utter need, is “nonviable” on her own, she may be slaughtered.

Harvard law professor Mary Ann Glendon has warned that by “making a radical vision of individual autonomy normative, we inevitably imply that dependency is something to be avoided in ourselves and disdained in others.”⁸ The leading legal theorist Ronald Dworkin exhibits just such disdain. He writes: “We are distressed by, even disapprove of, someone . . . who neglects or sacrifices the independence we think dignity requires.” For Dworkin, a person who chooses to live in great dependency denies that he is someone “whose life is important for its own sake.”⁹

Friedrich Nietzsche wrote prophetically: “To go on vegetating in cowardly dependence on physicians and machinations, after the meaning of life, the right to life, has been lost, that ought to prompt a profound contempt in society.”¹⁰ Nietzsche complained that Christians (at least in his day) stand against such disdain for the dependent. “If the degenerate and the sick . . . are to be accorded the same value as the healthy . . . then unnaturalness becomes law—This universal love of men is in practice the *preference* for the suffering, underprivileged, degenerate: it has in fact lowered and weakened the strength, the responsibility, the lofty duty to sacrifice men . . . The species requires that the ill-constituted, weak, degenerate perish: but it was precisely to them that Christianity turned as a conserving force.”

Nietzsche was searching, he said, for “a thoroughgoing *practical nihilism* . . . Problem: with what means could one attain to a severe form of really contagious nihilism: such as teaches and practices voluntary death with scientific conscientiousness (—and *not* a feeble, vegetable existence in expectation of a false afterlife—)?”¹¹

Has Nietzsche’s “problem” finally been solved in our day? Have our very old, our very sick, our very incapacitated been convinced by the likes of Dworkin and Nietzsche that they are merely contemptible burdens if they do not “autonomously” choose death? Is this the meaning of the recent approval of assisted suicide in the State of Washington? If so, how can our “preferential love for the sick” (*Catechism*, #1503) convince them that they are worth the trouble after all?

The Gospel reading for Holy Thursday provides an answer. It tells the familiar story of Christ’s washing of the Apostles’ feet. We draw, appropriately, the lesson that no act of service is too low for us. But we may

miss something in the interchange between our Lord and Peter. Peter at first refuses to let his feet be washed—perhaps in some sort of embarrassment, perhaps because they smelled. Christ responds, “If I do not wash you, you have no part in me.” (John 13:8) We Christians have a duty that may sometimes be harder than even the most heroic service: to let ourselves be served by others even when we think ourselves too insignificant to merit such care.

Again: We are to imitate Christ. But Christ Himself is sometimes the one served. True, the Gospels tell us that we shall be judged by how well we serve the needy—“I was thirsty and you gave me drink.” (Matt. 25:35) But note that Christ is here not the server but the one served. It is thus precisely when we are most afflicted that we have a new way to come closer to Christ, the one who “took our infirmities and bore our diseases,” the one who humbled Himself and became obedient unto death, even the utterly humiliating death by crucifixion. Many of the mysterious Beatitudes are in the same vein, calling those who suffer, and who suffer worldly contempt, “blessed.”

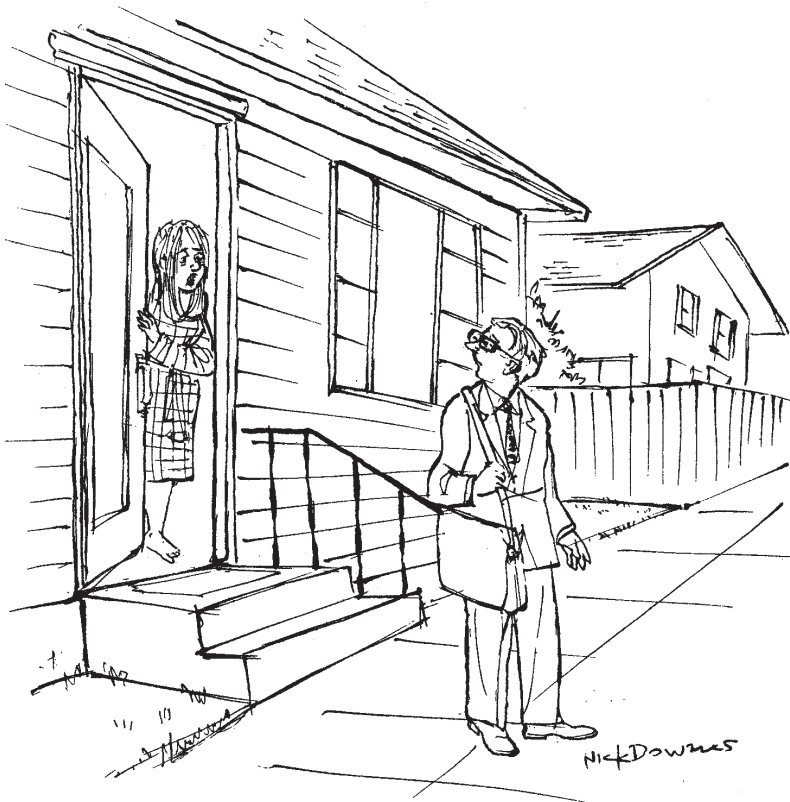
Here then is the Good News for all dependent persons, and for the rest of us potentially dependent persons: Our dignity is not a function of autonomy or pleasant smell. Living in dependency, risking a death of apparent humiliation, can itself be heroic resistance to the enfolding Culture of Contempt and Betrayal. And God gave us a great exemplar in our own day, seen by millions around the world: our late dear Pope John Paul, ever more dependent on others’ help, even to wipe his mouth as he drooled while seeking to speak.

NOTES

1. Joseph Cardinal Ratzinger, “The Problem of Threats to Human Life” (April 8, 1991), Section III, “The War on Life Today,” pgh 1, available online at: http://www.catholicculture.org/docs/doc_view.cfm?recnum=187.
2. Hans Jonas, *The Imperative of Responsibility: In Search of an Ethics for the Technological Age* (Chicago: Univ. of Chicago Press, 1985), p. 131.
3. Abortion also differs from ordinary murder in that it involves extraordinary violence—deliberate dismemberment—often while the child is still alive. Indeed, that is precisely why Justices Ruth Bader Ginsburg and John Paul Stevens upheld the right to partial-birth abortion in the year 2000. They said it is “simply irrational” to object to suctioning out a fetus’s brains partway through birth when the alternative—standard intra-uterine dismemberment—is, in their words, at least as “brutal,” “gruesome,” “cruel,” and “painful” as abortion during delivery. *Stenberg v. Carhart*, 530 U.S. 914, 946.
4. “Must a Person Be a Person to Be a Patient? Or, My Uncle Charlie Is Not Much of a Person but He Is Still My Uncle Charlie,” in *Stanley M. Hauerwas, David B. Burrell & Richard Bondi, Truthfulness and Tragedy: Further Investigations in Christian Ethics* (Notre Dame, IN: University of Notre Dame Press, 1977) 127, 128.

RICHARD STITH

5. Nobel Peace Prize acceptance speech, Oslo, Norway (1979).
6. *Compassion in Dying v. State of Washington*, 79 F.3d 790, 851 (9th Cir., 1996). Dissenting opinion. Judge Beezer made this argument, however, in opposition to killing patients who were “viable” on their own, i.e. able to survive without mechanical assistance. He argued that *Roe* permits taking the life only of a non-viable human being.
7. *New York Times*, Saturday, March 15, 2005, p. A4.
8. Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York NY: Macmillan, The Free Press, 1991), p. 73. Although the context of her remark in the text above is family rather than health law, Professor Glendon emphasizes shortly thereafter (p. 74) that by “exalting autonomy to the degree we do, we systematically slight the very young, the severely ill or disabled, the frail elderly, as well as those who care for them....”
9. *Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom* (New York: Alfred A. Knopf, 1993) 235, 237.
10. *Twilight of the Idols in the Complete Works of Friedrich Nietzsche*, vol. 16 Oscar Levy, trans. Anthony M. Ludovici (New York, Russell and Russell, 1909-1911; repr. 1964) 88.
11. *The Will to Power*, ed. Walter Kaufmann (Westminster, MD: Random House, 1967), 142-143.



“If I’m not here when you get back, it’s because I’ve pursued other options.”

The Sanity of Dignity

Stephen Vincent

One way to view the Vatican's recent instruction on bioethics is to list all the "thou shalt nots," measure them against what scientists are already doing and plan to do, and declare that the Catholic Church is determined to "turn back the clock" on human progress.

Aware that many will take this negative perspective, *Dignitas Personae* ("Dignity of the Person: On Certain Bioethical Questions") begins its conclusion with these words:

There are those who say that the moral teaching of the Church contains too many prohibitions. In reality, however, her teaching is based on the recognition and promotion of all the gifts which the creator has bestowed on man: such as life, knowledge, freedom and love. Particular appreciation is due not only to man's intellectual activities, but also to those which are practical, like work and technological activities. [36]

So how, exactly, does the Vatican seek to convince a permissive culture yearning for miracle cures that limits are necessary for freedom, and that by calling for a halt of some common experiments and medical procedures (such as in vitro fertilization), the Church is actually promoting knowledge and motivated by love?

And—in the Age of Obama, with its renewed atmosphere of aggressive abortion license—is anybody in government listening anymore? In President Bush, pro-lifers had an ally who signed bills such as the Born-Alive Infant Protection Act, appointed pro-life judges and placed pro-lifers in key positions at the United Nations and other international venues. With President Barack Obama, the landscape has changed dramatically: Despite the references to bipartisanship and common ground that lace his rhetoric, when it comes to abortion and other life issues, he is a radical. In his first days in office, right after pro-lifers assembled in the nation's capital for the annual March for Life, Obama issued an executive order rescinding the Mexico City Policy, which barred federal funds from going to organizations that promote or perform abortions overseas—and he plans more of the same. Like Bill Clinton before him, President Obama is likely to break promises to every group except the abortion lobby, and pro-lifers must be ready.

In this context, the Vatican's document *Dignitas Personae* can serve as a guide on the issues that deserve the greatest attention.

Stephen Vincent writes from Wallingford, Conn.

Updating the Arguments

The Vatican instruction was approved by Pope Benedict XVI on September 8, 2008, and released to the public in December by the Congregation for the Doctrine of the Faith (CDF). The present Pope was head of the CDF under Pope John Paul II, and had overseen the promulgation of the previous bioethics document, 1988's *Donum Vitae* ("The Gift of Life").

As the introduction explains, *Dignitas Personae* rests upon the previous instruction, which remains "completely valid, both with regard to the principles on which it is based and the moral evaluations which it expresses." Indeed, *Donum Vitae* was an incredibly wise and forward-looking document that laid down firm principles and developed sound arguments at a time when cloning and stem-cell research were in their nascent stages. It has served the Church and the larger pro-life community well, providing a framework for addressing complex issues and a moral universe in which God is the creator of human life and the providential and loving guardian of our value and dignity.

Yet the seeming exponential advances in biological sciences, and the increasing complexity of certain issues that pit learned pro-lifers against one another, set the stage for an updated Vatican document that takes into account the new knowledge and methods.

Embryo Adoption?

Perhaps the most significant "news bite" of the instruction is that a long shadow is cast upon the practice of "embryo adoption," in which a woman voluntarily has frozen embryos that were produced by in vitro fertilization implanted into her uterus with the intention of carrying them to term and giving birth. Although a number of well-intentioned, pro-life women have engaged in this form of "adoption," the instruction states, "it needs to be recognized that the thousands of abandoned embryos represent a situation of injustice which in fact cannot be resolved. . . . There seems to be no morally licit solution regarding the human destiny of the thousands and thousands of 'frozen' embryos which are and remain the subjects of essential rights and therefore should be protected by law as human persons."

Of course, any children born of embryo adoption are fully human and deserving of full human respect and rights. And the motives of those who have engaged in such "adoptions" should be respected.

Some experts, including the U.S. bishops' conference, say that the document does not absolutely rule out embryo adoption, but it is difficult to see a circumstance in which the document would allow it. This issue clearly underlines the difficulties of bioethics: A definitive Vatican document written

with the greatest of care leaves well-informed experts doubtful or debating.

Indeed, to most of the American public, the issues raised in the document may sound like arguments over the number of angels on the head of a pin, given the microscopic size of many of the entities involved. Embryonic-stem-cell research, somatic-cell nuclear transfer (SCNT), germ-line cell therapy, and even basic yet unfamiliar words such as *oocytes* are a jumble of technical jargon removed from the use of everyday moral judgment. The complexity of the language, matching the complexity of the science, has driven debate away from the “common sense” reaction of the man in the street. The “yuck factor” that has been the basis of the public’s rejection of graphic procedures such as partial-birth abortion is lacking in the weighty debates about the moral status of unseen beings.

Even human cloning, which a decade ago drew sharp negative responses and images of Frankenstein creatures walking the earth, has been complicated by the introduction of the terms “reproductive” and “therapeutic.” Proponents can massage public opinion by discounting the Frankenstein scenario of “reproductive cloning” while advancing the healthy-sounding option of “therapeutic cloning,” which is really cloning a human being and killing the embryo for its cells in the earliest stages.

With the procedures so much hidden from view, the battle of bioethics today is more than ever a battle of words. How pro-lifers describe and label immoral procedures that take place on the cellular level will determine how successful we will be in stopping the illicit methods and preserving human dignity.

To better understand the issues, let’s take a look at the Vatican instruction issue by issue. To help clarify the more difficult procedures, HLR drew on the insights of Professor Robert George of Princeton University, a distinguished expert who served on President Bush’s Bioethics Council.

Pro-Life Principles

The instruction has three parts: “The first recalls some anthropological, theological and ethical elements of fundamental importance; the second addresses new problems regarding procreation; the third examines new procedures involving the manipulation of embryos and the human genetic patrimony” (3).

The instruction stresses that the Church is not against medical advances but rather considers “science an invaluable service to the integral good of the life and dignity of every human being,” and urges Christians to train for and engage in the sciences for the betterment of mankind.

Dignitas Personae is not only for Catholics but for “all who seek the

truth.” The issues covered are not matters calling for supernatural faith, specific to those who wish to be called Christians, but issues that are accessible to natural human reason in the light of the traditions of faith. In fact, the document’s introduction makes its first contrast in secular terms, between professionals who follow “the spirit of the Hippocratic Oath” and seek to heal rather than harm, and those who “view advances in biomedical technology from an essentially eugenic perspective” (2).

In evaluating biomedical issues, the Catholic Church “draws upon the light both of reason and of faith and seeks to set forth an integral vision of man and his vocation, capable of incorporating everything that is good in human activity, as well as various cultural and religious traditions which not infrequently demonstrate great reverence for life” (3).

Part 1 reviews the Church’s longstanding theology and philosophy of man, to which are added the findings of modern biology.

The basic theological view is that man is made in the image and likeness of God and is the only creature that God has made for eternal life with Him. The Incarnation of Jesus, who took on human flesh and nature, forever raised the dignity of man, and showed the great respect that humans must have for the body, which is not just a prison or appendage of the spirit, but an integral part of the person—who will be raised from the dead in bodily form. The philosophical and political points that flow from these facts are perhaps best expressed by the familiar words of the Declaration of Independence, “that all men are created equal and are endowed by their creator with certain unalienable rights.”

The science of biology has complemented the above theology and philosophy quite well. Through careful study, we know beyond a reasonable doubt what the U.S. Supreme Court claimed could not be determined, i.e., when human life begins. As the best medical textbooks attest, the life of an individual human being begins when the male sperm fertilizes the female ovum and unites in the formation of a discrete human entity. This is the moment of conception. Even radical abortion advocates acknowledge this fact. But the debate for them has moved from when life begins to when a human being becomes a person, a subject of human rights and protection by the law.

Dignitas Personae has a simple answer: “The human embryo has, therefore, from the very beginning, the dignity proper to a person” (5).

Pro-Life Playbook

Part 2 gets down to definite cases. Techniques to overcome or correct infertility are licit when the medical intervention seeks to remove a physical

obstruction in the reproductive system, or assist the performance of the sexual act or the number or mobility of sperm. Yet the conjugal act between husband and wife must be preserved in its integrity.

It is an irony to some that the Church, which they see as against sex, is so careful to hold up intercourse between spouses as the only way to seek the procreation of children. “The Church moreover holds that is ethically unacceptable to disassociate procreation from the integrally personal context of the conjugal act: human procreation is a personal act of a husband and wife, which is not capable of substitution” (16).

Illicit fertility methods include in vitro fertilization (test-tube baby making), even with the use of the husband’s sperm and the wife’s egg. Every child deserves to be the creation of a loving embrace of spouses, not the product of a technical intervention.

The instruction’s language may sound harsh to some well-meaning couples: “The desire for a child cannot justify the ‘production’ of offspring, just as the desire not to have a child cannot justify the abandonment or destruction of a child once he or she has been conceived” (16). The language is justified, however, because of the “harsh” results of even well-intentioned, seemingly loving decisions. As the document points out, in vitro methods have led to hundreds of thousands of “spare” embryos that remain in deep-freeze tanks, another assault on their dignity and freedom as persons. The existence of these embryos has opened the door to a utilitarian view of them as merely “biological material” that can be used in experimentation, and destroyed in the process. It has also led to the genetic screening of embryos, in which only those found to be free of certain diseases or conditions are actually implanted for a pregnancy.

This lethal chain of events, condemned 20 years ago in *Donum Vitae*, is the basis for the Vatican’s calling for an end of all in vitro procedures, not only for the sake of the individual embryos involved, but for the common good of society, which is losing its respect for life at its precious earliest stages.

As noted, the cryopreservation, or freezing, of embryos is illicit, and the instruction states, rather touchingly, “the majority of embryos that are not used remain ‘orphans.’ Their parents do not ask for them and at times all trace of the parents is lost” (18).

Regarding the practice of embryo or prenatal adoption, mentioned above, the Vatican acknowledges the noble and self-sacrificial intentions of many women who undergo the procedure of having the little lives implanted. Yet the procedure “presents various problems” (19). Commenting on this section, Professor George notes that the CDF does not issue a formal prohibition against

the practice and he expresses hope that the Congregation “will in due course (sooner rather than later) provide a clarification so that Catholic couples who may contemplate adopting an embryo can be properly guided.” George does think the teaching of the document strong enough that he “would not at this stage encourage Catholic couples to adopt embryos, though (as the document itself observes) the motivation is praiseworthy.”

Section 23 deals with another much-debated issue: the use of emergency contraception or the “morning after” pill in cases of rape. Some Catholic moral experts have said that the use of these high doses of hormones is licit since a woman has the right to defend herself from the effects of a violent attack (rape) and the abortion effect of the drugs has not been scientifically established. Other experts claim that if there is a chance of emergency contraception preventing the implantation of an already formed embryo, then no risk of an abortion of the new life should be taken.

Some U.S. dioceses allow the administration of emergency contraception in Catholic medical facilities for rape victims, and the Vatican document does not make a definitive ruling on the issue. It states only that if such “interceptive” (preventing fertilization) or “contragestive” (preventing implantation) methods are used with the *intention* of causing an abortion, then they violate the moral law. Professor George says:

What is not clear is this: Is it licit for someone, after rape, to use or administer a drug for the sake of preventing conception where there is a chance that conception has already occurred and the device or drug may cause an abortion, but where abortion is not intended? . . . It seems to me that *Dignitas Personae* leaves this question, on which there is not full agreement among faithful Catholic philosophers and theologians, unresolved. Of course, if it is possible to do a test prior to the administration of the drug or device to determine whether conception has occurred, there is surely an obligation to do that, and refrain if the test is positive.

Human Identity in the Balance

Part 3 of the instruction is titled “New Treatments which Involve the Manipulation of the Embryo or the Human Genetic Patrimony.” The issues get weightier and the consequences more far-reaching. The future of humanity itself is at stake.

Regarding gene therapy, the document makes a distinction between somatic-cell gene therapy, which seeks to heal or repair non-reproductive genes to bring the body to a healthier state, and germ-line cell therapy, which seeks to correct genetic defects with the aim of passing on the therapeutic effect to future offspring.

Therapeutic procedures on somatic cells are generally licit if they seek to restore the normal genetic configuration of a patient. Yet regarding germ-line

therapy, the instruction states that given the uncontrollable risks of genetic manipulation, “in the present state of research, it is not morally permissible to act in a way that may cause possible harm to the resulting progeny” (26).

Cloning in all its forms is banned; not only is it reproduction outside the conjugal act, but the production of almost identical beings devalues the individuality of the person, and risks the creation of human persons for use by others, what the document calls “biological slavery” (28).

So-called therapeutic cloning is doubly offensive, because it treats the cloned being solely as an object that is killed once the desired biological material is removed for the possible healing of another. It is definitely not “therapeutic” for the cloned embryo that is destroyed (29).

Next up is a group of debated procedures that some experts claim can yield stem cells of the embryonic type without the destruction of human embryos. Other experts, unsure that a human embryo is *not* produced, advise against the procedures. Here, the instruction does not make a definitive judgment. The procedures in question are the use of human parthenogenesis, altered nuclear transfer (ANT), and oocyte-assisted reprogramming, the science of which is so refined that the instruction doesn’t even try to explain them all. It advises, in effect, that we shouldn’t shoot in the darkness. Until the questions over the nature of the beings produced and destroyed is definitively settled, it is best not to go forward (29).

Little analysis is needed for almost everyone to see the reason for condemning “hybrid cloning,” the mixing of animal and human genetic material, which brings to the popular imagination Frankenstein’s late-night-movie companion, the moonstruck Werewolf. On this issue, the “yuck” factor is still operable in most minds, because the “specific identity of man” is clearly at risk (33).

The Vatican leaves open the door (as the U.S. Conference of Catholic Bishops had in an earlier ruling) for parents to have their children treated with vaccines that were made with the cells of babies aborted many years ago. The good of children’s health and the remoteness of the act of abortion in which the parents had no role allow the vaccines to be used licitly. Parents, however, must voice their objections to their doctors and ask them to use vaccines that do not draw from cell lines of aborted babies, the instruction urges (35).

Dignity Trumps Autonomy

In a popular article published in *The New Republic* last May, “The Stupidity of Dignity,” Harvard professor Steven Pinker objected to the concept of human dignity as applied to medical and scientific procedures. “The problem is

that ‘dignity’ is a squishy, subjective notion, hardly up to the heavyweight moral demands assigned to it,” he claims, noting that President Bush’s team of advisers on bioethics published a volume on dignity that was based on Catholic moral thought that Pinker finds deficient.

While it is true that dignity is not a firmly defined term and it can be abused and misconstrued, Pinker offers something equally “squishy” in its place: the concept of patient “autonomy,” which is the operative word in most bioethical circles.

Autonomy is based on the needs and wants of the individual person, and has its rightful role. But it fails to address the complexity of the human condition, and what becomes of “autonomy” when a person cannot speak, act, or decide for himself. An ethic of radical autonomy leads to actions of utility that have produced so many of our problems today, starting with abortion and extending to assisted suicide and all the assaults on innocent human life listed above.

The concept of dignity, for all its weaknesses, at least conveys the notion of “inalienable” rights bestowed by a creator and an appeal to an authority and wisdom above one’s self and moment in time. It highlights what is best in mankind, and tends to mute what is worst in the individual.

The history of the last 100 years has shown that it’s not “stupid” to choose human *dignity*—if what we want is to protect the lives and freedom of human persons.

Unthawing Frozen Embryos: **The Legal & Ethical Conundrum of Embryo Adoption**

Diane L. Virzera

“I think about the embryos every day. . . . I am their mother. I see them as my own children. They are the DNA from my husband and I. It’s something I worry about, especially when the three years is over and I have to make a decision again.”¹

While the legal and ethical debate over when human life begins and the status of embryos in American society continues, real people face real, and sometimes agonizing, decisions. An infertile couple who use in vitro fertilization (“IVF”) to have children inevitably must decide what to do with so-called “frozen” or “excess” embryos—embryos that have not been implanted in the woman’s womb and remain in a state of cryo-preservation, frozen within storage containers. To increase the probability of successful pregnancy from IVF, typically many eggs are retrieved and fertilized in a single IVF cycle. The creation and cryo-preservation of several embryos can improve the economy of IVF because the couple may avoid another retrieval cycle if the first attempt at implantation does not succeed. Cryo-preservation also can meet the woman’s medical needs and reduce the risk of a multiple pregnancy that could result from implanting all embryos at one time.² Often a couple entering into the IVF process is so focused on having a baby that they may not fully comprehend the fact that they will need to deal with the fate of any remaining embryos. Their choices boil down to destruction of the embryos, cryo-preservation of the embryos for a specified period of years with an option to later extend cryo-preservation, donation of the embryos to science for research, or donation of the embryos to another infertile couple.

There are now over 400,000 embryos frozen in the United States. In response to their existence and the desire of IVF couples to give their remaining embryos a chance to develop within the womb, and to give other infertile couples a chance to become parents, embryo adoption and donation services have emerged.³ This article explores legal questions surrounding the phenomenon of embryo adoption. Is embryo adoption a legal or an ethical construct? It is both, but arguably, under current law, more of an ethical construct than a legal one. Is embryo adoption any different from what is

Diane Virzera writes from Long Island, New York, where she is an attorney in private practice.

called embryo donation? Yes, fundamentally: in its view of the embryo as a human person and in the transparency of its process for all parties involved (although both embryo adoption and embryo donation ultimately are accomplished through contractual arrangements). Does embryo adoption or donation give certainty to the couple receiving the embryo that they will have the legal right to raise the child as their own? It is likely but not absolutely certain, even though the woman has received the embryo into her own womb. And is embryo adoption a proper solution to the real problem of embryos lying in a frozen state, without the opportunity for development inherent in their very being? This has been the subject of philosophical and theological debate, which finally prompts us to ask if there is a legal solution that would prevent the problem from occurring in the first instance.

What Is Embryo Adoption?

Under traditional adoption laws, children cannot be adopted until after they are born. This approach reflects the general legal view of the embryo as not being a “person” who has legal (or human) rights.⁴ If an embryo were a legal “person,” abortion would be a criminal offense and perhaps insurmountable legal obstacles would be posed against the production of “excess” embryos in the IVF process, since the ultimate outcome could be their destruction.

Fertility clinics offer embryo-donation programs, in which couples who have undergone IVF may consent to the anonymous donation of their remaining embryos to other couples. The process of embryo donation typically is impersonal: The donating couple’s IVF clinic or physician will select the receiving couple, and the receiving couple will not know who has donated the embryos to them. This process may not satisfy the needs of donor couples who wish to screen and perhaps have future contact with the receiving couples and their genetic children. Anonymous donation also may have important implications in the lives of the children, for example, if serious medical issues arise and there is not a way to contact the donors of genetic material for family health information.

Embryo adoption is best understood as an ethical and procedural construct rather than a legal one. Nightlight Christian Adoptions, a licensed adoption agency that began the Snowflakes Embryo Adoption Program, states that “when embryos are created, life begins. When embryos are implanted and a woman becomes pregnant, the development continues until the birth of the child.” Its embryo adoption program “has been named Snowflakes because embryos are unique and fragile, just like a snowflake. We began this program in 1997 to allow embryos to achieve their ultimate purpose—life, and 134

children have been born as a result.”⁵ Nightlight includes in its embryo-adoption program facets of a traditional open adoption process in order to meet the needs of the genetic family, adoptive family, and any children who will be born from implanted embryos. These steps include medical screening of the genetic couple, a home study of the potential adopting couple, exchange of biographies and photos between the genetic couple and the potential adopting couple, selection of the adopting couple by the genetic couple, and negotiation of post-adoption contact after the child is born. Other organizations have become increasingly interested in acting as embryo-adoption intermediaries in this manner: Bethany Christian Services and the National Embryo Donation Center, for example, have started programs that involve adoption protocols for embryos.

The fundamental ethical point of view underlying embryo adoption is that an embryo is a human life. A genetic couple recognize this by wanting to select an adoptive family that is ready to parent any resulting children, and adoptive couples do so when they prepare themselves to parent any children resulting from implantation of the embryos. However, embryo adoption is not a traditional legal adoption because the consent to transfer to the adoptive couple is made when the child is an embryo, not after the child has been born. The legal validity of an embryo adoption rests on the same base as an embryo donation: Both are accomplished through private contractual arrangements between the couples that have not yet been tested in the courts. As will be discussed below, only twelve states have enacted laws to provide more legal certainty to adoptive couples regarding their parental rights.

Some writers have objected to the embryo-adoption concept as being contrary to U.S. law, because the law does not recognize embryos to be legal persons. Embryo donation is their preferred approach, because it is more consistent with the legal view of embryos as property. Explains one author:

Critics, who prefer the term “embryo donation,” point out that the term “embryo adoption” is calculated to advance an anti-abortion position, in particular to prevent embryonic stem-cell research. As one critic asks: “If you can adopt embryos, how can you do stem-cell research on them?” In fact, parents of children born of so-called “embryo adoption” testified in Congress against the use of left-over frozen embryos for scientific research.⁶

While this argument against embryo adoption is legalistic, and does not touch on the biological truth that embryos are genetically unique individuals with the innate capacity to develop, it is true as a legal matter. Courts have made difficult decisions arising from disputes of divorcing couples over the disposition of their frozen embryos. Each of the major court decisions in this area resulted in the destruction of the frozen embryos, despite the efforts of

one of the parties to have them implanted in a woman's womb.

The first embryo-disposition case, *Davis v. Davis*,⁷ arose after a military couple attempted IVF six times without the occurrence of a hoped-for pregnancy. Two months after their last attempt at IVF, Mr. Davis filed for divorce, testifying that the marriage was not very stable, and he hoped the birth of a child would improve it. Mrs. Davis desired to donate the seven remaining embryos to a childless couple, while Mr. Davis wanted them to be discarded. Using the term "preembryo" to characterize the four-to-eight-cell stage of development, the Tennessee Supreme Court delved into the issue of whether preembryos should be considered legal "persons" or "property" and concluded that they were neither. The court held that preembryos "occupy an interim category that entitles them to special respect because of their potential for human life," but that the state's interest in the potential life of the preembryos did not outweigh the ownership interest that gave Mr. and Mrs. Davis decision-making authority over their disposition. Because Mr. and Mrs. Davis did not have a prior agreement regarding their disposition, the court balanced the competing interests of Mr. and Mrs. Davis and concluded that Mr. Davis's interest in avoiding unwanted parenthood (with the psychological burdens that would entail) should prevail over the emotional burden on Mrs. Davis of not giving the preembryos the opportunity to be born. The court acknowledged that the case would be closer if Mrs. Davis were seeking to use the preembryos herself rather than donate them, but only if she could not achieve parenthood by any other reasonable means. Accordingly, whatever rights the *Davis* court would have associated with the "special respect" due to preembryos (which the court did not delineate), they did not prevail over the right of one of their genetic creators not to procreate. Other court decisions involving divorce contests over remaining embryos rested firmly on the contractual disposition of the parties,⁸ unless the contract terms were deemed to be unenforceable because they would have forced one of the parties to procreate.⁹

Is Embryo Adoption Legal?

Traditional adoption laws—in the form of statutes enacted by state legislatures and court decisions interpreting the legislation—provide a clear framework for the adoption of a child who has been born. They cover key issues such as: (i) who needs to consent to the adoption (birth mother, biological father, or both); (ii) the form that this consent must take; (iii) requirements for home studies, counseling, and health screenings; (iv) how much compensation adoptive parents may pay for birth-related expenses of the mother without going over the line of purchasing the child; (v) when

parental rights of the biological parents are terminated; (vi) court review and sealing of adoption records to ensure the integrity and confidentiality of the adoption process; (vii) whether post-adoption contact or visitation is permitted; and (viii) inheritance rights of adopted children.

But when two couples contract with each other for the adoption of an embryo, the traditional legal framework for adoption does not apply and the couples deal with each other in a far more unregulated, untested area. The judicial decisions that involve divorce contests over remaining embryos contain *dicta* (language not necessary to the decision but perhaps persuasive in future cases) providing support for the legal enforceability of contracts for adoption or donation of embryos. At the same time, in the area of reproduction, contracts are susceptible to close court scrutiny and may not be deemed enforceable by a court as a matter of public policy. In this regard, it is difficult to see a difference between embryo adoption and donation, although it may be inferred that because the embryo-adoption process is more transparent than an anonymous embryo donation, it is likely to result in contract terms that are more thoroughly vetted and extra-contractual measures (such as counseling of the parties to the contract) that support the contract's enforceability.

One aspect of embryo adoption (or donation) that makes it different from a traditional adoption is that it is not subject to judicial review in most states. Even a private adoption of a child that is not intermediated by a licensed adoption agency, and instead takes place between two parties with attorneys representing each of them, ultimately must receive court approval. In order to grant an adoption decree, a court must review the adoption records and process and find that the adoption is in the best interests of the child, that the natural parents consented to the adoption, and that the state's adoption statutes have not been violated. Most states prohibit baby selling and unauthorized forms of baby brokering, and so limit payments that adoptive parents may make to birth mothers to costs associated with pregnancy and childbirth.

An embryo adoption is accomplished by means of a private contract. If there are any irregularities—for example, if the costs paid by the adoptive couple to the genetic couple seem excessive and may be construed as the purchase of an embryo—the embryo adoption may be challenged after the embryo has been implanted in the adoptive mother's womb or after the child has been born. One also may wonder if a court would enforce an embryo-adoption agreement that granted the genetic couple visitation rights that do not coincide with what the state would allow in a traditional adoption. Although the trend has been toward open adoptions, which allow post-adoption contact between children and biological parents, some states do

not permit post-adoption contact for new-born babies.¹⁰ States that do allow post-adoption contact require a court to approve the post-adoption agreement as being in the best interests of the child. As a practical matter, annual photo sharing and updates on the child may hold up better under court scrutiny than more intrusive involvement in the life of the child.

Another aspect of embryo adoption (or donation) is that there could be an anonymous third party who is a genetic parent. For example, what would happen if an IVF couple donates an embryo to another couple, but the donor of the egg was a third party who by contract prohibited the IVF couple from donating the resulting embryo to anyone else? While the probability of this oversight happening in a thoroughly vetted embryo adoption or donation is not likely, it certainly is not beyond the realm of possibility in the context of an anonymous embryo donation through a fertility clinic. An argument may be made that a provision in an egg-donor agreement that limits the ability of a IVF couple to donate the resulting embryo to another couple should be deemed to be unenforceable on grounds of public policy. And even if it were enforceable, the remedy should be monetary damages rather than returning the child to the genetic donor.¹¹ Nonetheless, the mere possibility that a couple receiving an embryo could face a legal action during the time the embryo is developing in the woman's womb, or after the child is born, would be disturbing to them.

So far, Louisiana is the only state to have implemented by statute the concept of embryo adoption and to have given personhood status to embryos.¹² Louisiana law confers on a viable human embryo created through IVF the status of a juridical person until it has been implanted in the womb.¹³ Consistent with the legal personhood conferred on a viable embryo, the embryo is not the property of the facility in which it was created, nor of the sperm and egg donors, and is given certain rights and protective safeguards:

- The embryo may be created through IVF solely for purposes of implantation and not for research, and may be cryo-preserved but may not be intentionally destroyed.

- The IVF facility must give the embryo identification which entitles the embryo to sue or be sued, and the IVF physician must act as temporary guardian of the embryo until adoptive implantation occurs.

- The embryo is owed a high duty of care and prudent administration, and any disputes over the embryo should be resolved in accordance with the embryo's best interests.

- The embryo is available for adoptive implantation if the sperm and egg donors renounce their parental rights over the embryo in favor of another married couple. The requirements for a traditional adoption are fulfilled when

the adoptive mother gives birth to the child. After birth, the adopted embryo does not retain inheritance rights from the sperm and egg donors.

At the time of this writing, embryo-adoption legislation was enacted by the legislature in Georgia and awaits the governor's anticipated approval. It provides that an embryo is a child who may be adopted under a traditional adoption framework but stops short of establishing personhood and related rights for the embryo.¹⁴ Eleven other states—Delaware, Florida, New Hampshire, North Dakota, Ohio, Oklahoma, Texas, Utah, Virginia, Washington, and Wyoming—have addressed embryo donation by statute. These laws generally provide for the termination of parental rights of genetic donors and establish the parental rights of the gestating mother and her consenting husband or partner. While the statutes would provide additional legal certainty regarding the finality of an embryo adoption, they do not confer personhood status on the embryo and do not necessarily protect the embryo from a fate other than implantation, such as destruction for purposes of embryonic stem-cell research.

Is Embryo Adoption a Proper Solution?

For some time, embryo adoption has been the subject of debate among pro-life ethicists and moral theologians who agree that the human embryo should be accorded the rights of a human person—including the right not to be destroyed—but do not agree on whether embryo adoption is an appropriate solution to the moral dilemma that the frozen embryos pose. In 2001, the *Human Life Review* published an article that provided opposing viewpoints on the issue, which the author succinctly summarized as follows:

On the one hand, a woman offering her womb as the only safe and natural home for an abandoned embryo may be an eloquent witness to the true humanity and dignity of these tiny beings. She may, in fact, bring society to its senses. On the other hand, embryo adoption, even when all the moral distinctions are made, can feed into the notion that relationships between men and women are merely instrumental and that choosing pregnancy outside of marital intimacy can be a general good. It could give an altruistic gloss to in vitro fertilization and make deep-freeze labs seem like unusually ordered adoption agencies.¹⁵

The ethical debate has advanced within the Catholic Church with the publication in September 2008 of the instruction *Dignitas Personae* to address developments in biomedical technologies since the issuance of *Donum Vitae* in 1987.¹⁶ *Dignitas Personae* recognizes the human tragedy posed by the abandonment of thousands of “orphan” embryos, but nonetheless states that putting embryos at the disposal of infertile couples as a treatment for infertility “is not ethically acceptable for the same reasons which make artificial heterologous procreation illicit as well as any form of surrogate motherhood;

this practice would also lead to other problems of a medical, psychological and legal nature.”¹⁷ *Dignitas Personae* also notes that the different intention to give embryos otherwise condemned to destruction a chance to be born through “prenatal adoption” is “praiseworthy with regard to the intention of respecting and defending life,” but it presents “not dissimilar” problems. The U.S. Conference of Catholic Bishops makes the following statements with regard to *Dignitas Personae*:¹⁸

The child conceived in human procreation is a human person, equal in dignity with the parents. Therefore he or she deserves to be brought into being through an act of total and committed marital love between husband and wife. Technologies that assist the couple’s marital union in giving rise to a child respect this special dignity of the human person; technologies that replace it with a procedure by a technician in a laboratory do not. The moral problem is aggravated by efforts to introduce gametes (sperm or egg) from people outside the marriage, to make use of another woman’s womb to gestate the child, or to exercise “quality control” over the child as though he or she were a product. IVF as practiced today also involves a very high death rate for the embryos involved, and opens the door to further abuses such as embryo cryopreservation (freezing) and destructive experimentation. . . .

Proposals for “adoption” of abandoned or unwanted frozen embryos are also found to pose problems, because the Church opposes use of the gametes or bodies of others who are outside the marital covenant for reproduction. The document raises cautions or problems about these new issues but does not formally make a definitive judgment against them.

The question may then be asked, If not embryo adoption, what *can* be done to resolve this real humanitarian problem? One author, not of pro-life persuasion, challenges: “Yet why are those who embrace a ‘pro-life’ view trafficking in frozen embryos in the first place? Wouldn’t efforts to halt IVF and other practices that deliberately create excess embryos—many of which will never have the chance to develop—reflect a more coherent position?”¹⁹ While the phrasing is harsh, the question does raise the legitimate issue of whether the law can limit the excesses of IVF.

Some may look to Germany’s Embryo Protection Act as a possible solution.²⁰ Under this law, it is a criminal offense to fertilize more than three embryos and not to implant all fertilized embryos in the biological mother in one IVF treatment cycle. As a result, there are few frozen embryos in Germany. The director of education at the National Catholic Bioethics Center in Philadelphia advocates implementation of Germany’s approach in the United States by legislation, conceding that it “would not stop every injustice done to embryos,” but nonetheless “could go a long way toward stemming the tide and ensuring that further forms of laboratory barbarism and human exploitation do not become commonplace.”²¹ Indeed, the United States, as

this author explains, can be considered a “Wild West of Infertility” with regard to the lack of comprehensive or consistent regulation of artificial reproductive technologies. The area is largely self-regulated, through the oversight of the American Society for Reproductive Medicine and the Society for Assisted Reproductive Technology, and is subject to a patchwork of federal and state legislation. Federal law is directed at ensuring that data on success rates are collected from fertility clinics in order to provide consumers with this information, while most state laws on point are concerned with providing insurance coverage for infertility treatment.²² Is a U.S. Embryo Protection Act the answer? The European Society of Human Reproduction and Embryology found that Germany’s Embryo Protection Act has had the unintended consequence of increasing abortions of embryos that have successfully implanted in the womb, so-called “selective reductions” performed in order to increase the chances that other fetuses will survive in a multiple pregnancy, or to eliminate “abnormal” fetuses.²³ So long as abortion is legal, a solution that seeks to limit the number of embryos created through IVF may help but has an undeniable Achilles’ heel.

As long as frozen embryos exist, it may be argued that they should be given the status of persons under the law to prevent their destruction through research and permit their adoption. This is the approach that Louisiana has taken. But it is still likely that abandoned embryos will become permanent wards of the clinic in which they are housed if they are not adopted. An estimated 200,000 embryos have been abandoned because their genetic parents no longer can be contacted by clinics. In 1996, Pope John Paul II made an “appeal to the conscience of the world’s scientific authorities and in particular to doctors, that the production of human embryos be halted, taking into account that there seems to be no morally licit solution regarding the human destiny of the thousands and thousands of ‘frozen’ embryos which are and remain the subjects of essential rights and should therefore be protected by law as human persons.”²⁴ The situation has not improved over the 13 years since—and we are no closer to a satisfactory solution to this legal and ethical conundrum.

NOTES

1. Gina Rothan, quoted in Mark Boster, “Embryos & Ethics,” *Los Angeles Times*, Nov. 30, 2008.
2. The President’s Council on Bioethics, “Reproduction and Responsibility: The Regulation of New Biotechnologies,” at 25-30 (March 2004) (“Bioethics Report”).
3. For ease of discussion, this article assumes that there is a single genetic couple and a single recipient couple. In fact, embryos may be created from egg and sperm donated by unrelated parties, and may be donated to or adopted by unmarried women.
4. In *Roe v. Wade*, 410 U.S. 113 (1973), the U.S. Supreme Court held that the fetus does not possess independent rights as a “person” under the law.

5. Nightlight Christian Adoptions, Snowflakes Embryo Adoptions Fact Sheet (available at <http://www.nightlight.org/media/pdf/Snowflakesfacts.pdf>).
6. Susan Frelich Appleton, "THE PUBLIC AND PRIVATE FACES OF FAMILY LAW: ARTICLE: Adoption in the Age of Reproductive Technology," 2004 U. Chi. Legal F. 393, at 438-9 (2004).
7. 842 S.W. 2d 588 (Tenn. 1992), *cert. denied*, 507 U.S. 911 (1993).
8. See *Kass v. Kass*, 696 N.E.2d 174 (N.Y. 1998) (holding that agreements between gamete donors regarding disposition of their prezygotes generally should be presumed valid and binding and enforced in any dispute between them); *Litowitz v. Litowitz*, 48 P.3d 261 (Wash. 2002) (holding that terms of cryopreservation agreement with storage clinic, which required thawing of embryos after five years, prevailed over desire of divorcing couple to donate embryos to another couple or to a surrogate mother).
9. See *A.Z. v. B.Z.*, 725 N.E.2d 1051 (Mass. 2000) (holding that an agreement that would compel one donor to become a parent against his or her will violates public policy and would not be enforceable in court); *J.B. v. M.B.*, 783 A.2d 707 (N.J. 2001) (holding that a contract to procreate is contrary to New Jersey public policy and is unenforceable).
10. See, e.g., Neb. Rev. Stat. Ann. § 43-162 (limiting post-adoption contact to children in welfare system); Ind. Code Ann. § 31-19-16-2(2) (limiting post-adoption contact to children at least 2 years of age).
11. Nightlight hosted a law student essay contest in 2008 dealing with this issue. The three winning essays are available at www.embryolaw.org/winners.asp.
12. La. Rev. Stat. Ann. §§ 9:121-133.
13. An embryo is considered to be viable unless the embryo fails to develop over a 36-hour period following fertilization and has not been cryo-preserved. *Id.* § 9:129.
14. Georgia General Assembly, House Bill 388, "The Option of Adoption Act." A related measure is being considered in Georgia to restrict the creation of embryos for research, scientific or destructive purposes. See Georgia General Assembly, Senate Bill 169, "Ethical Treatment of Human Embryos Act."
15. Brian Caulfield, "Pregnant Pause: Where Do Frozen Embryos Belong?," *Human Life Review* at 12 (Summer 2001).
16. Congregation for the Doctrine of the Faith, "Instruction *Dignitas Personae* on Certain Bioethical Questions" (Sept. 8, 2008); Congregation for the Doctrine of the Faith, "Instruction *Donum vitae* on respect for human life at its origins and for the dignity of procreation" (Feb. 22, 1987).
17. *Dignitas Personae*, at 11. "Artificial heterologous procreation" means techniques that obtain human conception using egg or sperm from someone other than spouses joined in marriage.
18. U.S. Conference of Catholic Bishops, "Questions and Answers: The Instruction '*Dignitas Personae*: On Certain Bioethical Questions'" (December 9, 2008).
19. Appleton, 2004 U. Chi. Legal F. at 439.
20. Act for Protection of Embryos (The Embryo Protection Act) of 13th December 1990, Federal Law Gazette, Part I, No. 69, p. 2746. Italy has enacted a similar law.
21. Father Tadeusz Pacholczyk, "Making Sense Out of Bioethics: We Need Laws to Protect Embryos," *The Tablet*, Dec. 20, 2008, at 24.
22. For further information, see the Bioethics Report, Chapter 2 on Assisted Reproduction.
23. *Medical News Today*, "Some Foetuses Unprotected Despite Germany's Embryo Protection Law," July 6, 2007, available at www.medicalnewstoday.com. In 2004, of 8,500 deliveries in Germany, 222 selective reductions were performed (representing 2.6 percent).
24. John Paul II, Address to the participants in the Symposium on "Evangelium Vitae and Law" and the Eleventh International Colloquium on Roman and Canon Law (May 24, 1996).

Palin, Abortion, & the Feminists

Erika Bachiochi

The morning John McCain announced his choice for vice president, an especially fierce firestorm broke out; that morning it looked like the choice of Alaska's first female governor was going to be a game-changer, and though it didn't change the game in an ultimately victorious way (as no VP nomination ever has), the enthusiasm Palin generated among the base of the Republican party was intense: Nine out of ten Republicans who in exit polls called Palin's nomination "important" voted for the McCain/Palin ticket.

Yet the intense reaction to her nomination was anything but one-sided. Indeed, the reaction of most feminists to her nomination was vicious—and from day one.

Such intense (and intensely disparate) reactions to Palin's vice-presidential candidacy symbolized what has become a deep divide among Americans, and especially American women, about what it means to be a woman, and about what it means to be a feminist.

Sarah Palin is a woman of many accomplishments, a fact that was largely ignored by the mainstream media during the 2008 campaign: Aside from being the mother of five children, she'd achieved the highest approval rating of any governor in the nation, shown admirable fiscal discipline (foregoing gubernatorial privileges such as the jet, the chef, and the chauffeur), cut spending in her state time and again, and brought about the construction of a natural-gas pipeline in Alaska that provided affordable energy to her state and potentially many others. Most impressive of all, of course, her appearance on *Saturday Night Live* brought in the show's highest ratings in 14 years.

Despite her grit and feistiness, and the fact that she took down many in the good-old-boy network of corrupt Republican politics in Alaska, Palin was greeted with uncommon vehemence by both the mainstream media and the mainstream feminist establishment (which could really be said to be one and the same thing these days). They called her nomination an insult to women, a betrayal. "Her greatest hypocrisy," one academic wrote, "is in her pretense that she is a woman."

Erika Bachiochi, Esq., is the editor of *The Cost of Choice: Women Evaluate the Impact of Abortion* (2004). She is currently working on a book with several other women titled *Women, Sex and the Church*, forthcoming from Pauline Books in 2010. Her website is <http://erika.bachiochi.com>. A version of this essay was presented at Harvard University, Valparaiso University, and Wheaton College in October and November 2008, at events co-sponsored by the Human Life Foundation.

Not a woman? Let's get it straight: She's not a woman because she's not in favor of abortion rights.

Some will object that she was lambasted in the media chiefly because of her evident inexperience, and because of her poor performances with Charlie Gibson and Katie Couric. On the point of inexperience, I will not deny that even this supporter would have preferred her to have been a second-term governor, to have traveled the world and befriended foreign diplomats. But I think it's false to say that the real *hatred* directed at Palin on the part of many feminists was because she was inexperienced, or because she couldn't quickly recall during her interviews the newsmagazines she reads or the Supreme Court cases with which she disagrees. First, as many pointed out over the course of the campaign, her inexperience was rivaled by the equally conspicuous lack of experience on the part of now-President Obama, inexperience that the media—and apparently 52 percent of Americans—were happy to disregard. And second, to contend that she is inexperienced is a rational type of argument, to which one can bring reasons and evidence, for and against. When it comes to Sarah Palin, though, the reaction of many feminists was hardly rational; it was rageful.

Here was a woman who called herself a feminist, had a successful career in public service, was as tough as nails—unflappable in the light of harsh criticism, “a model of courage and conviction that we'd like our daughters to be” (in the words of one commentator otherwise critical of her)—yet she was hated by the mainstream feminists.

Sarah Palin was hated because Sarah Palin, mother of five children, appearing after her convention speech and the VP debate holding her Down Syndrome baby, stood in clear repudiation of the central pro-abortion tenet, that idea that started with Betty Friedan's *Feminine Mystique* and has been foundational for pro-choice feminism ever since (even though Friedan herself later found it wanting): that children, and especially children with special needs like Trig Palin, are a burden to women's success, freedom, and equality. The so-called right to abortion is so central to the modern-day women's movement that it perverted their reaction to a woman who appeared to have done it all.

It was not her inexperience that so *angered* them; it was Palin's claim to be a pro-life feminist, to be a part of an organization of pro-life feminists, to now be the most visible figure of a growing sector of women who find themselves in support of both women's rights and, gasp, the human rights of the unborn. And because the mainstream media have no idea how to understand such a woman, how to understand such a movement, her views were castigated, as all pro-lifers' views are, as part and parcel of the extreme—

and extremely ignorant, idiotic, and backward—Religious Right.

But such a claim is simply irresponsible. That human life begins at conception is not a tenet of religious faith. It is a tenet of science. Every modern embryology textbook states that once fertilization has occurred, a new human being exists, unique from the sperm and the egg from which it was formed. The tiny blastocyst may *look* like just a clump of cells, but to reduce the reality of what exists to simply what it looks like to the naked eye is akin to claiming that a computer chip is a pile of sand. That a new human being exists once fertilization has occurred is an undeniable scientific fact.

The truth is that any acknowledgment of the humanity of the embryo distracts from what abortion-rights advocates view as the real issue in the abortion debate: the notion that the well-being of women is dependent on the legal right to abortion. If you want to be for women's progress, we are told, then you have to be for abortion, or at least laissez-faire about it. This view is so fundamental to opinion-makers that many ordinary Americans have come to believe that "personally opposed, but cannot impose" is the only pro-woman option. Thus, a woman like Palin cannot be *for* women; for some, she cannot be a woman at all.

But to many American women—and men—Palin's brand of pro-life feminism makes her very much of a woman, a woman of both strength and character. And, despite the media's willful ignorance of such a brand of feminism, today's pro-life feminists have some feisty predecessors, frontier women much like Palin who stood unequivocally against abortion, because they saw it as an attack on women *as women*—those human beings granted the special capacity to carry children.

It's no surprise, then, that close to 40 years after the abortion wave of the women's movement, many women are still bewildered about how to combine work and family. The cause of abortion undercut the authentically pro-woman feminism of the suffragists, one that had attempted to persuade society to value women in both their public and private capacities. By asking women to remake themselves in the image of man (i.e., not pregnant) to achieve public equality, the abortion movement pushed solutions to women's quest to balance work and family even farther out of reach.

McCain's choice for VP seemed to be the living embodiment of this quest to balance home life with work, yet in this area too, feminists scorned her. Those on the left who had never acknowledged the natural differences between women and men were suddenly castigating Palin for neglecting her children. Yet somehow I think they would've been pleased if the Palins had had their children in day care subsidized by the Alaskan taxpayer (and even

praising Governor Palin if she were a pro-choice Democrat who had herself signed the day-care plan into law).

In reality, shouldn't feminists have been lauding the governor's husband—who, not suffering from a lack of virility, had taken leave from his professional work to assume the family's child-care duties? Wasn't he the non-traditional guy of the feminists' dreams? One begins to wonder if their rage was just sheer jealousy: Hey, how'd she score a guy like that?

And apart from the manly and loving adoration Todd Palin so obviously has for his superstar wife, what of those older daughters? Though it went entirely unnoticed by the media—who think of teenagers exclusively as cellphone-sporting consumers of just about anything advertisers will sell them—the Palins had two teenaged girls at home who, I would bet, play an integral role in the Palin network of caregivers. It may shock population-zero hounds, but elder children of large families are very used to caring for younger siblings as part of growing up in a big family; such love and responsibility shapes the character of those older kids, and their reward is not only the adoration of their younger siblings, but an ingrained generosity of spirit that guides them their entire lives. Who can forget the captivating love shown by big sister Piper licking down baby Trig's hair on national television? This familial interdependence and support is yet again another area where the mainstream-media and feminist establishment—more interested in the production of autonomous, self-promoting individuals—is totally out of touch with the average American family.

And what about Trig? A Down Syndrome baby appearing with his mother, the VP nominee, on national television while so many of these babies—upward of 80 percent, studies show—are aborted. This, too, outraged advocates of abortion, feminists who claimed Governor Palin was an affront to women because her views, if made law, would eclipse the power of women to make a “choice” different from Palin's. But here's where I think Palin got it right and her pro-abortion sisters failed to.

When asked about the pregnancy in an interview with Sean Hannity in September, Palin admitted to finding the news that her baby had Down Syndrome difficult; that she and her husband even had to keep the pregnancy private while they digested the reality. She was governor of a large state, widely popular, and seeking to do the job she was elected to do, cleaning out corruption—and now pregnant, unexpectedly, and with a special-needs child.

Her career ruined? Her life ended? No. And this is why: Sarah Palin had the character to realize that yes, this was a challenge for which she was unprepared and that, at a first glance, seemed impossible. But she had the courage, strength, and conviction of a woman, indeed of a genuine feminist, to know that ultimately

her success in her work, and in her life, does not depend on her ability to assert her power over those who stand in her way, over those who are weaker than she—in this case, her unborn child who is entrusted to her care. As Palin’s pro-life feminist predecessor Elizabeth Cady Stanton, the organizer of the first women’s rights convention in Seneca Falls, N.Y., poignantly wrote in 1873: “When we consider that women are treated as property, it is degrading to women that we should treat our children as property to be disposed of as we see fit.” As inconvenient as any pregnancy is, and I would think the fifth pregnancy of a standing governor would rank as rather “inconvenient,” women have the ability, the strength, and the courage to bring good out of the difficulties in which we find ourselves. Governor Palin stands as a remarkable example of the self-giving love our troubled world so needs today.

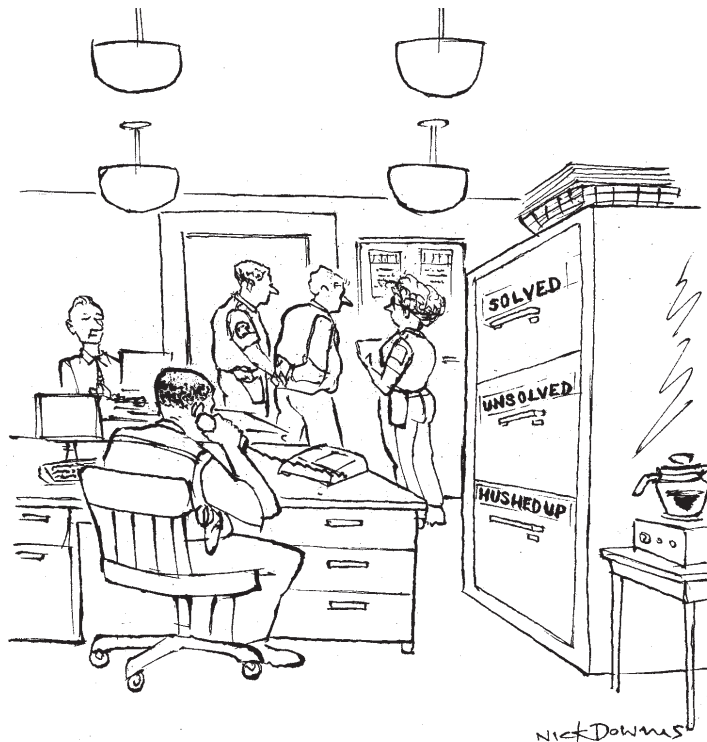
Through her embrace of Trig, Sarah Palin poses quite a threat to those insurance companies, lawyers, and “ethicists” who have argued that since the lives of those with Down Syndrome are more likely to “cost” society than to be of much “benefit,” the costs for disabled children should be borne by parents, rather than insurers, if the parents knew of such prenatal conditions but failed to abort. One Canadian capitalist type worried that the example of Palin might cause other women to keep, rather than abort, their DS babies, putting a stress on the government should parents not have the means to care for these children. Apparently people with Down Syndrome do not pass the cost-benefit test of worthiness to live, despite the fact that they tend to be some of the most loving and cheerful people on earth, people who generate an inspiring spirit of service in those who help to care for them.

And watch out for other genetic diseases, many of which can be tested for in the womb. Dr. Bob Edwards, the scientist who created Great Britain’s first in vitro fertilization baby, has said: “Soon it will be a sin of parents to have a child that carries the heavy burden of genetic disease. We are entering a world where we have to consider the quality of our children.” Contrast Dr. Edwards’s words with those of Governor Palin: “Every child has something to contribute to the world, if we give them that chance. You know that there are the world’s standards of perfection, and then there are God’s, and these are the final measure. Every child is beautiful before God, and dear to Him for their own sake.” Since the views of Edwards seem to prevail more these days than those of Palin, it’s no surprise that researchers have indicated that the psychological stress genetic abortion causes both mothers and fathers is usually more severe than abortion in the event of an unwanted pregnancy. The pressure to produce a perfect child—a child acceptable to doctors, insurers, and society at large—is just too difficult to bear.

Camille Paglia, libertarian and atheist pro-choice feminist, understands

the gravitas behind pro-life feminism—and knows that it cannot be ignored for long. Though she’s not yet convinced by its arguments, she recognizes that those arguments are serious—and from an intellectually astute feminist position. In reaction to the maligning Palin received during the campaign, Paglia wrote at Salon.com that “it is nonsensical and counterproductive for Democrats to imagine that pro-life values can be defeated by maliciously destroying their proponents. And it is equally foolish to expect that feminism must for all time be inextricably wed to the pro-choice agenda.” She then recognized the implicit worldviews underlying the two contrasting feminisms: “There is plenty of room in modern thought for a pro-life feminism—one in fact that would have far more appeal . . . where motherhood is still honored and where the Western model of the hard-driving, self-absorbed career woman is less admired.”

I think Paglia is right on, and so do many, many American women who have rejected the pro-abortion feminist mentality that places the quest for personal autonomy and worldly success over the desire to set aside some time to care for one’s family. What we saw from the heartland’s reaction to Palin during the 2008 campaign, and from what pollsters have been reporting ever since, was that pro-life feminism may indeed have found its rising star. Let’s hope Palin is shoring up her weaknesses; 2012 is not all that far away.



Overturing *Roe* in a Heartbeat

Gregory J. Roden

Shortly after the Supreme Court rendered its decision in *Gonzales v. Carhart* (2007), this pro-life victory was enveloped in controversy over whether it was a “good” pro-life decision or a “bad” pro-life decision. In *Gonzales v. Carhart*, the Supreme Court upheld the federal Partial-Birth Abortion Ban Act of 2003 (the “Act”). Critics maintain that the Act will actually save few lives and so the *Gonzales* decision is a hollow victory at best.¹ Yet, buried in the *Gonzales* opinion, and overlooked in the hubbub, is a most precious diamond in the rough.

What is this veiled gem? It regards the basic question that has supposedly confounded our Supreme Court since the *Roe* decision: When does life begin? In *Roe v. Wade*, Justice Harry Blackmun deflected any honest inquiry into this area with the agnostic obfuscation, “We need not resolve the difficult question of when life begins.” Instead, Blackmun declared unborn persons to have only “potential life,”² and the Court stuck to that mystification, and similar derivations,³ ever since. It seemed that women could indeed be “a little bit pregnant”—at least until *Gonzales v. Carhart*.

Congress deserves the credit for forcing the Court’s hand on this issue. Congress was very specific in the language of the Partial-Birth Abortion Ban Act because of the Court’s 2000 *Stenberg v. Carhart* decision, which struck down Nebraska’s similar ban of partial-birth abortions for lack of “sufficient definiteness.” Hence, the Nebraska statute was “void for vagueness.” In *Stenberg*, the Court ruled that the Nebraska statute could be interpreted to prohibit the common abortion procedure of “dilation and evacuation” (D&E), and not just the method used in partial-birth abortion, which is known as “intact D&E.” Consequently, Congress used different language in its Act than had been used in the Nebraska statute.

The Act started out simply enough, by stating that any physician who “knowingly performs a partial-birth abortion and thereby kills a *human fetus* shall be fined under this title or imprisoned not more than 2 years, or both.” Then, Congress employed a number of legalistic devices to avoid the fate of the Nebraska statute in *Stenberg*. For one, it used “anatomical landmarks” in describing intact D&E: “In the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of

Gregory J. Roden is an attorney licensed to practice in Minnesota and before the U.S. Supreme Court. A member of Minnesota Lawyers for Life, he is also on the Board of Human Life Alliance.

the mother.” This language is much more precise than that of the Nebraska statute, which prohibited the delivery of a “substantial portion” of the fetus. In *Stenberg*, it was held that such imprecise language lacked the specificity to inform the doctor with some certainty that his actions were unlawful. A statute needs to be definitive enough so that a person has knowledge that his intended actions are illegal. “Scienter” is the legal term to describe such knowledge.

Therefore, the Act contains a vital scienter requirement, which is, that the abortionist knows the fetus is *alive*, as the Act does not punish an intact D&E of a fetus that is already dead. The Act also uses the phrases “deliberately and intentionally vaginally delivers a *living* fetus” and “for the purpose of performing an overt act that the person knows will kill the partially delivered *living* fetus.” It is in the Supreme Court’s discussion of this scienter requirement in *Gonzales* that we see a radical change in the Court’s recognition of unborn persons since *Roe*:

[T]he person performing the abortion must “vaginally delive[r] a *living* fetus.” The Act does not restrict an abortion procedure involving the delivery of an expired fetus. . . . The Act does apply both previability and postviability because, by common understanding and scientific terminology, a fetus *is a living organism* while within the womb, whether or not it is viable outside the womb. See, e.g., *Planned Parenthood*, 320 F. Supp. 2d, at 971-972. We do not understand this point to be contested by the parties.⁴

The Act punishes someone who “knowingly performs a partial-birth abortion and thereby kills a *human fetus*.” Specifically, the human fetus must be a “living fetus,” i.e. one that is not “expired.” In view of this, the Court observed, “by common understanding and scientific terminology, a fetus *is a living organism* while within the womb, whether or not it is viable outside the womb.” The importance of “viability” in abortion jurisprudence is now eclipsed by whether or not the fetus is living. Lastly, this simple truth, that a fetus is alive before and after viability, is no longer open for debate: “We do not understand this point to be contested by the parties.”

Up until *Gonzales v. Carhart*, to describe prenatal life, the Court seized upon Blackmun’s language and logic in *Roe*. After fabricating a right to abortion in *Roe*, Blackmun tried to disguise the brutality of his holding by extending an olive branch to the pro-life advocates, allowing that there was a “legitimate state interest” in the “potential life” of the unborn person. As Blackmun stated:

Logically, of course, a legitimate state interest in this area need not stand or fall on acceptance of the belief that life begins at conception or at some other point prior to live birth. In assessing the State’s interest, recognition may be given to the less rigid

claim that as long as at least *potential life* is involved, the State may assert interests beyond the protection of the pregnant woman alone.⁵

In subsequent cases, more often than not, the Court severely constrained said legitimate state interest in this “potential life.” In *Planned Parenthood v. Casey* (1992), the Court held that state abortion restrictions could not impose an “undue burden” on a woman’s liberty to choose to have an abortion. As the Court stated, “The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society.”⁶

In *Casey*, the Court reached a pinnacle of (in the words of constitutional-law professor Michael Stokes Paulsen) “grandiosity, pomposity, and vanity—an almost comical arrogance and tone of self-importance.”⁷ It is in *Casey* that Justices O’Connor, Kennedy, and Souter joined their collective imaginations and extemporized this irrationalism to justify the right to abortion: “At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.”⁸ This “Declaration of Existentialism” is simplistic sophomoric sophistry that can hardly be compared to the noble statements of the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”

The Declaration of Independence expresses the fundamental ideal that people have preexisting natural rights, and that governments are formed to protect those rights. Likewise, the same ideal is expressed in the Preamble to the Constitution, with the additional notion that persons not yet born are also to benefit from the protection of society: “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and *our Posterity*, do ordain and establish this Constitution for the United States of America.”⁹

Nevertheless, immediately following the “Declaration of Existentialism” in *Casey*, the Court justified the abortion liberty by applying this suspect subjective philosophy to unborn persons:

Abortion is a unique act. It is an act fraught with consequences for others: for the woman who must live with the implications of her decision; for the persons who perform and assist in the procedure; for the spouse, family, and society which must confront the knowledge that these procedures exist, procedures some deem nothing short of an act of violence against innocent human life; and, *depending on one’s beliefs*, for the *life* or *potential life* that is aborted.¹⁰

Here is the direct application of the “Declaration of Existentialism” to unborn persons, whose status is either “life” or “potential life” depending on the subjective view of the observer. And this was the where the Court left it, until *Gonzales v. Carhart*, in which the Court was forced to distinguish between “a living fetus” and “an expired fetus.” It is the concept of “an expired fetus” that, given a little binary thought, can lead to some enlightening dialectical conclusions. Consider the following words of one researcher:

The foetus, previous to the time of quickening, must be either dead or alive. Now, that it is not the former, is most evident from neither putrefaction nor decomposition taking place, which would be inevitable consequences of an extinction of the vital principle. To say that the connection with the mother prevents this, is wholly untenable: facts are opposed to it. Foetuses do actually die in the uterus before quickening, and then all the signs of death are present. The embryo, therefore, before that crisis, must be in a state different from that of death, and this can be no other than life.¹¹

The researcher in this case was Dr. Theodric Romeyn Beck and this passage is from his book *Elements of Medical Jurisprudence* written in 1823. Dr. Beck was forced to make the same conclusion as the Court did in *Gonzales*, that those fetuses that do not exhibit the qualities of being dead must actually be alive. Dr. Beck supported his conclusion with the burgeoning medical evidence at the time that fetuses exhibited life, which he and his contemporaries often referred to as “vitality.” As Dr. Beck wrote in *Elements of Medical Jurisprudence*, “According to [Anthelme Richerand’s *Elements of Physiology*], blood is perceived about the seventeenth day after conception, together with the pulsation of the heart, and not long after the different organs have commenced their development.”¹² Other medical experts at the time were coming to the same conclusion, including Dr. Thomas Percival¹³ (the American Medical Association adopted Percival’s Code of Medical Ethics at their first meeting in 1847) and Alfred Swaine Taylor¹⁴ (known as the “father of British forensic medicine”). So, by the latter part of the 19th century the idea that a fetus was not alive until its mother felt it move (“quickening”) was no more a plausible scientific idea than the belief in a flat earth. Accordingly, the 1897 edition of *Bouvier’s Law Dictionary* had this entry under “quickening”:

Quickening. In Medical Jurisprudence. The sensation a mother has of the motion of the child she has conceived. . . .

It was formerly supposed that either the child was not alive until the time of quickening, or that it had acquired some new kind of existence that it did not possess before: hence the presumption of law that dates the life of the child from that time.

The child is, in truth, alive from the first moment of conception, and, according to its age and state of development, has different modes of manifesting its life, and, during a portion of the period of gestation, by its motion.¹⁵

So we see that the Court in *Gonzales v. Carhart* was forced to catch up with the previous 184 years of discovery in the field of embryology; better late than never. Yet, in affirming for the first time that “a fetus is a living organism while within the womb,” the Court also stated, “We do not understand this point to be contested by the parties.” How is it that the pro-abortion forces contesting the Act came to agree with the pro-life movement on this key point?

This agreement came about from the pro-abortionists’ using much the same arguments against the Act as they did in *Stenberg*—i.e., that the Act could also be understood to prohibit standard D&E procedures and was therefore “void for vagueness.” In taking aim at the Act’s stipulation that it applied only to a “living fetus,” the pro-abortionists shamelessly sought to bolster their arguments by admitting that a standard D&E procedure may also involve a “living fetus.” So, in a lower-court decision leading up to *Gonzales, Planned Parenthood v. Ashcroft* (N.D.Cal. 2004), the United States District Court for the Northern District of California, in its “Findings of Fact,” made this revealing statement: “The fetus may still have a detectable heartbeat or pulsating umbilical cord when the uterine evacuation begins in any D & E or induction, and may be considered a ‘living fetus.’”¹⁶

Accordingly, all parties to the abortion controversy now agree that vital signs, such as “a detectable heartbeat,” are determinate of at least the latest time at which life begins—“We do not understand this point to be contested by the parties.” The question then becomes, How exactly does the admission that “a fetus is a living organism while within the womb” change anything in the constitutional debate over abortion? Let’s begin this discussion by examining exactly why the Court allowed Congress the power to distinguish partial-birth abortion, i.e. “intact D&E,” from the common abortion procedure of D&E. The Court stated in *Gonzales*:

Congress determined that the abortion methods it proscribed had a “disturbing similarity to the killing of a newborn infant,” and thus it was concerned with “draw[ing] a bright line that clearly distinguishes abortion and infanticide.” The Court has in the past confirmed the validity of drawing boundaries to prevent certain practices that extinguish life and are close to actions that are condemned. Glucksberg found reasonable the State’s “fear that permitting assisted suicide will start it down the path to voluntary and perhaps even involuntary euthanasia.”

Significantly, the Court allowed Congress the power to proscribe intact D&E because it was *near* infanticide. Moreover, the Court found support for this in an earlier decision upholding Washington state’s ban on assisted suicide, *Washington v. Glucksberg* (1997). An elementary basis for the Court’s decision in *Washington v. Glucksberg* was this declaration: “The right to life

and to personal security is not only sacred in the estimation of the common law, but it is inalienable.”¹⁷

The Court in *Glucksberg* also heavily relied upon its reasoning in a related case, *Cruzan v. Director* (1990). The Court in *Cruzan* affirmed the judgment of the Supreme Court of Missouri in its holding that the state may require clear and convincing evidence to order the termination of medical treatment for an incompetent individual. The Court rejected the argument that Nancy Cruzan’s parents were entitled to order the termination of her medical treatment and that they were entitled to make “substituted judgment” for their daughter. Instead, the Court concluded that no person can presume to make a choice between life and death for an incompetent person and that the state was entitled to set a legal standard of clear and convincing evidence of the patient’s wishes.

The state of Missouri was able to set this high legal standard under its police powers, the power inherent in all states under the Tenth Amendment to prosecute criminal activity. This police power of government includes the power of the state to protect human life.¹⁸ Therefore, the Court explicitly held in *Glucksberg* and *Cruzan* that a state has an “unqualified interest in the preservation of human life.”¹⁹ As Chief Justice Rehnquist stated in *Cruzan v. Director*, “Missouri relies on its interest in the protection and preservation of human life, and there can be no gainsaying this interest.”²⁰

Applying these standards set forth in *Glucksberg* and *Cruzan*, with the newfound standard for when life begins from *Gonzales*, we might suggest that a state enact a statute requiring that before any medical procedure is performed, which might endanger a living fetus, that some safeguards be observed. The statute could provide that if an abortion is likely to occur, and the mother’s life is not in immediate jeopardy, two physicians must certify that there is no detectable heartbeat, or other observable vitality, before the operation proceeds.

Such a statute would effectively overturn *Roe* when the unborn child exhibits any vitality, such as a heartbeat. Prior to the existence of a heartbeat, *Roe* would remain in effect, as only then are we still dealing with a “potential life” under current case law. If the unborn child is expired, then, as with the federal Partial-Birth Abortion Ban Act, an abortion would be allowed.

The pro-abortion forces made two titanic tactical errors in *Planned Parenthood v. Ashcroft*: first, in admitting that most fetuses are alive when aborted; second, by also offering a clear evidentiary standard—a heartbeat. By doing so, “the difficult question of when life begins” has been held to be legally determinable under the Constitution. Therefore, this inquiry into the beginning of life has been removed from the nebulous realm of judicial

speculation. *Roe*, and the cases following it, kept this “difficult question” in the category of a “mixed question of fact and law,” under which the federal judiciary maintained control of answering the question—a question that they conveniently refused to answer. But now, by the doctrine of *stare decisis* (the basis for the Court’s upholding of *Roe* in *Casey*), “the difficult question of when life begins” is a proper factual inquiry in which it is permissible to use the existence of a heartbeat as the evidentiary standard. What’s more, by the use of this evidentiary standard, the vast majority of all surgical abortions could effectively be prevented.²¹

Even better, the case of *Akron v. Akron Center for Reproductive Health*²² may be used to the advantage of the prolife movement. In *Akron*, the Court struck down restrictions on abortion enacted by the City Council of Akron, Ohio.²³ One of the provisions was struck down because it substituted another theory for when life begins than the one allowed by *Roe*. Now, the states would not be adopting a theory of when life begins other than that allowed by the Supreme Court. Rather, the states would be following the theory of when life begins from *Gonzales*.

As for the prospective federal Freedom of Choice Act, that act could only promote the abortion rights secured by *Roe v. Wade*. Those rights were premised upon “the difficult question of when life begins” not being answered—the unborn child thereby being deemed to only be a “potential life,” with the states’ interest in that “potential life” consequently limited. As that difficult question is now answerable as a matter of fact, the states’ “unqualified interest in the preservation of human life” may be fully asserted against federal oversight. Thus, the Freedom of Choice Act could apply only to abortions prior to the fetus’s being found to be alive.

Prior to *Gonzales*, the Court used the indeterminate phrase “potential life” as a fig leaf in *Roe* to clothe its naked complicity in the murder of untold numbers of unborn persons. As has been demonstrated, evidentiary standards of vitality, such as “the pulsation of the heart” “perceived about the seventeenth day after conception,” have been known since at least 1823. The concept of vitality shaped American law as it pertained to unborn children,²⁴ until the Supreme Court made its grand regression in 1973. Now, thanks to Congress, the right to life may be asserted whenever a heartbeat is detected. Ever since *Roe*, the Court’s abortion jurisprudence has, in a most unfortunate way, affirmed the maxim that “justice is blind.” Yet *Gonzales* gives us hope that although Lady Justice might be blind, she is not deaf.

NOTES

1. I will refer the reader to Clarke Forsythe's "Lack of Prudence" article in this journal for a very able discussion of that controversy. Forsythe, "Lack of Prudence," 33 *Human Life Review*, p. 15 (Fall 2007).
2. *Roe v. Wade*, 410 U.S. 113, 150, 154, 156, 163 (1973).
3. E.g., "potentiality of life," "potential human life," "potentiality of human life," "potential future human life," "potential life of the fetus."
4. *Gonzales v. Carhart*, No. 05-380, 550 U.S. ____ (2007) (emphasis added).
5. *Roe*, 410 U.S. at 150.
6. *Planned Parenthood v. Casey*, 505 U.S. 833, 852 (1992).
7. Michael Stokes Paulsen, "The Worst Constitutional Decision of All Time," 78 *Notre Dame Law Rev.* 995, 1025 (2003).
8. *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992).
9. U.S. Const. Preamble (emphasis added). See *Stenberg v. Carhart*, 530 U.S. 914, 953 (2000) (Scalia, J., dissenting):

The notion that the Constitution of the United States, designed, among other things, "to establish Justice, insure domestic Tranquility, . . . and secure the Blessings of Liberty to ourselves and our Posterity," prohibits the States from simply banning this visibly brutal means of eliminating our half-born posterity is quite simply absurd.
10. *Planned Parenthood v. Casey*, 505 U.S. 833, 852 (1992) (emphasis added).
11. Theodric Beck, *Elements of Medical Jurisprudence*, p. 200 (1823).
12. *Ibid.*
13. *Ibid.*, 203 (quoting *Percival's Works*, vol. 2., 430-31):

[T]o extinguish the first spark of life, is a crime of the same nature, both against our Maker and society, as to destroy an infant, a child, or a man: these regular and successive stages of existence being the ordinances of God, subject alone to his divine will, and appointed by sovereign wisdom and goodness, as the exclusive means of preserving the race, and multiplying the enjoyments of mankind.
14. A. Taylor, *Medical Jurisprudence*, p. 394 (1856):

It is unnecessary in the present day to discuss the question, whether, until the period of quickening, the child be or not be "*pars viscerum matris*." The vulgar opinion is, that the foetus only receives life when the woman quickens. . . . As ovum, embryo, and foetus, the contents of the uterus are as much endowed with special and independent vitality in the earlier as in the later periods of gestation.
15. *Bouvier's Law Dictionary*, pp. 807-08 (1897). The passage goes on to state:

By the growth of the embryo, the womb is enlarged until it becomes too great a size to be contained in the pelvis, it then rises to the abdomen, when the motion of the foetus is for the first time felt.

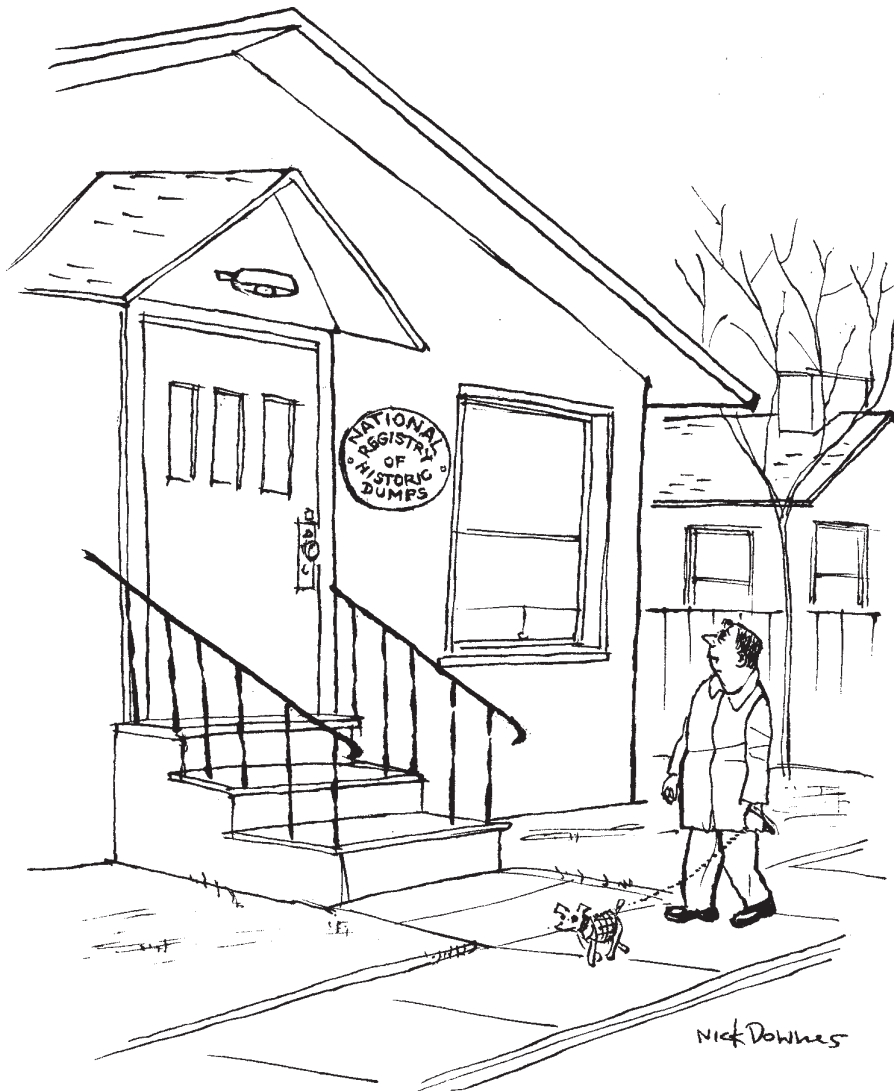
Quickening as indicating a distinct point in the existence of the foetus has no foundation in physiology; for it arises merely from the relation which the organs of gestation bear to the parts that surround them; it may take place early or late, according to the condition of these different parts, but not from any inherent *vitality* for the first time manifested by the foetus. (Emphasis added.)
16. *Planned Parenthood v. Ashcroft*, 320 F.Supp.2d 957, 971 (N.D.Cal. 2004).
17. *Washington v. Glucksberg*, 521 U.S. 702, 714 (1997) (quoting *Martin v. Commonwealth*, 184 Va. 1009, 1018-1019, 37 S. E. 2d 43, 47 (1946)).
18. This is a separate inquiry from an individual's own interest in his life, which is protected by the Due Process and Equal Protection clauses of the Constitution.
19. *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997); *Cruzan v. Director*, 497 U.S. 261, 282 (1990).
20. *Cruzan v. Director*, 497 U.S. 261, 280 (1990) (Rehnquist, C.J.). Rehnquist immediately went on to state, "As a general matter, the States—indeed, all civilized nations—demonstrate their commitment to life by treating homicide as serious crime."
21. Whereas a heartbeat is detectable at approximately three weeks post-conception, 75 percent of all abortions occur after six "weeks" per a report by the National Center for Chronic Disease Prevention and Health Promotion; "weeks" may refer to weeks of gestation or weeks since the last menstrual cycle, with no earlier time periods delineated. So, while the exact

percentage of abortions that would be prevented by the use of the heartbeat standard is an open matter, it would seem safe to assume that at least 75 percent could be prevented. "Abortion Surveillance—United States, 2004," Table 7, National Center for Chronic Disease Prevention and Health Promotion. See http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5609a1.htm?s_cid=ss5609a1_e.

22. *Akron v. Akron Center for Reproductive Health*, 462 U.S. 416 (1983).

23. *Ibid.* at 421-24.

24. *Roe*, 410 U.S. at 141-42.



THE HUMAN LIFE FOUNDATION
proudly presents
**THE SEVENTH ANNUAL
GREAT DEFENDER OF LIFE DINNER**

HONORING SENIOR EDITORS

**ELLEN WILSON FIELDING
MARY MEEHAN
WILLIAM MURCHISON**

We honor our indispensable trio for their steadfast witness: Their efforts, combined, have produced over 135 eloquent essays, articles and research papers, consistently arguing with truth and reason for the defense of life.

**THURSDAY, OCTOBER 22, 2009
THE UNION LEAGUE CLUB, NEW YORK CITY**

*Individual tickets—\$250
Sponsor Table—\$2,500
Benefactor Table—\$5,000
Guarantor Table—\$10,000*

*For more information, or if you would like to receive an invitation,
please call 212-685-5210; or e-mail humanlifereview@verizon.net*



“As for myself, I agree with the Book of Ecclesiastes that there is a time to be born and a time to die. When my time comes (whether as a result of incurable disease or simply old age), I hope that they will let me die in peace. I do not want them to keep my heart beating and my lungs breathing, without solid hope of recovery, after my eyesight, my hearing, and my mind have vanished, simply because they have the technology to do it.”—Francis Canavan, S.J., “Killing or Letting Die,” HLR, 2004

His time came on February 26, 2009. Neither his eyesight and hearing, nor his mind, had vanished—we’d had a lively chat on the phone only a couple of weeks before—but a fall put him in the hospital and a week later old age, in the guise of congestive heart failure, claimed our dear friend and long-time contributor, Fr. Francis Canavan, S.J. The above quote comes from the last essay he wrote for us, part of a symposium on euthanasia and assisted suicide which appeared in our Winter 2004 issue. Fr. Canavan’s first contribution to the *Review*, an article published by the British journal *Law & Justice* was reprinted in our Winter 1976 issue. Between 1976 and 2004 there were thirty other articles, most of these original essays written for the *Review*, all of which were, as our late founding editor J.P. McFadden wrote about the first, “impressive (and very readable) contribution[s] to the continuing discussion, in these pages, of the legal and moral problems raised by the whole abortion/euthanasia issue.”

As I write, Notre Dame University’s decision to award Barack Obama—a staunch defender of *Roe v. Wade*—an honorary doctorate of *law* degree continues to generate much discussion. We don’t know what Fr. Canavan would have made of it all but we do know what he made of another Notre Dame drama, one that took place 25 years ago starring the then-governor of New York, Mario Cuomo—in his time as formidable an opponent of the pro-life movement as our president is today. While Cuomo got tossed off the political stage several years ago, the “personally opposed, but” abortion credo he introduced at Notre Dame on September 13, 1984, continues to be recited by legions of Catholic politicians. And, as you will see, Fr. Canavan’s critique of it, first published in our Winter/Spring 1985 issue, continues to be as impressive (and readable) as it was then.—*Anne Conlon*

The Cuomo Thesis

Francis Canavan

What does one have to do to get the attention of the Democratic Party? Apparently one must take a mallet and hit it between the eyes. It is, after all, a donkey.

Archbishop John J. O'Connor of New York seems to have hit the donkey squarely between the eyes when he said on television last June, "I don't see how a Catholic in good conscience can vote for a candidate who explicitly supports abortion." The remark would apply, of course, to candidates of any party, and there are pro-abortionists in the Republican as well as the Democratic ranks. But it is the Democrats who have put a pro-abortion plank in their platform, and it is Democratic Catholic politicians who, stung to the quick, have made the major replies to the archbishop.

Gov. Mario Cuomo of New York delivered the most carefully reasoned of these replies in an address at Notre Dame University on September 13. Like other Catholic politicians he fell back on the "personally opposed, but . . ." line. He does not personally favor abortion, he just does not think it is the function of government to prohibit it, or limit it, or discourage it. Government in fact, he feels, should facilitate abortion by providing funds for women who are too poor to pay for their abortions, since to deny them funds "would burden only the already disadvantaged."

This position raises once again the question of the meaning of "personally opposed, but . . ." At a deeper level it raises the question of the meaning of morality. There is in law an old distinction between things which are *mala quia prohibita*—evil because they are prohibited—and things which are *prohibita quia mala*—prohibited because they are evil. Given the nominalism that is so deeply embedded in our culture, Americans have a pronounced tendency to regard all morality, and the morality of abortion in particular, as a set of rules about actions which are *mala quia prohibita*—wrong, but only because they are prohibited. For Catholic nominalists, the wrongness is defined by the laws of the Church, but not by the inherent evil of abortion.

Gov. Cuomo is too sophisticated to subscribe to this crude and simple-minded nominalism. Quite the contrary. He and his wife, he explained at Notre Dame, never used abortion because "we thought church doctrine was clear on this, and more than that, both of us felt it in full agreement with

Francis Canavan, S. J., a professor emeritus of political science at Fordham University, in New York, died on February 26 at the age of 91. The article reprinted here originally appeared in the 1985 Winter/Spring edition of the *Human Life Review*.

what our own hearts and our own consciences told us.” So far as his own conscience is concerned, then, abortion is prohibited because it is antecedently evil.

It is a distinct question, however, he said, “whether to engage the political system in a struggle to have it adopt certain articles of our belief as part of the public morality.” At this point a certain amount of fog begins to envelop the governor’s words. There is, he recognizes, a public morality, and this recognition is certainly an advance over the position of those who tell us that all morality is private because it is subjective and idiosyncratic. But when we come to the question whether abortion is properly an issue in public morality, the governor refers to anti-abortion views as “certain articles of our belief.”

It is not that Gov. Cuomo is always reluctant to impose his moral beliefs on others. When the legislature of the State of New York, by majority votes in both houses, reinstated the death penalty, he vetoed the act; presumably if it is ever enacted over his veto, he will grant executive clemency to criminals condemned to death under it. He has praised the American Catholic bishops for the moral leadership they have given the nation in their pastoral on nuclear weapons. He advocates raising the drinking age to 21 in order to reduce the number of highway deaths caused by drunken teenage drivers. It is not necessary either to agree or disagree with his stands on these matters to notice that they all rest on judgments about the value of human life and are, moreover, controversial.

Abortion, however, is different. “The arguments start,” as Gov. Cuomo explained, “when religious values are used to support positions which would impose on other people restrictions that they find unacceptable.” But what are “religious values”? It is a remarkably vague term, carrying connotations of mysticism and realms of belief that transcend unaided human reason. But there is nothing particularly mystical or religious about abortion. We all know well enough what it is and what it does, however much we may disagree about the desirability and permissibility of doing it.

Abortion kills and is intended to kill. None of us would be alive today if we had been aborted. Whether or not we define abortion as killing a person, whether or not we call abortion murder, abortion would have killed us. Not some set of alien and non-human beings, but *us*. The lives abortion would have ended would be *our* lives. At however early a stage of our fetal development we had been aborted, we would have been dead, as the Irish might say, for the rest of our lives.

Now, on any list of the legitimate purposes of civil government, the protection of human life surely stands high. That which snuffs out human life at

its beginning, as abortion does, raises an issue, not only in private morality, but in public morality and therefore ultimately in law. Whatever resolution people may think law should give to this issue, it cannot be banished as an issue in public morality merely by talking about “religious values” and “the separation of church and state.”

The issue is moral, and does not cease to be so because a church has a teaching about it, and it is public, and does not cease to be so because people disagree over it. There is a clear Catholic belief about abortion, but it bears on an issue which in itself is one of public morality. Argument on the issue in the public forum cannot be foreclosed by pleading with Catholics, as Gov. Cuomo did, to stay out of it.

He was on sounder ground when he said that the object of his criticism was not “what we Catholics believe to be moral wrongs,” but “the Catholic political response to those wrongs.” As he explained,

Church teaching on abortion and slavery is clear. But in the application of those teachings—the exact way we translate them into political action, the specific laws we propose, the exact legal sanctions we seek—there was and is no one, clear, absolute route that the church says, as a matter of doctrine, we must follow.

Or, as he had said earlier in his speech, “it is a matter of prudential political judgment.”

The governor could have quoted Edmund Burke: “It is no inconsiderable part of wisdom to know how much of an evil ought to be tolerated.” On second thought, however, that statement might not have served his purpose, since he advocates nothing short of complete legal toleration of this particular evil, to the point of regarding it as a positive advantage, denial of which is a “burden” on the already disadvantaged.

But let us take it that when Gov. Cuomo speaks of “what we Catholics believe to be moral wrongs,” he does not refer to theological no-nos, but to what we honestly believe to be genuine human evils, things that are bad for human beings, such as, to be precise, killing them before birth. It is still a matter of prudential political judgment what we can and should try to get the law to do about it.

In forming our prudential judgment, we must begin by being clear in our own minds that when we tolerate an evil, it is still an evil, not a positive good or a basic human right. To what extent it can be limited in a given social context may be an open question, but at least it should be limited rather than expanded or defended as untouchable.

In the case of abortion, moreover, we are dealing with a social evil and a massive one. *Time*, a journal not known for its opposition to abortion, described the scale of abortion in this country in its April 6, 1981 number:

Since *Roe v. Wade*, the annual number of abortions performed in the U.S. has risen from 744,600 to 1.5 million. Abortions last year terminated one-third of all pregnancies in the nation. More than a million teenagers became pregnant, and 38% had abortions.

On a later page, the magazine called abortion “the most frequently performed operation in the U.S.” Abortion on that scale (and the number of abortions has not diminished since 1981) may reasonably be judged to constitute a social problem to which a political response is appropriate.

A political response inevitably involves public officeholders and candidates for public office, and this understandably disturbs Gov. Cuomo. He maintains, rightly, that the Church should not and does not tell him what course of political action to follow, but leaves it to his prudential judgment. Nonetheless, prudence, being a moral virtue, operates within moral limits, and we may make some statements on the limits within which an officeholder will operate if he really regards abortion as a human, therefore moral, evil.

First, however, to clear away one little piece of sophistry, the officeholder’s oath to uphold the Constitution is not an oath to agree with the opinions of the U.S. Supreme Court. If that were not so, we should have to accuse a long line of distinguished Democratic presidents, from Thomas Jefferson through Andrew Jackson and Franklin D. Roosevelt, of violating their oaths of office. We should have to say the same of that greatest of Republican presidents, Abraham Lincoln, not to mention a good number of justices of the Supreme Court itself.

To return to the moral question, the officeholder who sees abortion as a genuine evil will at least refrain from promoting it, facilitating it, or encouraging it. Given the limitations which the Supreme Court imposed on government in *Roe v. Wade*, no officeholder can stop abortions from being performed. But the same Court also held in *Harris v. McRae* (448 U.S. 297) that government is not obliged to subsidize abortions, and this gives the officeholder some constitutional scope for exercising his moral judgment.

Moral judgment, however, is what Gov. Cuomo wants to keep out of the question of abortion and the law. He agrees that abortion is wrong, in itself and not merely because the Catholic Church says so, but this for him is only a principle of private morality. His thesis is that no effort should be made to reintroduce it into public morality. His reason appears ultimately to be that making it an issue of public morality is divisive of the body politic. It certainly makes some Catholic politicians uncomfortable, but we must credit the governor with having deeper concerns than that. He is thinking of the good of the community.

There is in the mainstream of our Western political and legal tradition no universal mandate to translate all moral norms into legal ones, and Catholic thinkers throughout history have understood that. Public moral and legal norms derive their purpose and their justification from the good of the community, not from the private welfare of individuals as such. Norms of private morality need not become norms of public law.

So, for example, a law imposing “prohibition” on persons under 21 years of age might not be justified if it were intended only as a means of improving their personal moral characters. But it might well be justified as a means of protecting the community from young drunken drivers. The lives that such a law would save would be, of course, the lives of those individuals who would otherwise have found themselves in the path of drunken drivers and been killed. But since the community is composed of individuals whose lives are a constituent element of the common good, it is the community, and not only individuals, that would be protected by the law. Some such reasoning must also lie behind laws requiring the wearing of seat belts in cars, even though the lives immediately at stake are only those of the individuals who are obliged to wear the seat belts.

Similarly, then, one can reasonably argue that a law regulating, limiting, or even prohibiting abortion is a means of protecting the community from attacks, not only on the lives of individual unborn children, but on that basic human good of life, sharing in which is the most fundamental bond of community. We must ask ourselves, simply as a matter of social philosophy, what sort of community we have when we grant a license to kill, even if it is limited to killing human beings while they are very small and still in the womb.

One could answer that this argument assumes that the community is agreed that in the matter of abortion we are dealing with the basic human good of life and Gov. Cuomo’s point is that in fact the community is not agreed. “We create our public morality through consensus,” he says, and the consensus is no longer there. On this point several comments are in order.

First, the consensus that supported the abortion laws that were in force in the several States only 20 short years ago did not fade like a dew in the glare of progressive public enlightenment, but suffered a violent assault at the hands of the U.S. Supreme Court in 1973. The Court tried to shortcircuit a recently begun and developing controversy over the abortion laws by taking the abortion issue out of politics. The Court thereby prevented the American people from arriving at such resolution of their differences as they could have achieved through the democratic process.

Secondly, those who believe that abortion is not the subject of a religious

taboo but an objective human wrong have the right and the duty to try to restore the consensus that once existed, and which may still exist to a greater extent than pro-abortionists care to admit. To do this, antiabortionists must address the public conscience of the American people. But the most effective—perhaps the only effective—way to engage the conscience of the people is to raise the issue in the public, political forum.

Most of us, most of the time, do not think until we have to think, and we do not have to think about any public issue until someone sets a proposal before us on which we must act one way or the other. Public issues usually are not debated until there are proposed public measures to debate.

Thirdly, if we were to take Gov. Cuomo's advice and accept the present state of the law in regard to abortion, we would not have achieved a stable agreement among the American people to disagree quietly and peaceably on questions of public morality. The situation, as they say in military circles, is fluid and will remain so for the foreseeable future.

If the abortion question were allowed to die as a legal and political issue, the same progressive forces that gave us abortion on demand would move on to the next item on their agenda, which is the legalization of euthanasia, beginning with infanticide. Then the fight would flare up again. We would hear the same liberal voices telling us not to impose our beliefs on others, not to inject religion into politics, not to breach the wall of separation between church and state. But they would no more succeed in stabilizing the relationship between law and morals than they did in previous rounds of the same fight.

It cannot even be said that the previous rounds are fully finished or ever will be. The laws in this country, as Gov. Cuomo pointed out, "protect people's right to divorce," and "their right to use birth control devices." Must we strive to repeal those laws and replace them with an absolute ban on contraception and divorce? No, it would be very unwise and therefore, with respect to the common good, wrong to try to do so. But must the American people forever accept those laws as they now stand? The answer to this question, too, is no.

The famous Sexual Revolution wrought by the equally famous Pill has not been so resounding a success that we must look upon it as definitive and irreversible. A future generation may question both the consequences of widespread promiscuity and the notion that making contraceptives ever more widely available to persons of all ages and states of life is the remedy for them.

Five years ago the *New York Times* remarked in an editorial, "Today, half of all marriages break up." To the *Times*, that fact was only a reason for

changing the Social Security system to make better provision for divorced women. But a future generation may be moved to think about tightening the divorce laws—and be undeterred by bleats about “imposing your beliefs on others.” The relationship between law and public morality, in regard to both contraception and divorce, is not fixed forever. Pendulums swing in both directions, and citizens are free to push them in either direction.

The current controversy over abortion is but one consequence of an ongoing moral revolution in this country and in the West generally. The revolution consists in a ceaseless effort to replace the ethic that has historically been the foundation of Western civilization with a new, individualistic, and utilitarian ethic. This new ethic denies any meaning in human life other than what human beings choose to give it and any norms for living other than those that human beings choose to live by.

We see the revolution at work in the constant undermining of such ideas as the natural difference between the sexes, the institution of monogamous and lifelong marriage, the natural transmission of human life, and the sanctity of life itself. Its tactic is to decry any defense of the centuries old incorporation of these ideas in law as imposing the beliefs of some on others.

Gov. Cuomo is correct in asserting that effective resistance to this revolution must finally depend upon the consciences of individuals and families, formed by sound moral teaching, and that such teaching is the function of churches and other institutions rather than of government. But he is simply unrealistic in suggesting that Catholics—and, by implication, all other adherents of the traditional morality—should abandon the field of law and politics to the revolutionaries in the name of pluralism. One ethic or the other will determine our public morality and its reflection in law. If one side quits, there is no doubt but that the other side will win. Even a donkey should be able to understand that.

Francis Canavan, S.J., RIP

James McLaughlin

He never carried a rifle or wore a military uniform, but I always thought of him as a soldier. In his writings and conversation, which always evidenced the rigorous logic that characterized his thought; in his bearing; in his daily routines of living and worship; in *all* that he did, there was a great discipline. Well into his 80s, he would swim laps every day in the Fordham University pool. When his doctors told him to stop, he stopped and would take his exercise by walking Fordham's lovely campus, of which he was justly proud. When his aging legs made that too difficult, he attended a daily exercise class. The exercise class consisted of him, a television, and a video-tape. He was not training to compete in the Senior Olympics and he did not exercise for fun. He did it so that he could keep going; keep doing the work that he had become a Jesuit in order to do.

I was first introduced to Francis Canavan 25 years ago by one of his former students who had converted to Catholicism under his guidance and who later himself became, like Fr. Canavan, a professor of political science. Over the years, I was with him on countless occasions when a former student would approach to reintroduce himself. Their ages ranged from the 20s to the 60s, and in every instance it was clear that the former student had enormous respect for the former teacher. In 1988, he retired as a full-time member of the Fordham faculty. He was widely acknowledged as the foremost living authority on the political thought of Edmund Burke.

In his "retirement," he increasingly focused on contemporary problems. He was deeply troubled by trends he was witnessing in our society, as grave immoralities were first proclaimed as freedoms and rights and then enshrined in law. He wrote for numerous publications, including *First Things*, the *Human Life Review*, and *catholic eye*, pointing out that abortion, gay marriage, the destruction of human embryos in the service of technological advance, euthanasia, and other manifestations of our society's present disorders were not only violative of our Christian moral code, but ultimately were destructive of the ethos that underpins our civilization. He wrote also concerning papal encyclicals on economics and social teaching, and in so doing helped to stimulate a growing academic interest in an important and previously often neglected topic.

James McLaughlin is in the investment management business and is an attorney. He lives in Connecticut with his wife and daughter.

Throughout the time I knew him, through his 70s, 80s, and into his 90s, he wrote articles, attended lectures, participated in academic conferences, and ministered to individuals and groups seeking to deepen and better know their faith. The inescapable infirmities of old age progressively slowed him down, but always he soldiered on, and at a pace remarkable for someone of his years. Two days before the fall that fractured his hip, he went to Dunwoodie Seminary to hear a lecture by a younger Jesuit whose work he admired.

In the last few years, he became increasingly frail, making walking difficult and long-distance travel impossible. In the hundreds of conversations we shared, he never complained. He moved into the infirmary of Murray Weigel Hall at Fordham a few years ago. He often told me how much he liked living there and how thankful he was for the kindness of the people who looked after him and the other priests resident there.

Francis Canavan entered the Society of Jesus 70 years ago to begin the long process of what the Jesuits call formation. An apt word. They formed an extraordinary man. I do not know whether the Jesuits are today producing men like Father Canavan. I hope that they are, but if not, they might ask “What were they doing then, that we are not doing now?”

On the intellectual battlefield, which is ultimately an arena where a contest takes place for men’s minds and souls, Father Canavan faithfully guarded, defended, and protected a great moral code. And he did so with intelligence, wit, and humility, employing all the talents that God and his training had given him. The motto of the Society of Jesus is *Ad maiorem Dei gloriam*, “For the greater glory of God.” The Shield of Oñaz-Loyola, used by many Jesuit institutions around the world, bears another motto: *Quantum potes, tantum aude*. “As much as you can do, so much dare to do.” Francis Canavan was a living embodiment of these ancient precepts, and in that there was a true nobility.

A Happy, Mighty Warrior for Life

He never ceased to call upon the Lord of life for those most vulnerable. The day when every unborn child is protected in law and welcomed in life is not close at hand but, as he put it in one of his last major addresses, “We shall not weary, we shall not rest.” Whether it is civil rights or the right to life, the long struggle for justice can be wearying. So we need champions along the way, to encourage and to exhort. Here in this city the pro-life movement had no more formidable partnership than the two lions of Fifth Avenue—John Cardinal O’Connor at St. Patrick’s and Fr. Neuhaus at his offices at Twentieth Street. The late Cardinal and his great friend were happy, mighty warriors in the cause of life. Now we shall miss Richard as dearly as he missed his beloved Cardinal. The Cardinal gave two precious gifts to the Church and to the pro-life movement, Fr. Richard John Neuhaus and the Sisters of Life, and it would please him that the latter are here praying for the former.

— Father Raymond de Souza, sermon at the funeral Mass for Father Richard John Neuhaus, January 13, 2009

It is still so hard to accept that he is gone. Father Neuhaus was not only our friend and mentor here at the *Review*; he was as well my parish priest, and a towering presence in my life, ever since I first met him and then worked for him (at the Rockford Institute, and in 1989 at the launch of the Institute on Religion and Public Life). I sometimes catch myself “seeing” him on East 14th street, near our church, Immaculate Conception. But then I remember: He is somewhere better suited for him than even his beloved New York City.

Of course, he mattered enormously to so many people: He was a hugely influential public thinker and author, a brilliant and eminently clear writer, a forger of extraordinary alliances, a committed ecumenist, a former Lutheran pastor and, in what *he* put first, a devoted and joyous Catholic priest.

And he was, as Father deSouza told the gathered mourners, a true champion for life. In addition to his public witness in defense of the unborn and the vulnerable—and that list would be exhausting—he sacrificed greatly on their behalf, in countless quiet acts of charity (many of which became known only after his death). The Foundation was a recipient of such generosity; one particularly handsome contribution came, Father said, from a “friend who wishes to remain anonymous.”

The article we reprint here, after the stunning poem written by editor of *First Things* Joseph Bottum (and reprinted with his kind permission), was in the premier issue of *First Things*, in March of 1990. It was reprinted in the spring, 1990 issue of our *Review*. Reading it again now, I am struck anew by all the things about Father that we so sorely miss—his ability to get to the

JOSEPH BOTTUM

heart of the most difficult matters with reason, without rancor, and always with hope; his engaging writing style, his keen sense of history and human nature. It also struck me that though this article is almost two decades old, it has become, sadly, even more timely. And so, even though we have lost the earthly presence of our great friend, his words remain, and will have transforming power, God willing, for generations to come.

Maria McFadden

In Refusal of Politics

Sapphics for Richard John Neuhaus

If I have seen geese low on the east horizon,
seen the long reeds strain in the dawn to follow,
watched the first clean ice of the season take
root for the winter,

what worth are those clear scenes in a day that fathers
lunge at half-born sons with a knife, and daughters
name the swift-gained deaths of their mothers high
gestures of mercy?

And they that speak strong words in the failing season,
sparking new fires, cursing the embers—they must
scorn the faint hearts nursing a private flame,
skirting the darkness.

But still the cold reeds sway in the wind and whisper:
Leave the great voice raging to stave the winter.
Autumn's own soft music has need of songs,
gentle and dying.

—*Joseph Bottum*

The Way They Were, The Way We Are: **Bioethics and the Holocaust**

Richard John Neuhaus

To inquire into connections between the Holocaust and bioethical debates today assumes a hopeful estimate of the human capacity for reasonable discussion. Perhaps too hopeful. In the view of many, any suggestion that there may be analogies between the way they were and the way we are, between what they did and what we are doing and proposing to do, is simply intolerable. The very suspicion of such similarities is too painful to bear. As Eliot observes in *Murder in the Cathedral*, “Humankind cannot bear very much reality.”

Reasonable discourse requires a measure of dispassion, a critical distancing of ourselves from our emotions, intentions, and interests. This is not easy for any of us, and the higher the stakes the more strongly are our defensive resources engaged. The stakes in the debates under discussion are very high indeed: Who shall live? Who shall die? Who does, and who does not, belong to the community for which we accept common responsibility? Most of us want to defend most particularly our intentions, our inward dispositions. We may acknowledge that we make mistakes, even that we have done the wrong thing, but we adamantly insist that we meant to do good. If we do not exercise care, reasonable discourse about right and wrong can easily be swamped by the language of intentionality.

Please note that I am here using the term “Holocaust” inclusively in order to cover the constellation of crimes against humanity that we associate with the Third Reich. Of course the term is often used to refer only to the genocide against the Jews. But in that limited sense the Holocaust has little relevance to bioethical debates today. Nobody of influence in our society, thank God, is proposing the elimination of Jews. Nor, we do well to remember, did the Nazis one day up and decide it would be a great idea to kill six million Jews, and millions of other “subhuman” human beings. The way to crimes against humanity was prepared by peculiar ways of thinking about humanity. As Richard Weaver famously insisted, “Ideas have consequences.” The Holocaust was, in largest part, the consequence of ideas about human nature, human rights, the imperatives of history and scientific progress, the character of law, the bonds and obligations of political community. It is above all in the

Richard John Neuhaus, (1938-2009) was a priest in the Archdiocese of New York and editor in chief of *First Things*. This article first appeared in its premier issue (March 1990).

exploration of ideas that we can most usefully discuss the metaphors and analogies between then and now.

Please note also—and this must be said most emphatically—the present essay is an exploration and not an accusation. The purpose is to examine the value judgments and moral reasonings that inform current debates and practices, and to reflect on their similarities and dissimilarities with the Holocaust. If I suggest that a certain line of reasoning is disturbingly reminiscent of the Holocaust, I am not suggesting that those who think that way are morally equivalent to the perpetrators of the Holocaust. The stipulation throughout is that all the participants in current debates intend to do good and not evil.

The focus here is on ideas and their use as justifying rationales for doing this or that. The debates will continue and, if they are to be both civil and clarifying debates, it is important that we not impugn the motives of those with whom we disagree. Intentions are not everything, but neither are they nothing. The present examination is for each of us also a self-examination. It assumes that, as we believe ourselves to be capable of great good, we know we are also capable of great evil, our intentions notwithstanding. If that assumption is not shared, this discussion is, in the dismissive sense of the term, no more than an academic exercise. If we know in advance that we could not and will not commit crimes against humanity, the question posed by this essay has already been answered and we could stop right here.

One kind of reaction to the question posed is described by two participants in last year's National Institutes of Health panel on fetal transplantation. Their minority report (*This World*, Summer 1989) observes, "Another vindication of fetal research with aborted tissue was grounded on the assumption that our inward dispositions alone determine the ethical value of our behavior. Several senior research sponsors expressed to the Panel their indignation that the work to which they had dedicated years of good will could be considered exploitative. They resented having their integrity appraised by reference to anything but their good intentions." As we shall see, this very insistence upon the sufficiency of intention has its counterpart in the experience of the Holocaust.

Our subject is the way they were and the way we are, what they did and what we are doing and proposing to do. The question is one of likenesses and unlikenesses, of similarities and dissimilarities, between then and now. A prior question concerns the very legitimacy of inquiring into comparisons between the Holocaust and present developments in bioethics. I believe that such an inquiry is not only legitimate but necessary. It is morally imperative that all of us who live after the Holocaust examine ourselves and our actions

by reference to that moment of awesome truth.

The invocations of the Holocaust must be undertaken with most particular caution and clarity. For those of us in the West, the Holocaust is probably the only culturally available icon of absolute evil. Any “revisionist” efforts to deny or diminish the horror of the Holocaust are, quite rightly, deemed to be beyond the pale of responsible discourse. It is not only the so-called revisionists, however, who distort the Holocaust and its continuing pertinence. There are those who insist upon the uniqueness, the utter singularity, of the Holocaust in a manner that consigns it to the unusable past. If the Holocaust is like nothing else, it is relevant to nothing else.

As we must attend to similarities between then and now, we must also attend to dissimilarities. There are dangers in universalizing or generalizing the Holocaust in ways that obscure the historical particularity of the event and that obscure, as well, the particular ideas, decisions, actions, and attitudes that are the parts that make up the whole of what we call the Holocaust. We intend to honor the victims when we speak of the “six million” or the “ten million,” but both killed and killers should, as much as possible, be recalled by name, for they had names. The Holocaust was not the abstraction we call a period of history but a succession of mornings and afternoons and evenings, much like this day. It was a tangled combination of innumerable actions and consequences, of careers and ambitions, of fears and loyalties, of flirtations with the unthinkable turning into the routines of the unexceptionable. To most of those involved, the icon of evil did not present itself whole. It happened an hour at a time, an equivocation at a time, a lie at a time, a decision at a time, a decision evaded at a time. There is great wisdom in Hannah Arendt’s description of the Holocaust in terms of “the banality of evil.”

A generalized Holocaust is deprived of its power to caution and instruct. A generalized Holocaust is a depersonalized Holocaust, replacing persons with statistics, with allegedly inexorable forces of history. Raskolnikov, the murderer in *Crime and Punishment*, well understood the uses of generalization. “Anyway, to hell with it! Let them [die]! That’s how it should be, they say. It’s essential, they say, that such a percentage should every year go—that way to the devil—it’s essential so that the others should be kept fresh and healthy and not be interfered with. A percentage! What fine words they use, to be sure! So soothing. Scientific. All you have to do is say ‘percentage’ and all your worries are over. Now, of course, if you used some other word—well, then perhaps it would make you feel a little uncomfortable.”

The discussion at hand would be a failure were we not made to feel uncomfortable. The more subtle truth is that it would be an even greater

failure were we made to feel more comfortable because we feel uncomfortable. Our discomfort testifies to our moral integrity, or so we like to think. The suspicion is not entirely unwarranted that the relatively new profession of bioethics was established to cater to our discomfort and thus to relieve our discomfort. There are things we would not do without professional permission; what is morally doubtful must be certified by expertly guided anguish. In connection with so many life-and-death questions today we hear much talk about difficult and anguishing decisions. Anguish, it seems, covers a multitude of sins. In pondering analogies with the Holocaust, we may be inclined to think that this is what distinguishes us from them: we know what we are doing, we recognize and openly discuss the potential risks and potential wrongs, and our decisions are accompanied by the prescribed quota of anguish.

Please do not misunderstand. The emergence of the profession of bioethics does testify to our culture's moral sensitivity. Maybe the profession has prevented and will prevent moral enormities that might otherwise be perpetrated. With respect to what was not thought before, or with respect to what was thought and thought to be unthinkable before, bioethics may be producing more preventions than permissions. I do not know, and do not know if such a calculation is even possible. Would developments similar to those of the Holocaust be better kept at bay were there no discipline called bioethics? That is eminently debatable. Is professional bioethics in any sense an independent variable, so to speak, or simply the mistress of the "hard" disciplines it is employed to serve? Again, I do not know, although I know and am encouraged by the fact that there are those in the field who are not indifferent to these questions about their work.

I am reliably informed that the most typical Jewish telegram reads: "Start worrying. Letter to follow." One does not have to be Jewish to recognize that worry and anguish can be signs of health. With respect to current and proposed medical and biological practices, the letter is arriving page by page and we know that there is a good deal to worry about. It is easy to be alarmist; it is easier still to deny that there is cause for alarm. I am convinced that there are unmistakable similarities between what they did then and what we are doing now. They too asked and answered the question, Who shall live and who shall die? And, Who belongs to the community entitled to our protection? Then and now, the subject at hand is killing, and letting die, and helping to die, and using the dead. Then and now, the goal is to produce healthier human beings and, perhaps, a better quality of human being.

It will not do to say that the difference is that our intentions are good while theirs were evil or that they were cruel and callous while we are sensitive and

caring. Good intentions and delicate sensibilities are not moral arguments. Anyone familiar with the literature of the Holocaust knows all too well how its perpetrators invoked good intentions and evidences of moral sensitivity to justify their actions, both during and after the fact. We are inclined to dismiss such appeals as smarmy sentimentality and self-serving rationalization, and understandably so. But it is not always sufficiently clear on what grounds we so easily dismiss their justifications, thus denying any similarity between them and us. Sometimes we seem to be saying that we are not like them because we are not like them. Obviously, that tautology does not satisfy.

We earnestly say, “Never Again!” It would make no sense to say “Never Again!” unless we believed that it could happen again. With the cry “Never Again!” we aim to stir our society from the smug and irrational confidence that it cannot happen here. Of course then is not now, and there is not here, and they are not us. If or when it happens again, we will, to paraphrase Mr. Sinatra’s song, do it our way. Since those who do it may continue to be in charge, since there may never be the equivalent of the Nuremberg trials, it will be called not Holocaust but Progress. We need never fear the charge of crimes against humanity so long as we hold the power to define who does and who does not belong to “humanity.”

Emil Fackenheim has wisely said, “We must grant Hitler no posthumous victories.” It would seem to follow that we must not grant Hitler the posthumous victory of hiding from ourselves what we are capable of doing, what we may already be doing. Elie Wiesel has written, “If we forget, we are guilty, we are accomplices. . . . I swore never to be silent whenever and wherever human beings endure suffering and humiliation. We must always take sides. Neutrality helps the oppressor, never the victim.” The use of the first person plural, “we,” underscores the fact of moral agency, and moral responsibility. The Holocaust began in depersonalizing the victims and ended in depersonalizing the perpetrators. The decisions and actions that we are discussing here are not undertaken by the “logic of history,” nor by “medical science,” nor by “technological progress,” nor by “the imperatives of research.” They are undertaken by us, the first person plural composed of first persons singular. Moral agents have names. To seek escape in anonymity, to blame forces beyond our control for decisions within our control, is already to have granted Hitler a posthumous victory.

Samuel and Pearl Oliner recently published a book that, in my judgment, has not received the attention it deserves. *The Altruistic Personality* is based upon in-depth interviews with hundreds of people who, at great risk to their own lives and the lives of their families, rescued Jews from the Holocaust. The Oliners ask what distinguished the rescuers from the overwhelming

majority of people who averted their eyes from what was happening, or were actively complicit in what afterwards were called crimes against humanity. Their conclusion is that the rescuers were distinguished not by their educational level, nor by their political views, nor by any other number of variables that might be supposed. They were not even distinguished by their attitudes toward Jews as such.

They were different in two critical respects. They typically had strong ties to communities that espoused rather straightforward and unsophisticated understandings of right and wrong. And they uniformly had an unquenchable sense of personal moral agency. One after another, they told the Oliners that they could not have lived with themselves—and, many added, they could not have answered to God—if they had not done what they had done.

They had been told that what was happening was not their responsibility, that an entirely new situation demanded anguishing decisions that could no longer be avoided, that scientific and historical necessity required a rethinking of familiar values, that traditional views had to give way to the inexorable course of progress, that short-term sacrifices of customary ways was the price of long-term advancement, and that, in any event, people wiser than themselves had thought these things through with great care, and who were they to challenge the experts and those in authority? All this they were told, and all this they refused to believe. They refused to surrender their knowledge of moral agency. As many would still say today, they refused to surrender their souls. They refused to grant Hitler that victory.

In the debate over abortion there has been much discussion surrounding “the seamless garment” as a metaphor for the so-called “life issues.” I will not here enter that debate, except to note that evil, like good, does seem to weave a pattern. We are considering here the finished pattern that we call the Holocaust. The finished product may not be seamless, there are disruptions and disjunctions here and there, but the end result is of a piece. And so it is with current debates in bioethics.

Consider, for instance, the NIH panel on fetal transplantation. The majority report is touchingly eager in its insistence that fetal transplantation should be and can be separated from the question of abortion. Commenting on the statement of Elie Wiesel cited above, the minority report says: “Wiesel is saying that even by acquiescent silence after the fact we can sign on as parties to a deed already done. But what we are considering here is no mere *post mortem* silence, no simple averting of the gaze after the fact. We are considering an institutional partnership, federally sponsored and financed, whereby the bodily remains of abortion victims become a regularly supplied medical commodity.”

The minority makes a convincing case, I believe, that the majority deludes itself if it really thinks that the question of fetal transplants can be isolated from the question of how the fetuses are obtained. The minority report, written by James Bopp and James Burtchaeff, points out that fetal transplantation would almost certainly increase the number of abortions, compound the collusion between medical healing and medicalized killing, and prepare the way for other steps that would not only parallel but replicate actions associated with the Holocaust. In an important sense, this minority report is saying nothing new. Dr. Johnson famously observed that mankind needs less to be instructed than to be reminded. In this instance, we need to be reminded of the War Crimes Trial in Nuremberg known as “The Medical Case.”

That trial produced the Nuremberg Code of 1946 that began to provide protection for human subjects of research and inspired, in due course, the Declarations of Helsinki in 1964 and 1975. The minority report observes, “Without Nuremberg and its judgment the world’s conscience might never have gazed head on at the intrinsic depravity of the doctor’s defense . . . The insight of Nuremberg taught us that when we take possession of others, when their bodies are forcibly delivered up to be used as we wish, then no antecedent good will and no subsequent scientific yield will absolve us from having been confederates in their oppression. . . . The Nazi doctors had learned the ethic of their profession: that a physician may not relieve one human being’s affliction at the cost of another fellow human’s suffering. But they contrived to believe that if an associate had already done the subjugating and they then did the healing oriented research, they could divide the responsibility down the middle. The tribunal and the world judged otherwise—and condemned the researchers for it all.”

The chief defendant at Nuremberg, the notorious Dr. Karl Brandt, had once hoped to join Dr. Albert Schweitzer in his humanitarian work in Africa. He testified to the court of his great anguish in having to do things in the “interests of the community” when confronted by the “hard necessity” of finding ways to protect the population against death and epidemics. Toward that end, the State, the “law of the land,” gave him permission to experiment on human subjects at his disposal. Dr. Brandt declared, “There is no prohibition against daring to progress.”

We should not avoid asking ourselves the painfully obvious question: Do we now think that the judgment at Nuremberg was in error? Was the “doctor’s defense” right after all? Should the Dr. Brandts of the Holocaust have been acquitted? There are many today who seem to be answering those questions in the affirmative, at least by implication. More commonly, they condemn what the doctors did then while approving what the doctors do now, without

addressing the differences between then and now in principle, actual practice, or justifying rationale. When challenged on the similarities between then and now, many of our contemporaries are reflexively offended by the suggestion that such a comparison might even be thought worthy of consideration.

A rabbinical dictum has it that we should “place fences around the law.” The idea is that restraints and prohibitions should be in place to prevent us from reaching, or at least impede our progress toward, the point of absolute and damning transgression. There should at least be safety rails around the abyss. Perhaps the best that our culture can provide are signposts warning against the danger ahead. The judgment at Nuremberg was such a signpost. It is no longer secure. Perhaps the signpost has been taken down. The Hippocratic Oath was another such signpost. It was. Leon Kass of the University of Chicago has written persuasively about the ominous implications in current revisions of and, in effect, abandonments of the Hippocratic Oath in medical schools today. When the fences and the safety rails have been removed, when the signposts have been changed or taken down, what reason is there to believe that people in our time will not do what was done then? The confidence that they will not, it is to be feared, is based on little more than sentimental naiveté and the unseemly *hubris* of our assumed moral superiority to “them.”

But now, it may be objected, the introduction of the issue of fetal transplants and its connection with abortion has turned the discussion toward a subject that some would prefer to avoid, namely abortion. It said that the important debates in bioethics must move “beyond” the question of abortion. The abortion debate is weary, and we have no doubt all been wearied by it. What that is new could possibly be said in the abortion debate? Perhaps nothing. But again we are reminded of Dr. Johnson’s axiom that we have more need to be reminded than to be instructed—or than to be engaged by “new insights.” Whether by inherent logic or by historical accident, almost every controverted question in bioethics is entangled with the question of abortion. Again and again, we discover that we cannot go around, but must once more go through, the abortion debate. Before us are questions about who shall live and who shall die; questions about killing, letting die, helping to die, and using the dead; questions about what or who belongs to the community of legal protection—and when a “what” becomes a “who,” and when, at the end of life, a “who” becomes a “what.”

Even if some of the great questions that occupy bioethics might theoretically be isolated from the question of abortion, they seldom can be in cultural and political fact. Whether by inherent logic or by historical accident, the abortion debate has become the magnet to which all the other life-and-death

debates are attached. We can try to pull them away from that debate, but they are inexorably drawn back to it. Leaving aside for the moment the prochoice arguments in favor of the abortion liberty, it is clear that great science-based industries, trajectories of medical experimentation, and perhaps the profession of bioethics itself rest in large part upon the settlement articulated in *Roe v. Wade* and related decisions. It is equally clear that that settlement is today no longer settled. In ways even more relentless and entangled than at present, arguments about what we insist are “other” questions will be emerging from and returning to the question of abortion. A measure of moral clarity and societal consensus can only be achieved on the far side of the abortion debate, and that far side is not yet within sight.

Those who support the abortion liberty are understandably outraged when their opponents compare the more than 25 million abortions since *Roe v. Wade* with the Holocaust. And it must be noted that the Holocaust is often invoked recklessly and unfeelingly by antiabortionists, as though it were simply another convenient stick with which to beat the opposition. In such cases, the only culturally available icon of absolute evil—a precious thing for any culture to possess—is dangerously debased. At the same time, however, we must ask: *If* one believes that 25 million abortions are equivalent to 25 million instances of the taking of innocent human life, does not the analogy with the Holocaust become more appropriate? Perhaps even inevitable? The cultural and political reality is that millions of Americans, a majority of Americans, believe that abortion is precisely that—the taking of an innocent human life. The same Americans are not in agreement on what that perception of reality should mean in terms of abortion law, but, if we believe in a society governed by democratic discourse and decision, that perception of reality and the consideration of its legal ramifications cannot be ruled out of order.

One of the lawyers who prosecuted the Nazis in the war crimes trials explained how people could have acted so savagely: “There is only one step to take. You may not think it possible to take it; but I assure you that men I thought decent men did take it. You have only to decide that one group of human beings have lost human rights.” But, the objection is heard, such an observation is irrelevant to our discussion of bioethics and the Holocaust. In abortion, in fetal transplants, in embryo experimentation, in new methods of fertilization, in withdrawing food and water from the comatose—in all these instances, we may want to object, we are not dealing with “human beings.” But we must ask whether such an objection is not touchingly naive. It assumes one favored outcome of the debate that is still underway over who or what is a human being. It will not do to employ the dubious rhetorical device of

declaring that the other party must be wrong because I am right.

“There is only one step to take,” the prosecutor said. In the case of the debates in which we are now embroiled, I suspect that step was in the adoption of the idea of “quality of life” as an indicator of who is and who is not to count as a human being. Then they spoke of *lebensunwertes Leben*, life that is not worthy of life. It is by no means clear to many thoughtful people how we, in principle or in practice, distinguish *lebensunwertes Leben* from a “quality of life index.” But, we insist, it *should* be clear. After all, in the Holocaust they were killing actual human beings, people who were undeniably, not just potentially or marginally, *real people with real rights*. But, once again, it seems that we are found to be begging the question. It is exactly the point that they *did* deny what we take to be undeniable. Similarly, with respect to issues such as abortion, fetal experimentation, and euthanasia, many today deny what an earlier generation and, it would seem, most Americans today take to be undeniable.

That Jews, gypsies, homosexuals, Slavs, and others were not human beings in the “full meaning of the term” (*Roe v. Wade*) was the doctrine of the Third Reich. Such people were clearly not included in the community of legal rights, protections, and entitlements. Such was the law of the land; such was the view of those who were declared to be “the best and the brightest” of that society. Who was to say that they were wrong? A relatively few daring souls, such as Pastor Dietrich Bonhoeffer, said they were wrong, and paid with their lives. They said the Nazis were wrong on the basis of clear reason, civilizational tradition (remember the fences and signposts), and biblical faith.

And the rescuers studied by the Gliners said they were wrong, and acted courageously on that conviction. Some of them explained their actions in terms similar to those articulated by the Bonhoeffers. Many others, it seems, acted because that is the way they had been taught to act; they could not act differently and still be themselves. Others seem to have acted instinctively, intuitively. They had, one might say, a nose for evil. They were a small minority, acting outside the law and against the law, in a society that acknowledged no law other than the fiat of the State. It requires no great leap of creative imagination to see the parallels, at least with respect to their social placement and psychology, between the rescuers then and the anti-abortion efforts such as Operation Rescue now.

I have written elsewhere about what I believe is accurately described as “the return to eugenics” (*Commentary*, July 1988). By that phrase I mean to include most of the controverted issues in bioethics from fetal farming and

harvesting to infanticide and assisted suicide. We tell ourselves that these issues are raised by medical and technological advances, and so we seek to reduce our sense of moral agency and responsibility. We are closer to the truth, I believe, if we acknowledge that the debates in which we are embroiled are the products of moral, cultural, and political change.

Christopher Lasch has recently and insightfully written about “the engineering of the good life” (*This World*, Summer 1989). He notes that there are no longer freak shows at carnivals and county fairs. The reason for that, we tell ourselves, is that as a society we have become more sensitive to the handicapped, or, as we are tutored to say, “the differently advantaged.” Lasch suspects that this may be a convenient self-deception. The reason there are no more freak shows, he suggests, is that we have become a society that has no place for freaks.

At Nuremberg the prosecution argued that the killing programs unfolded from one another, that the genocide of the six-millionth Jew was somehow unleashed by the morphine overdose given the first harelipped child. Judgment at Nuremberg was premised upon the now frequently derided notion of the slippery slope. Those who deride and dismiss that metaphor are, I believe, rejecting the commonsensical observation that one thing is connected with another, and one thing frequently leads to another. If we give ourselves permission to do one thing, we are inescapably inviting the question about permission to do the next thing. Most current debates in bioethics have less to do with technological progress than with moral permissions. In largest part, the profession of bioethics is the Permissions Office of contemporary medical and biological science. Bioethicists are permitted to give out permission slips, with the understanding that, after due and anguished deliberation, permission will not be denied. It is the bold bioethicist who dares to say, and continues to say, No. As he or she may quickly discover, the profession leaves such sensitive souls behind as the discussion moves on to the next thing.

It is easy to be alarmist; it is easier to deny the reason for alarm. We say we know the difference between questionable human life and undeniable human life, while it is evident to all but the willfully blind that lives once thought to be undeniably human are now thrown into question. Again, the awesome step was taken with *Roe v. Wade*. In the lethal illogic of that decision, it might be suggested, we encountered our first harelipped child. The late Paul Ramsey tirelessly reminded us that we should not give ourselves a principle of permission to do what we want if the same principle permits the doing of what we abhor. A principle established by the scrupulous is no longer the exclusive property of the scrupulous. It is public and it is entrenched in practice, there to be exploited by others who view our abhorrence as no more

than irrational squeamishness.

We think of the Holocaust as a rampage of irrationality, but as we tend to overlook the banality of evil so also we overlook the rationality of evil. Consider a recent and acclaimed work in this area, *Science and the Unborn* by Clifford Grobstein. Dr. Grobstein is by no means a man of evil intention. On the contrary, he is a biologist and embryologist of distinction who, we are assured by noted bioethicists, possesses exquisitely attuned ethical sensitivities. Grobstein knows that a great weakness of the prochoice argument in the abortion debate is that it downplayed or dismissed concern about what it is, or who it is, that is being terminated in abortion. The American people, he recognizes, insist that that concern not be treated lightly.

As a scientist, Grobstein acknowledges that even the zygote, and of course the embryo, is “human to the core.” If abortion policy and policies that permit non-therapeutic experiments with the unborn are to be stabilized, they must be, he says, both rational and sensitive to the views of “a moral society.” Religious beliefs opposed to what Dr. Grobstein proposes are deemed by him to be irrational, especially if they are Roman Catholic or fundamentalist (he tends to conflate the two). Therefore a rational policy must finally be devised and implemented by experts in national and local commissions. Their task, says Grobstein, is one of “status assignment” with respect to who is and who is not to be treated as a person with rights. Not all who are given status assignment as human beings are also given “protective status assignment.” It depends on how they come out when measured by an index of “quality of life.”

Those who are in charge of assigning status can also reassign status. Grobstein is primarily concerned about the treatment and uses of the unborn, but he acknowledges that his approach also has clear implications for the reassignment of the born, especially the elderly and the gravely handicapped. Nonetheless, he assures us that “in the short term” the application of the approach he advocates can be limited to the early stages of life. It is important to note that the lethal use of the embryo, for example, does not diminish its human status, according to Grobstein. On the contrary, its human dignity is enhanced by its sacrifice of its life for the betterment of humanity through, for example, medical experiments and fertilization procedures.

A key component in Grobstein’s argument is deserving of most particular attention. He acknowledges that even the “preembryo” has “biological membership in the human community” and must be respected for its “profound potential” to become “an individual in the fullest sense, an undeniable person.” Then this: Such respect is appropriate “so long as [the unborn] has a reasonable probability of continuing development to become an infant and

then an adult.” But note: “The situation is transformed if, for whatever reason, a particular preembryo has no reasonable prospect of developing further.” And why does it have no reasonable prospect of developing further? The answer is very simple: Because we have decided to terminate it. We have not deprived it of its potential life because, by virtue of our decision, it had no potential life. In that case, Grobstein writes, the unborn “need only be assessed and valued for its then-existing properties without reference to what it might have become in a normal human life history.”

The doctrine being propounded could not be more clear: With respect to human dignity and human rights, the reality is what we define it to be. There are no prior rights that are there for us to respect. Rights are created by our assignment of rights. Grobstein explicitly states that the idea of “unalienable rights” endowed by Nature and Nature’s God can have no place in bioethical discussions. As philosophers might put it, the objects of abortion, medical experimentation, and other measures have no ontological status. They may have a social-political status if we choose to assign them such status. They are what we agree to say they are. And the “we” who do the agreeing are, when it comes down to it, the experts who are capable of making rational definitions untainted by the religious and other prejudices of what Grobstein calls “the frozen past.”

Clifford Grobstein and his argument are in the mainstream of current bioethical debates. We know they are in the mainstream because those who define the mainstream (e.g., Daniel Callahan and Richard McCormick) say they are in the mainstream. We might have chosen for illustrative purposes any number of other books or articles. It is not accurate to say that the argument advanced by Clifford Grobstein and others is reminiscent of the Nazi doctors. In critical respects, it is a replication of the argument advanced by the Nazi doctors. Those who remember remember where they heard this kind of reasoning before. Dr. Karl Brandt and his colleagues argued this way almost fifty years ago. At Nuremberg the civilized world rejected their argument. Now it seems that we are reconsidering that rejection. The suspicion may not be entirely unwarranted that, to the degree that we are reconsidering, we are the less civilized. I emphasize that the point here is not that abortion, embryo experiments, and other practices are morally equivalent to what was done in the Holocaust. There are many and important differences, and distinctions must be made. My point is simply that some justifying arguments for such practices today are very much like the arguments employed in the Holocaust, and that is reason for deepest concern.

In addressing connections between the Holocaust and contemporary bio-

ethical debates, I have tried to limit myself to similar habits of mind and patterns of reasoning. There are many other analogies that might have been mentioned, each of them worthy of an essay in its own right. For instance, the euphemized vocabulary of death, by which we employ language that conceals from ourselves and others what we are doing and what we are proposing to do. For another instance, the high stakes of wealth, power, and prestige that have been invested in current and developing technology and practice. And there is much else that is much like the Holocaust, but enough already.

I do not wish to end on a note suggesting despair. We should not grant Hitler a posthumous victory by succumbing to doctrines of historical or technological inevitability. Then is not now, and there is not here, and they are not us. The banality of evil speaks of the everydayness of evil, of decisions made day by day, on days no doubt much like this day. And remembering the banality of evil can remind us also of the banality of virtue. Virtue, as Aristotle tells us, is a matter of habits, and, as Dr. Johnson tells us, a matter of remembering. Our time is not so new as we sometimes like to think. Demystified of the techniques and the professional jargon, the hard questions facing us today are, at their heart, the questions faced by the prophets of old. Who is my neighbor? To whom am I neighbor? Recognizing this truth does not give us the answer to all our bioethical disputes, but it does keep before us the questions that we are answering.

The broken fences around the law can be repaired, and new fences can be erected. The safety rail surrounding the abyss can be strengthened. The signposts of Hippocrates and Nuremberg can be retrieved and refurbished. These things can be done; we cannot know whether they will be done. I confess that I draw encouragement from the way in which, in the last seventeen years, a democratic people, opposing almost every establishment of the society, has refused to acquiesce in the lethal illogic of *Roe v. Wade*. But there is still a very long way to go. Every step we take is shadowed by the Holocaust. The way they were is, in important respects, ominously like the way we are. But that past need not be our future. The very fact that there is a public discussion about contemporary bioethics and the Holocaust may be taken as a sign of determination that that not be our future.

Never again? We simply do not know. We do not need to know. Eliot had it right: "For us, there is only the trying. The rest is not our business."

APPENDIX A

[William McGurn is a columnist at the Wall Street Journal and an alumnus of Notre Dame. He delivered the following address April 23, 2009 at the Notre Dame Center for Ethics and Culture. It is reprinted with Mr. McGurn's permission.]

A Notre Dame Witness for Life

William McGurn

Good evening.

It is an honor to be with you on this campus. It is a joy to be here under the auspices of Notre Dame's Center for Ethics and Culture—and the Notre Dame Fund for the Protection of Human Life. This date has a special resonance for me: 13 years ago today, in a hotel room in a far part of the world, Chinese officials put a beautiful baby girl in my wife's arms—and I became a father.

The precipitate cause of our gathering tonight is the honor and platform our university has extended to a President whose policies reflect clear convictions about unborn life, and about the value the law ought to place on protecting that life. These convictions are not in doubt. In July 2007, the candidate spelled them out in a forceful address to a Planned Parenthood convention in our nation's capital.

Before that audience, he declared that a woman's "fundamental right" to an abortion was at stake in the coming election. He spoke about how he had "put Roe at the center" of his "lesson plan on reproductive freedom" when he was a professor—and how he would put it at the center of his agenda as president. He invoked his record in the Illinois state senate, where he fought restrictions on abortion, famously including one on partial-birth abortion. He said that the "first thing" he wanted to do as President was to "sign a Freedom of Choice Act." And he ended by assuring his audience that "on this fundamental issue," he, like they, would never yield.

These were his promises as a candidate. His actions as President—his key appointments, his judicial nominees, his lifting of restrictions on federal funding for abortion providers overseas, the green light given to the destruction of human embryos for research, his targeting of "conscience clause" protections for healthcare workers—all these actions are fully consistent with his promises. It is precisely this terrible consistency that makes it so dispiriting to see our university extend to this man her most public platform and an honorary doctorate of laws. There are good men and women working for an America where every child is welcomed in life and protected by law—and when they lift their eyes to Notre Dame, they ought to find inspiration.

So tonight our hearts carry a great sadness. But we do not come here this evening to rally against a speaker. We come to affirm the sacredness of life. And we come with a great hope: That a university founded under the patronage of Our Lady might be as consistent in the defense of her principles as the President of the United States has been for advancing his. In a nation wounded by Roe . . . in a society that sets mothers against the children they carry in their wombs . . . we come here

tonight because however much our hearts ache, they tell us this: Our church, our country, and our culture long for the life witness of Notre Dame.

What does it mean to be a witness? To be a witness, an institution must order itself so that all who look upon it see a consonance between its most profound truths and its most public actions. For a Catholic university in the 21st century, this requires that those placed in her most critical leadership positions—on the faculty, in the administration, on the board of trustees—share that mission. We must concede there is no guarantee that the young men and women who come here to learn will assent to her witness—but we must never forget that the university will have *failed* them if they leave here without at least understanding it. That is what it means to be a witness.

This witness is the only real reason for a University of Notre Dame. We believe that there *are* self-evident truths about the dignity of each human life, and that this dignity derives from our having been fashioned in our Creator's likeness. In this new century, these beliefs make *us* the counterculture. One does not need to be a Catholic to appreciate that abortion involves the brutal taking of innocent human life. To argue that this is a Catholic truth, or even a religious truth, is to overlook what science and sonograms tell us—and to insult the Protestants, Jews, Hindus, Buddhists, Muslims and, yes, even some atheists, who appreciate that a civilization which sanctions abortion as a human right is in some essential way writing its death warrant.

Over the years, the whole idea of truth—much less our ability to know it—has been rendered doubtful by the slow advance of a soft agnosticism that has itself become orthodoxy at so many universities. Not so at Notre Dame. All across this wondrous campus, we pass imagery that sings to us about the hope born of a Jewish woman in a Bethlehem stable. Yet we kid ourselves if we believe these images are self-sustaining. Without a witness that keeps these signposts alive, our crosses, statues, and stained-glass windows will ultimately fade into historical curiosities like the “Christo et ecclesiae” that survives to this day on buildings around Harvard Yard and the seal that still validates every Harvard degree.

For most of her life, Notre Dame has served as a symbol of a Catholic community struggling to find acceptance in America—and yearning to make our own contributions to this great experiment in ordered liberty. We identify with those who are poor and downtrodden and on the margins of acceptance because that is where the Gospel points—and because we remember whence came our own parents, grandparents, and great-grandparents.

If we are honest, however, we must admit that in many ways we—and the university that nurtured us—are now the rich and powerful and privileged ourselves. This is a form of success, and we need not be embarrassed by it. But we must be mindful of the greater responsibilities that come with this success.

For years this university has trumpeted her lay governance. So what does it say about the Notre Dame brand of leadership, that in the midst of a national debate over a decision that speaks to our Catholic identity, a debate in which thousands of

people across the country are standing up to declare themselves “yea” or “nay,” our trustees and fellows—the men and women who bear ultimate responsibility for this decision—remain as silent as Trappist monks? At a time when we are told to “engage” and hold “dialogue,” their timidity thunders across this campus. And what will history say of our billions in endowment if the richest Catholic university America has ever known cannot find it within herself to mount a public and spirited defense of the most defenseless among us?

In the past few weeks, we have read more than once the suggestion that to oppose this year’s speaker and honorary degree is to elevate politics over the proper work of a university. In many ways, we might say that such reasoning lies at the core of the confusion. As has become clear with America’s debates over the destruction of embryos for scientific research, over human cloning, over assisted suicide, and over other end-of-life issues, abortion as a legal right is less a single issue than an entire ethic that serves as the foundation stone for the culture of death.

With the idea that one human being has the right to take the life of another merely because the other’s life is inconvenient, our culture elevates into law the primacy of the strong over the weak. The discord that this year’s commencement has unleashed—between Notre Dame and the bishops, between members of the Notre Dame community, between Notre Dame and thousands of discouraged Catholic faithful—all this derives from an approach that for decades has treated abortion as one issue on a political scorecard. This is not the road to engagement. This is the route to incoherence, and we see its fruit everywhere in our public life.

Twenty-five years ago, on a similar stage on this campus, the then-governor of New York used his Notre Dame platform to advance the personally-opposed-but defense that countless numbers of Catholic politicians have used to paper over their surrender to legalized abortion. Eight years after that, the school bestowed the Laetare Medal on a United States Senator who had likewise long since cut his conscience to fit the abortion fashion.

Today we have evolved. Let us note that the present controversy comes at a moment where the incoherence of the Catholic witness in American public life is on view at the highest levels of our government. Today we have a Catholic vice president, a Catholic Speaker of the House, a Catholic nominee for Secretary of Health and Human Services, and so on. These are America’s most prominent Catholics. And they have one thing in common: The assertion that the legal right to terminate a pregnancy—in the chilling euphemism of the day—must remain inviolable.

For those who think this a partisan point, let us stipulate for the record one of the curiosities of the Republican Party. Notwithstanding the party’s prolife credentials, at the level of possible Presidential contenders, the most prominent pro-choice voices in the GOP arguably belong to *Catholics*: from the former Republican mayor and governor of New York, to the Republican Governor of California, the Republican former governor of Pennsylvania, and so on. Notre Dame must recognize these realities—and the role she has played in bringing us to this day by treating abortion as a political difference rather than the intrinsic evil it is.

In his writings, Pope John Paul II noted the awful contradiction of our times, when more and more legal codes speak of human rights while making the freedom to deprive the innocent of their lives one of those rights. Several times he uses the word “sinister” to characterize the enshrinement of abortion as a legal right. And he states that all pleas for other important human rights are “false and illusory” if we do not defend with “maximum determination” the fundamental right to life upon which all other rights rest.

Maximum determination. Ladies and gentlemen, the unborn child’s right to life represents the defining civil rights issue of our day—and it ought to be a defining civil rights issue on this campus.

This is not a popular witness. In our country, those who take it must expect ridicule and derision and a deliberate distortion of our views. In our culture, so many of our most powerful and influential institutions are hostile to any hint that abortion might be an unsettled question. And in our public life, one of the most pernicious effects of the imposition of abortion via the Supreme Court is that it has deprived a free people of a fair and open debate. Notre Dame remains one of the few institutions capable of providing a witness for life in the fullness of its beauty and intellectual integrity—and America is waiting to hear her voice.

Those who say that as Notre Dame engages the world, she cannot expect her guests to share all her beliefs are right. But that is not the issue. The issue is *that* we engage them. Think of how we would have treated an elected Senator or President or Governor whose principles and actions were given over to seeing that segregation enjoyed the full and unqualified protection of American law. We would have been cordial . . . we would have been gracious . . . we would have been more than willing to debate—but we would have betrayed our witness if ever we brought them here on the idea that all that divided us was one political issue.

My friends, the good news is that the witness for life is alive at Notre Dame. We see this witness in the good work of teachers here in this room. We see this witness in the new Notre Dame Fund to Protect Human Life. I have seen this witness in a very personal way, on the cold gym floor of a suburban parochial school on the outskirts of Washington—where 200-plus students spent a freezing January night just so they could raise the Notre Dame banner at the annual March for Life. These are but a handful of the wonderful things going on at this campus. And we know that this witness exists too in the other, unheralded acts of love designed to ensure that the unwed sophomore who kneels before the Grotto with an unexpected pregnancy weighing on her mind has a better choice than the cold front door of a Planned Parenthood clinic.

Unfortunately, people across this nation—and perhaps even here at this university—know little of these things. And they do not know because the university keeps this lamp under a basket. In her most public witness, Notre Dame appears afraid to extend to the cause of the unborn the same enthusiasm she shows for so many other good works here.

If, for example, you click onto www.nd.edu, you will often find a link for the

Office of Sustainability, which happily informs you about all the things Notre Dame is doing to be green-friendly. You will find another link that defines the university with a series of videos that ask, “What would you fight for?” Each home game during the football season, NBC broadcasts one of these videos. There are more than a dozen of them—each highlighting members of the Notre Dame community who are fighting for justice, fighting for advances in medicine, fighting for new immigrants, and so forth.

Imagine the witness that Notre Dame might provide on a fall afternoon, if millions of Americans who had sat down to watch a football game suddenly found themselves face to face with a Notre Dame professor or student standing up to say, “I fight for the unborn.”

Even more important, imagine the larger witness for life that would come from putting first things first. So often we find support for abortion rights measured against decisions involving war, capital punishment, and so on. All these issues deserve more serious treatment. But the debate over these prudential judgments loses coherence if on the intrinsic evil of abortion we do not stand on the same ground. What a challenge Notre Dame would pose to our culture if she stood united on this proposition: The unborn belong to no political party . . . no human right is safe when their right to life is denied . . . and we will accept no calculus of justice that seeks to trade that right to life for any other.

Now, there are different paths to this witness—and many who say they share it maintain their only problem is with the prolife movement itself: It’s too Republican, it’s not effective, it’s too militant, and so forth. We who are prolife must admit that some of these criticisms have an element of truth. Yet those who advance them must also acknowledge that in practice such criticisms often serve not to strike out a bold new path for a more informed witness, but to rationalize a preference for remaining on the sidelines.

Tonight I ask our proliferators to open up the dialogue to your professors and classmates. Invite them in. Say to them: “Brothers! Sisters! We are not perfect, and we will be much improved by your participation. We are holding a place for you on the front lines. Come join us—and let us walk together in our witness for life.”

I appreciate that for some people, the idea of Notre Dame as an unequivocal witness for the unborn would be a limit on her work as a Catholic university. The truth is just the opposite. The more frank and forthright Notre Dame’s witness for life, the more she would be given the benefit of the doubt on the many judgment calls that the life of a great university entails. At this hour in our nation’s life, America thirsts for an alternative to the relativism that leaves so many of our young people feeling empty and alone. This alternative is the Catholic witness that Notre Dame was *created* to provide . . . that Notre Dame is *called* to provide . . . and that in many ways, only Notre Dame *can* provide.

Let me end with a story about one of our family. His name is John Raphael; he belongs to the Class of ’89; and he’s an African-American who runs a high school in New Orleans. He’s also a Josephite priest.

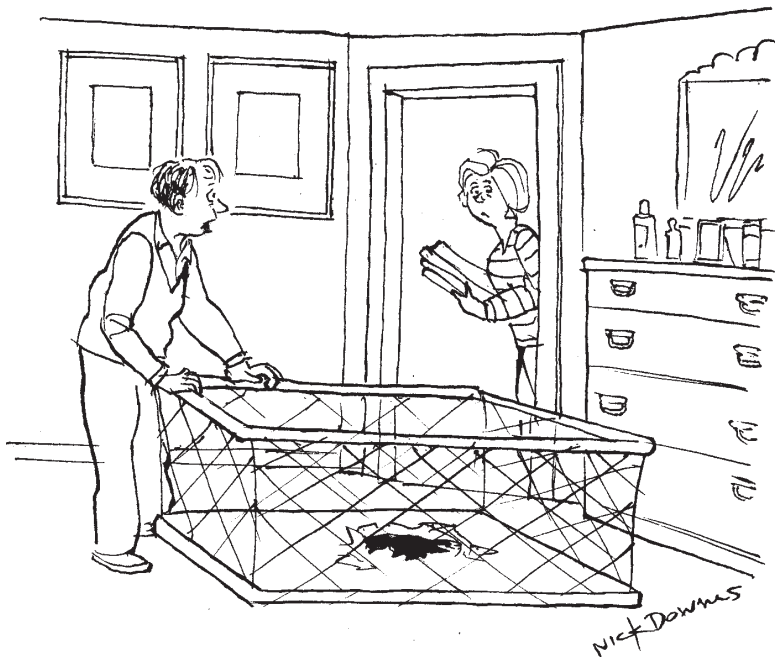
APPENDIX A

In his ministry, Father Raphael knows what it is like to answer the knock on his office door and find a woman consumed by the understandable fears that attend an unplanned pregnancy. He says that one of the greatest lessons he learned about how to respond to these women came from a friend of his, who had come to him in the same circumstances. The woman was an unmarried college student, and she told him what had surprised and hurt her most was how many friends greeted her news by saying, “Oh, that’s terrible.”

“That young lady taught me something,” says Father Raphael. “She taught me that what these women need first and foremost is to have their motherhood affirmed. For too many women, this affirmation never comes. We need to let these mothers know what their hearts are already telling them: you may have made a mistake, but the life growing within you is no mistake. That life is your baby, waiting to love and be loved.”

My young friends, this night I ask you: Make yours the voice that affirms life and motherhood. Be to those in need as the words of our alma mater: tender . . . strong . . . and true. And in your every word and deed, let the world see a reflection of the hope that led a French-born priest in the north woods of Indiana to raise Our Lady atop a dome of gold.

I thank you for your invitation. I applaud your courage. And as we go forth this evening, let us pray that our beloved university becomes the Notre Dame our world so desperately needs: a witness for life that will truly shake down the thunder. God bless you all.



“He’s tunneled out!”

APPENDIX B

[*Kathryn Jean Lopez, a syndicated columnist, is editor of National Review Online, where this essay appeared January 23, 2009 (nationalreview.com). Reprinted with permission.*]

Life on the Mall

Kathryn Jean Lopez

On the 36th anniversary of the Supreme Court decision that made abortion legal in the United States, I stood, for a while, just about exactly where I stood during the so-called March for Women's Lives the "pro-choice" crowd had in April 2004. That was back in the Bush years, and it was an election year to boot; their rally was a bit of a pre-Democratic convention, since the Democrats then as now are in the pocket of the abortion industry. (The late Governor Bob Casey remains an exception, and an inspiring model. Today, President Barack Obama even has a former EMILY's List leader as his spokeswoman.)

On Thursday, a display of despair and anger wouldn't have shocked me. After all, Barack Obama, who has demonstrated a tolerance for infanticide, is president of the United States. The Speaker of the House is a Catholic who makes up her own theology with hubris. I could go on: Obama has promised a sweepingly radical piece of legislation that would threaten the very existence of many religious medical entities that our country depends on, striking a blow to religious liberty. Only the economic debacle has put that on the back burner. Maybe political pragmatism will keep it there, if Obama's left flank will put up with it.

But I walked the whole March. I walked the March from the Mall to the Supreme Court after attending the pre-rally. I walked the March and hung around on the House side of the Capitol for a little while. The only display of anger I saw came from a woman walking a block away from the Supreme Court with a big round "Keep Abortion Legal" sticker from the National Organization for Women. She was furious, saying to a friend, "They don't care about human rights. I can't believe all these people. They just care about babies."

Of course they care about babies. Some of them have had a lot of them, and brought some of them along; others look on with joy at the families. But it is because they know these babies are human—which shouldn't be in dispute, though it seemed to be back when Obama was in the statehouse arguing that a newborn shouldn't have the same rights as an older baby—that they care about this issue.

And that message—that this is a human-rights issue and men, women, and children deserve better than a culture that values the legal "choice" of abortion over all other values, including compassion and common decency—was emanating from the March for Life this year, and so many of the events surrounding it. "Healing" had a big presence there.

When I made my way over to the Supreme Court Thursday afternoon—hours after I expected to, there were just so many people; people, mercifully, it was a joy to be around—a middle-aged guy named Chuck was talking about his great regret: that he did not "protect" his girlfriend and their child. She needed reassurance

when she got pregnant and he knew it. But instead, he gave her none and let her abort their child. He said that the momentary relief he felt as a young man that he had no baby to be responsible for doesn't compare to the guilt he has felt for shirking his responsibility and letting that child be eliminated. But that child has not been eliminated from his memory—and, by telling people his story, Chuck may be able to make a difference in a lot of lives.

As I listened to him, and to a seemingly endless stream of women (organized by Silent No More) who told their abortion stories of wrong choices and false choices—“No one tried to stop me”—I couldn't help but keep flashing back to that March for Women's Lives. At a pre-rally event then, California congresswoman Maxine Waters told George W. Bush to “go to hell.” The march itself was a sea of crass signs (many playing on the then-president's name) and anger. On a post-rally ride home, women talked—casually and openly, sitting in front of me—about how they wished Barbara Bush had aborted her son who would be president. But at the March for Life 2009, whether at one of the many pre-event prayer services or at the main event, what I saw was a whole lot of love. Even in the face of the Freedom of Choice Act, which is increasingly becoming a rallying point in churches, especially Catholic ones—the bishops' conference has initiated a postcard campaign—there was hope that Barack Obama might be affected by reason, the office, a respect for liberty . . . a miracle. So many of the people gathered told me matter-of-factly that they are praying for Barack Obama. That he may see what they see. They don't wish Barack Obama's mother had aborted him; they celebrate (and pray that he will be affected by) the fact that she didn't.

I don't mean to paint the March for Life crowd as a gathering of saints. There are sinners on all sides. But it was striking to me that even the worst signs—usually invoking Hitler or a holocaust or graphic images of aborted children—were not malicious. And if you could describe them as angry, it was anger over the death of innocents being condoned and codified in American law. That is something to be angry about.

And yet, the overwhelming attitude at the March was hope for change. And it was no mere political hope. There was a lot of praying happening. And while Obama's holding off (at this writing) on repealing the Mexico City Policy, which prohibits the federal funding of abortions overseas, may have been born of mere political pragmatism, that, too, could feed their continued hope.

But this wasn't, either, only a religious rally. It was a youth rally. Thousands packed the Verizon Center for a pre-march Mass and rally. Down the block from the Supreme Court, a boys' high school got warm on the cold winter day with an impromptu juggling demonstration and pep rally. While jammed shoulder to shoulder on the Mall, as their marching couldn't begin because there were just so many people, a few teenage girls played one of those nonsense games they play, different but fundamentally the same from generation to generation.

And so my mind wandered again—this time, to the youth inaugural ball earlier this week. There, President Obama talked up the role of youth as a political

movement, specifically in getting him elected. And then later, while bustin' a few moves, he announced, "That's what's called old school." Well, even with the introduction of an attempt to get a headcount by text messaging, there was something very old school about this. A great many of the people who gathered on the Mall Thursday know that the culture is never going to change unless behaviors change, individual by individual: One by one, young people need to choose to live differently from what they see on TV and in headlines and statistics. And it's already showing signs of happening.

High-schoolers get on buses and go to Washington in support of life, because they've seen the way their parents live or they've got the backing of a solid moral education, given by parents, church, and/or school. Folks from all over (Nebraska to Virginia to Rhode Island to Alabama, I saw) brought their young children and their priests and religious sisters with them. They know that this is work that starts at home, at school, and at prayer. Ultimately, the work will be done by these youngsters. Speaking at the pre-march rally, Sen. David Vitter (R., La.) downplayed the ultimate importance of Congress in this effort, and urged the under-30 crowd to continue their "fighting, working, and praying" to "win the hearts and minds of your fellow young Americans."

Finally, the March for Life 2009 was a true "march for women's lives." *Ms. Magazine* got some attention—and grief—recently for putting Barack Obama on its cover in a Superman pose and announcing "This Is What a Feminist Looks Like." After these last few days in Washington—and knowing what I know about the beauty of the Catholic view of women—I'm tempted to do the same with, say, Pope Benedict. At the very first event I attended, Cardinal Justin Rigali of Philadelphia talked about "healing mercy" and the great damage abortion does to women. If you haven't experienced it yourself, or seen it in the life of a close friend or family member, all you need to do to realize the harm abortion does to women is browse around the net. As much as the "choice" crowd claims to care about women, they in fact cast aside and shun the big picture of what's good for women's lives—in terms of moral, mental, and physical health. In 2009, a girl can have a chemical abortion in her bedroom. She's perfectly free to do that, to take a human life and flush it herself—but at what cost to her, to that second life, and to a nation founded on a principle of life?

There was a lot of praying happening in Washington in the March for Life crowd, and it was not just for the babies who have been, are, and will be dying. It was for the suffering women and men among us, that they might be healed and testify to what they've experienced, and thus help others; and for our country, that through freedom of assembly and speech and a democratic process, abortion, too, might be "overcome, someday."

APPENDIX C

[*Frederica Mathewes-Green writes regularly for NPR's Morning Edition, Beliefnet.com, Christianity Today, and other publications. She is the author of Gender: Men, Women, Sex and Feminism, among other books. The following essay appeared on National Review Online January 23, 2009 and is reprinted with permission.*]

Roe v. Wade at 36

Frederica Mathewes-Green

Just two days after the inauguration, another crowd filled Washington's streets: pro-lifers who gather each year for the March for Life. January 22 marked the 36th anniversary of *Roe v. Wade*, and, after so many years with little change or improvement in abortion law, the nation has grown a bit blasé about this annual demonstration. We still say abortion is a hot issue—but it's not as hot as it used to be. The abortion controversy used to command cover space on magazines, while TV networks hosted hour-long debates. You don't see that any more.

Maybe people just got tired of hearing about it. Year after year, the two sides said mostly the same thing—and nothing much changed. Eventually, public attention was bound to sidle off to some new, more exciting topic (gay marriage, anyone?). When attention drifted, it was the pro-choice side that had command of the status quo.

And you could say that settles that; from now on there will be less and less talk about abortion, and we'll just get used to things the way they are.

But I can imagine things going a different way. Not soon—maybe not till the baby boomers have passed from the scene—but it's possible that a younger generation will see abortion differently. With abortions now running around 1.2 million per year, the total number of abortions since *Roe v. Wade* is about 49 million. That's a big number—about a sixth of the U.S. population. It's an especially big number if you're not absolutely sure that it's not a real loss of human life.

After all, if you see a little girl hit by a car, you're going to yell, "Get an ambulance!" not "Get a shovel!" It's in the very fabric of humanity to be on the side of life if there's the faintest hope that life exists. We don't throw children away when we're not sure whether they're alive or not. And, as the pro-choice side never stops saying, it's not that they're positive a fetus is not alive—it's that they're not sure. As the cliché goes, "Nobody knows when life begins."

When I was a young, fire-breathing college feminist in the early 1970s, we didn't see abortion as a melancholy private decision—it was an act of liberation. By choosing abortion, a woman could show that she was the only person in charge of her life and bowed to no one else's control. But this formulation soured as the grief felt by post-abortion women began to accumulate. The flip side of autonomy is loneliness, and, for many women, their abortion decision was linked to emotional abandonment.

And then there was the advent of ultrasound technology, enabling us to see live images of the baby moving in the womb. In 1989, word went round the pro-life

movement to order the taping of pollster Harrison Hickman's presentation at that year's NARAL convention. On it he said, "Nothing has been as damaging to our cause as the advances in technology which have allowed pictures of the developing fetus, because people now talk about that fetus in much different terms than they did 15 years ago. They talk about it as a human being, which is not something that I have an easy answer how to cure."

So there are some reasons to think that the abortion question has not been settled, but has merely gone underground. That might be a necessary step. It has to go away so that it can be rediscovered and seen in a fresh light.

I don't expect that reconsideration soon: My boomer generation will never see abortion as anything other than the wise and benevolent gift we bestowed on all future generations. We still control the media, the universities, and so forth, and it will take time for all of us to topple off the end of the conveyor belt.

But the time is coming when a younger generation will be in charge, and they may well see abortion differently. They could see it not as "a woman's choice" but as a form of state-sanctioned violence inflicted on their generation. It was their brothers and sisters who died; anyone under the age of 36 could have been aborted, and somewhere around a fourth or a fifth of all babies are. A younger generation might feel a strange kinship with the brothers and sisters, classmates and coworkers, who are missing.

And I'm afraid that if they do see things that way, they aren't going to go easy on my generation. Our acceptance of abortion is not going to look like an understandable goof. The next generation can fairly say, "It's not like they didn't know." They'll say, "After all, they had sonograms."

Even in my generation, people who think of themselves as defenders of the weak and the oppressed may occasionally have a quiet moment when they wonder, "How, on this one issue, did I wind up on the side that's defending death?"

There's a lot of ambivalence out there, and a lot of unspoken grief too, I think. Our pro-choice generation may have won the day—but sooner or later, that day will end. No generation can rule from the grave. When that time comes, another generation will sit in judgment on ours. And they may judge us to be monsters.

APPENDIX D

[Clarke D. Forsythe is Senior Counsel with Americans United for Life (AUL), Chicago. His book, *Politics for the Greatest Good: The Case for Prudence in the Public Square*, will be published by InterVarsity Press in May 2009.]

Zeal plus Prudence Equals Effectiveness

Clarke D. Forsythe

William Wilberforce:

The Life of the Great Anti-Slave Trade Campaigner

William Hague (Harcourt, 582 pp., \$35)

William Wilberforce was the pivotal member of the British Parliament who led the 45-year political campaign to abolish the slave trade and emancipate the slaves. The 2007 movie *Amazing Grace* portrays only the first 20 years of that struggle, 1787-1807, when the target was the slave trade. But Wilberforce and his allies devoted much of the next 25 years, 1807-33, to the abolition of slavery itself.

After three biographies—Coupland, Furneaux, and Pollock—in the 20th century, and two more—Belmonte and Metaxas—in the past few years, I was skeptical that another biography of William Wilberforce was needed.

But William Hague, the former leader of the Conservative Party in Britain, supplies at least two compelling elements that no previous biographer has brought to the study of Wilberforce—the keen political insight of an experienced member of Parliament and what is easily the best concluding synthesis of Wilberforce’s enormous qualities and the reasons for his success.

Other biographers devote more attention to Wilberforce’s family life, his numerous philanthropic projects, his network that reached into virtually every sector of British society, his strategy to reform the morals of the upper classes, his evangelical faith, and his perseverance in the face of lifelong chronic illnesses. Hague does a fine job of concisely treating all of these, but what Hague provides is a true *political* biography—and he manages to do this without disregarding Wilberforce’s faith and the transforming power that it had in his personal and political life.

For those who are interested in how political movements succeed, Hague explains how Wilberforce became an extraordinary political leader, his significance in the context of the broader antislavery movement, and how his legislative and political strategy was eventually successful over five decades.

Hague uses the word “prudence” only once, but his entire analysis is informed by that moral and intellectual virtue. Prudence is practical wisdom. Revered by Socrates, Aristotle, and Thomas Aquinas as the preeminent of the four cardinal virtues, prudence has, in our time, either been buried in clichés (“settling for half a loaf,” “getting what you can get”) or confused with other terms (moderation, caution, gradualism, incrementalism).

As an intellectual virtue, political prudence challenges political leaders and

activists with four questions: Are they pursuing good goals? Do they exercise wise judgment as to what's possible? Do they successfully connect means to ends? Do they preserve the possibility of future progress when the ideal cannot be immediately achieved?

To achieve some political good in this world of limits and constraints, zeal is necessary but never sufficient. Political activists often have zeal in abundance but lack prudence—practical political wisdom. Prudence requires an acute understanding of the obstacles facing political leaders.

What Hague brings to his study of Wilberforce is precisely this acute understanding of political context and constraints. The *Daily Telegraph* aptly captured Hague's singular contribution to the study of Wilberforce: "informed by a nuanced sense of what was and was not politically possible at that moment . . ."

Hague illuminates the many obstacles Wilberforce faced—including a divided cabinet, the West Indian lobby, the royal family, merchants in Liverpool and Bristol and the members of Parliament who represented their interests, and the change-resistant House of Lords. In addition, there were unpredictable military, political, and economic crises that frequently derailed Wilberforce's attempt to keep the slave trade at the center of political life. The Revolution in France—"the defining political event of the age"—cast a pall over all reform efforts in England. The 20-year war with France was the primary obstacle in the mid-1790s, and this was complicated by "the disastrous harvest of 1799," which "inaugurated a period of spiraling food prices and grain shortages, which exacerbated popular discontent with the government and with the war."

Hague explains, better than other biographers do, some of Wilberforce's particular strengths. For example, he describes the power of Wilberforce's inaugural speech against the slave trade in May 1789, with a detailed analysis of how the speech (which he calls "one of the true masterpieces of parliamentary oratory") exemplified superior standards of rhetoric. And he points to some of Wilberforce's "attributes [that] would become lifelong characteristics of a great campaigner: steady persistence and a step-by-step accumulation of small additions towards his goal." Wilberforce pursued complete abolition while simultaneously supporting regulations that reduced the slave trade when it could not be prohibited—such as the 1788 regulations limiting "the number of slaves that could be carried on a ship to one for each ton of the vessel."

Hague also explains with great clarity the significance of the "neutral flags" strategy that Wilberforce and James Stephen pursued in 1806-07 to bring the campaign against the slave trade to its successful conclusion—"a classic incremental strategy."

With "a most unusual combination of qualities"—"a thirst for truth, an ability to win allies across the political spectrum, a refusal to accept defeat so strong as to be an inability to do so, a command of parliamentary oratory, and an understanding of how to anchor detailed and practical arguments in the context of great moral force"—Wilberforce persevered against tremendous odds with character and integrity.

APPENDIX D

In a year of political anxiety and uncertainty, Hague's *Wilberforce* is an inspiring read of great insight that's worth thoughtful study by those who aspire to create political change.



"I just love these interludes between collapses of major financial institutions."

APPENDIX E

[Wesley J. Smith is a Senior Fellow in Human Rights and Bioethics at the Discovery Institute, associate director of the International Task Force on Euthanasia and Assisted Suicide, and a special consultant to the Center for Bioethics and Culture. The following originally appeared in *The Weekly Standard* online edition, March 12, 2009. © Copyright 2009, News Corporation, *Weekly Standard*, All Rights Reserved.]

Stem-Cell Doubletalk

Wesley J. Smith

President Obama has often claimed that his administration will pursue policies designed to breach the cultural and political divides that rend our country. He has also promised to bring “transparency” to the principal actions of his administration. Unfortunately, the president violated both of these assurances in his recent executive order on embryonic stem-cell funding.

The mainstream media—still obsessed with discrediting all things “Bush”—focused gleefully on the expected rescission of the restriction that under Bush limited federal funding to embryonic stem cell lines in existence on August 9, 2001. But opening up all existing and future embryonic stem cell lines to federal funding is not all that Obama did. While he made no mention of it in his widely covered East Room speech, a quiet press release issued on Monday stated that in addition to the above change, “Executive Order 13435 of June 20, 2007, which supplements the August 9, 2001, statement on human embryonic stem cell research, is revoked.”

That opaque notice tells us absolutely nothing. But a little research makes clear why the administration was so terse: The 2007 executive order required the government to make a point of funding what are known as “alternative methods” for obtaining pluripotent stem cells. These are procedures that don’t require the destruction of embryos to derive these powerful cells, which are theoretically able to become any tissue in the body. It is this capacity that scientists say makes embryonic stem cells so valuable.

And indeed, the big news in biotechnology in 2007-08—proving the wisdom of the Bush policy—was the development of a technique known as “cell reprogramming,” in which ordinary human skin and other cells are transformed into “induced pluripotent stem cells” (iPSC). This achievement and subsequent advances in research were deemed so impressive and important that the journal *Science* named the development of the iPSC as the scientific “breakthrough of the year” for 2008.

What makes Obama’s stealth action so maddening is that he claimed to support “groundbreaking work to convert ordinary human cells into ones that resemble embryonic stem cells” in his stem-cell speech. But what he *did* was eradicate the very executive order that guaranteed that such science would be federally funded—an order that as far as I know nobody was lobbying to revoke.

As criticism of Obama’s betrayal of alternative sources has slowly bubbled up in cyberspace, some have claimed that he “had” to rescind the order because it

contained a clause describing embryos as human life. Here is the offending text from the Bush 2007 executive order:

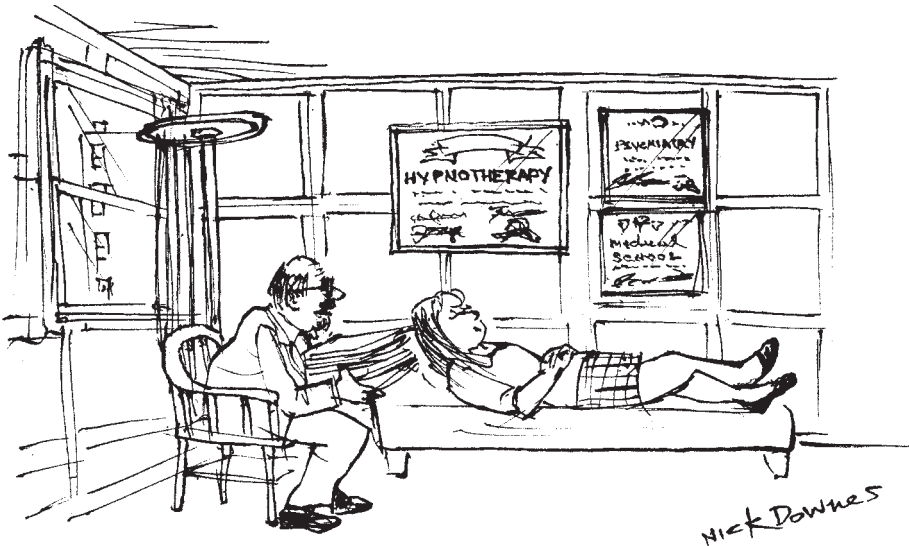
Section 2 (d) human embryos and fetuses, as living members of the human species, are not raw materials to be exploited or commodities to be bought and sold;

But that clause is not only accurate biology—human embryos and fetuses are not Martian, after all—but also *reflects federal law*. Besides, if telling the biological truth in an executive order so seared the delicate Obama sensibility, he could have reissued the alternatives-funding order omitting the biological facts about nascent human life—and then publicized it as an example of a bridge across the cultural divide that he has promised to erect.

I can think of only two reasons for this unwarranted revocation: vindictiveness against all things “Bush” or considered by the left to be “pro-life”; or a desire to get the public to view unborn human life as morally akin to a crop ripe for the harvest so as to open the door to funding destructive embryo and human cloning research—actions advocated, not coincidentally, by the *New York Times* in the immediate wake of Obama’s stem-cell executive order.

Wait, there’s a third potential reason: both of the above.

President Obama’s silent revocation of alternative-methods funding as a special project of the federal government betrayed the concerted attempts made over the last eight years to find a common way forward in one of the most ethically contentious areas of biotechnological research. So much for bridging the country’s cultural and political divides. So much for transparency in governance. So much for taking the politics out of science.



“Now, on the count of three, you will awaken and do some light filing, answer the phone, make copies—that sort of thing.”

APPENDIX F

[*David P. Goldman is an associate editor of First Things. This article is reprinted with permission. © Copyright 2009 First Things (May 2009).*]

Demographics & Depression

David P. Goldman

Three generations of economists immersed themselves in study of the Great Depression, determined to prevent a recurrence of the awful events of the 1930s. And as our current financial crisis began to unfold in 2008, policymakers did everything that those economists prescribed. Following John Maynard Keynes, President Bush and President Obama each offered a fiscal stimulus. The Federal Reserve maintained confidence in the financial system, increased the money supply, and lowered interest rates. The major industrial nations worked together, rather than at cross purposes as they had in the early 1930s.

In other words, the government tried to do everything right, but everything continues to go wrong. We labored hard and traveled long to avoid a new depression, but one seems to have found us, nonetheless.

So is this something outside the lesson book of the Great Depression? Most officials and economists argue that, until home prices stabilize, necrosis will continue to spread through the assets of the financial system, and consumers will continue to restrict spending. The sources of the present crisis reach into the capillary system of the economy: the most basic decisions and requirements of American households. All the apparatus of financial engineering is helpless beside the simple issue of household decisions about shelter. We are in the most democratic of economic crises, and it stems directly from the character of our people.

Part of the problem in seeing this may be that we are transfixed by the dense technicalities of credit flow, the new varieties of toxic assets, and the endless iterations of financial restructuring. Sometimes it helps to look at the world with a kind of simplicity. Think of it this way: Credit markets derive from the cycle of human life. Young people need to borrow capital to start families and businesses; old people need to earn income on the capital they have saved. We invest our retirement savings in the formation of new households. All the armamentarium of modern capital markets boils down to investing in a new generation so that they will provide for us when we are old.

To understand the bleeding in the housing market, then, we need to examine the population of prospective homebuyers whose millions of individual decisions determine whether the economy will recover. Families with children are the fulcrum of the housing market. Because single-parent families tend to be poor, the buying power is concentrated in two-parent families with children.

Now, consider this fact: America's population has risen from 200 million to 300 million since 1970, while the total number of two-parent families with children is the same today as it was when Richard Nixon took office, at 25 million. In 1973, the United States had 36 million housing units with three or more bedrooms, not

many more than the number of two-parent families with children—which means that the supply of family homes was roughly in line with the number of families. By 2005, the number of housing units with three or more bedrooms had doubled to 72 million, though America had the same number of two-parent families with children.

The number of two-parent families with children, the kind of household that requires and can afford a large home, has remained essentially stagnant since 1963, according to the Census Bureau. Between 1963 and 2005, to be sure, the total number of what the Census Bureau categorizes as families grew from 47 million to 77 million. But most of the increase is due to families without children, including what are sometimes rather strangely called “one-person families.”

In place of traditional two-parent families with children, America has seen enormous growth in one-parent families and childless families. The number of one-parent families with children has tripled. Dependent children formed half the U.S. population in 1960, and they add up to only 30 percent today. The dependent elderly doubled as a proportion of the population, from 15 percent in 1960 to 30 percent today.

If capital markets derive from the cycle of human life, what happens if the cycle goes wrong? Investors may be *unreasonably* panicked about the future, and governments can allay this panic by guaranteeing bank deposits, increasing incentives to invest, and so forth. But something different is in play when investors are *reasonably* panicked. What if there really is something wrong with our future—if the next generation fails to appear in sufficient numbers? The answer is that we get poorer.

The declining demographics of the traditional American family raise a dismal possibility: Perhaps the world is poorer now because the present generation did not bother to rear a new generation. All else is bookkeeping and ultimately trivial. This unwelcome and unprecedented change underlies the present global economic crisis. We are grayer, and less fecund, and as a result we are poorer, and will get poorer still—no matter what economic policies we put in place.

We could put this another way: America’s housing market collapsed because conservatives lost the culture wars even back while they were prevailing in electoral politics. During the past half century America has changed from a nation in which most households had two parents with young children. We are now a *mélange* of alternative arrangements in which the nuclear family is merely a niche phenomenon. By 2025, single-person households may outnumber families with children.

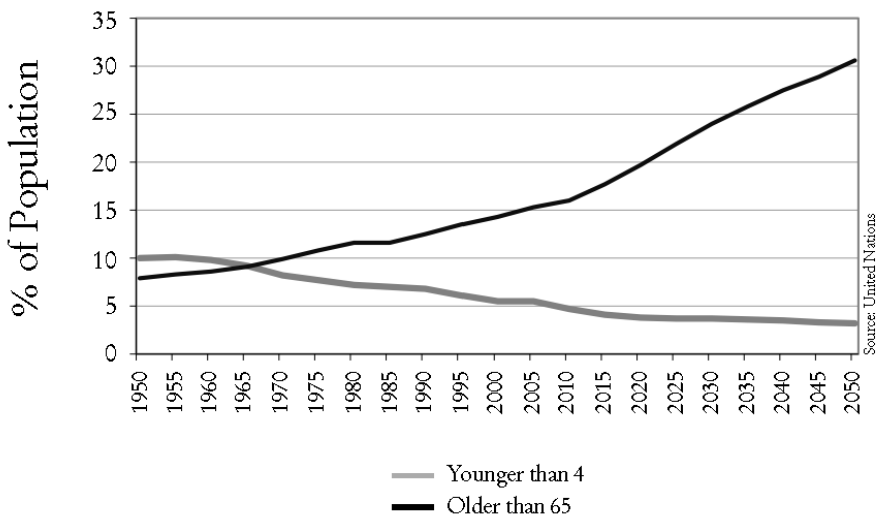
The collapse of home prices and the knock-on effects on the banking system stem from the shrinking count of families that require houses. It is no accident that the housing market—the economic sector most sensitive to demographics—was the epicenter of the economic crisis. In fact, demographers have been predicting a housing crash for years due to the demographics of diminishing demand. Wall Street and Washington merely succeeded in prolonging the housing bubble for a few additional years. The adverse demographics arising from cultural decay, though, portend far graver consequences for the funding of health and retirement systems.

Conservatives have indulged in self-congratulation over the quarter-century run of growth that began in 1984 with the Reagan administration's tax reforms. A prosperity that fails to rear a new generation in sufficient number is hollow, as we have learned to our detriment during the past year. Compared to Japan and most European countries, which face demographic catastrophe, America's position seems relatively strong, but that strength is only postponing the reckoning by keeping the world's capital flowing into the U.S. mortgage market right up until the crash at the end of 2007.

As long as conservative leaders delivered economic growth, family issues were relegated to Sunday rhetoric. Of course, conservative thinkers never actually proposed to measure the movement's success solely in units of gross domestic product, or square feet per home, or cubic displacement of the average automobile engine. But delivering consumer goods was what conservatives seemed to do well, and they rode the momentum of the Reagan boom.

Until now. Our children are our wealth. Too few of them are seated around America's common table, and it is their absence that makes us poor. Not only the absolute count of children, to be sure, but also the shrinking proportion of children raised with the moral material advantages of two-parent families diminishes our prospects. The capital markets have reduced the value of homeowners' equity by \$8 trillion and of stocks by \$7 trillion. Households with a provider aged 45 to 54 have lost half their net worth between 2004 and 2009, according to Dean Baker of the Center for Economic and Policy Research. There are ways to ameliorate the financial crisis, but none of them will replace the lives that should have been part of America and now are missed.

Population by Age in Advanced Nations



This suggests that nothing economic policy can do will entirely reverse the great wave of wealth destruction. President Obama made *hope* the watchword of his campaign, but there is less for which to hope, largely because of the economic impact of the lifestyle choices favored by the same young people who were so enthusiastic for Obama. The Reagan reforms created new markets and financing techniques and put enormous amounts of leverage at the disposal of businesses and households. The 1980s saw the creation of a mortgage-backed securities market that turned the American home into a ready source of capital, the emergence of a high-yield bond market that allowed new companies to issue debt, and the expansion of private equity. These financing techniques contributed mightily to the great expansion of 1984–2008, and they were the same instruments that would wreak ruin on the financial system. During the 1980s the baby boomers were in their twenties and thirties, when families are supposed to take on debt; twenty years later, the baby boomers were in their fifties and sixties, when families are supposed to save for retirement. The elixir of youth turned toxic for the aging.

Unless we restore the traditional family to a central position in American life, we cannot expect to return to the kind of wealth accumulation that characterized the 1980s and 1990s. Theoretically, we might recruit immigrants to replace the children we did not rear, or we might invest capital overseas with the children of other countries. From the standpoint of economic policy, neither of those possibilities can be dismissed. But the contributions of immigration or capital export will be marginal at best compared to the central issue of whether the demographics of America reverts to health.

Life is sacred for its own sake. It is not an instrument to provide us with fatter IRAs or better real-estate values. But it is fair to point out that wealth depends ultimately on the natural order of human life. Failing to rear a new generation in sufficient numbers to replace the present one violates that order, and it has consequences for wealth, among many other things. Americans who rejected the mild yoke of family responsibility in pursuit of atavistic enjoyment will find at last that this is not to be theirs, either.

It will be painful for conservatives to admit that things were not well with America under the Republican watch, at least not at the family level. From 1954 to 1970, for example, half or more of households contained two parents and one or more children under the age of eighteen. In fact as well as in popular culture, the two-parent nuclear family formed the normative American household. By 1981, when Ronald Reagan took office, two-parent households had fallen to just over two-fifths of the total. Today, less than a third of American households constitute a two-parent nuclear family with children.

Housing prices are collapsing in part because single-person households are replacing families with children. The Virginia Tech economist Arthur C. Nelson has noted that households with children would fall from half to a quarter of all households by 2025. The demand of Americans will then be urban apartments for empty nesters. Demand for large-lot single family homes, Nelson calculated, will slump

from 56 million today to 34 million in 2025—a reduction of 40 percent. There never will be a housing price recovery in many parts of the country. Huge tracts will become uninhabited except by vandals and rodents.

All of these trends were evident for years, and duly noted by housing economists. Why did it take until 2007 for home prices to collapse? If America were a closed economy, the housing market would have crashed years ago. The paradox is that the rest of the industrial world, and much of the developing world, are aging faster than the United States.

In the industrial world, there are more than 400 million people in their peak savings years, 40 to 64 years of age, and the number is growing. There are fewer than 350 million young earners in the 19-to-40-year bracket, and their number is shrinking. If savers in Japan can't find enough young people to lend to, they will lend to the young people of other countries. Japan's median age will rise above 60 by mid-century, and Europe's will rise to the mid-50s.

America is slightly better off. Countries with aging and shrinking populations must export and invest the proceeds. Japan's households have hoarded \$14 trillion in savings, which they will spend on geriatric care provided by Indonesian and Filipino nurses, as the country's population falls to just 90 million in 2050 from 127 million today.

The graying of the industrial world creates an inexhaustible supply of savings and demand for assets in which to invest them—which is to say, for young people able to borrow and pay loans with interest. The tragedy is that most of the world's young people live in countries without capital markets, enforcement of property rights, or reliable governments. Japanese investors will not buy mortgages from Africa or Latin America, or even China. A rich Chinese won't lend money to a poor Chinese unless, of course, the poor Chinese first moves to the United States.

Until recently, that left the United States the main destination for the aging savers of the industrial world. America became the magnet for savings accumulated by aging Europeans and Japanese. To this must be added the rainy-day savings of the Chinese government, whose desire to accumulate large amounts of foreign-exchange reserves is more than justified in retrospect by the present crisis.

America has roughly 120 million adults in the 19-to-44 age bracket, the prime borrowing years. That is not a large number against the 420 million prospective savers in the aging developed world as a whole. There simply aren't enough young Americans to absorb the savings of the rest of the world. In demographic terms, America is only the leper with the most fingers.

The rest of the world lent the United States vast sums, rising to almost \$1 trillion in 2007. As the rest of the world thrust its savings on the United States, interest rates fell and home prices rose. To feed the inexhaustible demand for American assets, Wall Street connived with the ratings agencies to turn the sow's ear of subprime mortgages into silk purses, in the form of supposedly default-proof securities with high credit ratings. Americans thought themselves charmed and came to expect indefinitely continuing rates of 10 percent annual appreciation of home

prices (and correspondingly higher returns to homeowners with a great deal of leverage).

The baby boomers evidently concluded that one day they all would sell their houses to each other at exorbitant prices and retire on the proceeds. The national household savings rate fell to zero by 2007, as Americans came to believe that capital gains on residential real estate would substitute for savings.

After a \$15 trillion reduction in asset values, Americans are now saving as much as they can. Of course, if everyone saves and no one spends, the economy shuts down, which is precisely what is happening. The trouble is not that aging baby boomers need to save. The problem is that the families with children who need to spend never were formed in sufficient numbers to sustain growth.

In emphasizing the demographics, I do not mean to give Wall Street a free pass for prolonging the bubble. Without financial engineering, the crisis would have come sooner and in a milder form. But we would have been just as poor in consequence. The origin of the crisis is demographic, and its solution can only be demographic.

America needs to find productive young people to whom to lend. The world abounds in young people, of course, but not young people who can productively use capital and are thus good credit risks. The trouble is to locate young people who are reared to the skill sets, work ethic, and social values required for a modern economy.

In theory, it is possible to match American capital to the requirements of young people in venues capable of great productivity growth. East Asia, for example, has almost 500 million people in the 19-to-40-year-old bracket, 50 percent more than that of the entire industrial world. The prospect of raising the productivity of Chinese, Indians, and other Asians opens up an entirely different horizon for the American economy. In theory, the opportunities for investment in Asia are limitless, but political trust, capital markets, regulatory institutions, and other preconditions for such investment have been inadequate. For aging Americans to trust their savings to young Asians, a generation's worth of institutional reforms would be required.

It is also possible to improve America's demographic profile through immigration, as Reuven Brenner of McGill University has proposed. Some years ago Cardinal Baffi of Bologna suggested that Europe seek Catholic immigrants from Latin America. In a small way, something like this is happening. Europe's alternative is to accept more immigrants from the Middle East and Africa, with the attendant risks of cultural hollowing out and eventual Islamicization. America's problem is more difficult, for what America requires are highly skilled immigrants.

Even so, efforts to export capital and import workers will at best mitigate America's economic problems in a small way. We are going to be poorer for a generation and perhaps longer. We will drive smaller cars and live in smaller homes, vacation in cabins by the lake rather than at Disney World, and send our children to public universities rather than private liberal-arts colleges. The baby boomers on average will work five or ten years longer before retiring on less income than they had planned,

and young people will work for less money at duller jobs than they had hoped.

In traditional societies, each extended family relied on its own children to care for its own elderly. The resources the community devoted to the destitute—gleaning the fields after harvest, for example—were quite limited. Modern society does not require every family to fund its retirement by rearing children; we may contribute to a pension fund and draw on the labor of the children of others. But if everyone were to retire on the same day, the pension fund would go bankrupt instantly, and we all would starve.

The distribution of rewards and penalties is manifestly unfair. The current crisis is particularly unfair to those who brought up children and contributed monthly to their pension fund, only to watch the value of their savings evaporate in the crisis. Tax and social-insurance policy should reflect the effort and cost of rearing children and require those who avoid such effort and cost to pay their fair share.

Numerous proposals for family-friendly tax policy are in circulation, including recent suggestions by Ramesh Ponnuru, Ross Douthat, and Reihan Salam. The core of a family-oriented economic program might include the following measures:

- *Cut taxes on families.* The personal exemption introduced with the Second World War's Victory Tax was \$624, reflecting the cost of "food and a little more." In today's dollars that would be about \$7,600, while the current personal exemption stands at only \$3,650. The personal exemption should be raised to \$8,000 simply to restore the real value of the deduction, and the full personal exemption should apply to children.

- *Shift part of the burden of social insurance to the childless.* For most taxpayers, social-insurance deductions are almost as great a burden as income tax. Families that bring up children contribute to the future tax base; families that do not get a free ride. The base rate for social security and Medicare deductions should rise, with a significant exemption for families with children, so that a disproportionate share of the burden falls on the childless.

- *Make child-related expenses tax deductible.* Tuition and health care are the key expenses here with which parents need help.

- *Change the immigration laws.* The United States needs highly skilled, productive individuals in their prime years for earning and family formation.

We delude ourselves when we imagine that a few hundred dollars of tax incentives will persuade individuals to form families or keep them together. A generation of Americans has grown up with the belief that the traditional family is merely one lifestyle choice among many.

But it is among the young that such a conservative message could reverberate the loudest. The young know that the promise of sexual freedom has brought them nothing but emptiness and anomie. They suffer more than anyone from the breakup of families. They know that abortion has wrought psychic damage that never can be repaired. And they see that their own future was compromised by the poor choices of their parents.

It was always morally wrong for conservatives to attempt to segregate the

emotionally charged issues of public morals from the conservative growth agenda. We know now that it was also incompetent from a purely economic point of view. Without life, there is no wealth; without families, there is no economic future. The value of future income streams traded in capital markets will fall in accordance with our impoverished demography. We cannot pursue the acquisition of wealth and the provision of upward mobility except through the reconquest of the American polity on behalf of the American family.

The conservative movement today seems weaker than at any time since Lyndon Johnson defeated Barry Goldwater. There are no free-marketeers in the foxholes, and it is hard to find an economist of any stripe who does not believe that the government must provide some kind of economic stimulus and rescue the financial system.

But the present crisis also might present the conservative movement with the greatest opportunity it has had since Ronald Reagan took office. The Obama administration will certainly face backlash when its promise to fix the economy through the antiquated tools of Keynesian stimulus comes to nothing. And as a result, American voters may be more disposed to consider fundamental problems than they have been for several generations. The message that our children are our wealth, and that families are its custodian, might resonate all the more strongly for the manifest failure of the alternatives.



"We'll be happy to loan you the money for a pack of smokes, Mr. Willard, provided you show some collateral."

SUBSCRIPTIONS AND BOUND VOLUMES

Subscriptions: the *Human Life Review* accepts regular subscriptions at the rate of \$25 for a full year (four issues). Canadian and all other foreign subscriptions please add \$10 (total: \$35 U.S. currency). Please address all subscription orders to the address below and enclose payment with order. You may enter gift subscriptions for friends, libraries, or schools at the same rates.

Additional Copies: this issue—Nos. 1 & 2 Volume XXXV—is available while the supply lasts at \$10 per copy; 10 copies or more at \$7 each. A limited number of back issues from 1996 to this year are also available. We will pay all postage and handling.

Bound Volumes: we now have available bound volumes of the years 1992 through 2001 at \$50 each. The volumes are indexed, and bound in permanent library-style hardcovers, complete with gold lettering, etc. (they will make handsome additions to your personal library). Please send payment with order to the address below. We will pay all postage and handling.

Earlier Volumes: while several volumes are now in very short supply, we can still offer some of the volumes for the first 16 years (1975-1989) of this *Review* at \$50 each.

Selected articles from the current issue of the *Review* are available on our website, www.humanlifereview.com. Older articles may be viewed on the site's *archives* page.

Address all orders to our NEW address:

The Human Life Foundation, Inc.

353 Lexington Avenue

Suite 802

New York, New York 10016

Phone: 212-685-5210

humanlifereview@verizon.net

