

the HUMAN LIFE REVIEW



SPRING 2014

Featured in this issue:

John Burger on Gov. Cuomo's Abortion Agenda

Wesley J. Smith examines The Meaning of "Brain Death"

John Julius Reel considers Why He Chose Abortion

SYMPOSIUM:

SHOULD THE CATHOLIC CHURCH GO WOBBLY ON ABORTION?

William Murchison • Edward Mechmann • Stephen F. Schneck

David Mills • Jo McGowan • Rebecca Ryskind Teti

Ryan T. Anderson & Sarah Torre

Anne Hendershott

& Victor Bermudez on Maximizing Abortion Profits

Robert N. Karrer on . . . Evangelical & Fundamentalist Prolifers

Also in this issue:

Filmnotes: John Grondelski interviews Jennifer Lahl on her new
documentary, *Breeders: A Subclass of Women?*

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. . . a longtime strategy of abortion supporters has been to brand proliferers as religious fanatics whose arguments about the sanctity of human life have no place in the public square. The Catholic Church, being the largest pro-life organization on the planet, is also the largest target of anti-life animus. How the Church responds to mounting charges of “bigotry” implicit in age-old doctrines on human dignity has implications for the entire pro-life movement. In “Should the Catholic Church Go Wobbly on Abortion?” (page 53), a symposium inspired by the recent debate in these pages between George McKenna and Peter Steinfelds (Fall 2013, Winter 2014), several commentators, including our senior editor William Murchison and longtime contributors Jo McGowan and Rebecca Ryskind Teti, address Steinfelds’ proposal that the Church stop insisting on conception as a *legal* marker for protecting human life and support legislation establishing a later gestational cut-off date. Two symposium contributors are new to the *Review*: Edward Mechmann, who coordinates public policy for the Archdiocese of New York, and Stephen F. Schneck, Director of the Institute for Policy Research & Catholic Studies at The Catholic University of America, where he teaches political philosophy. Welcome, gentlemen. And thanks to all who participated in this lively discussion.

John Julius Reel, whose autobiographical essay “My Darlings” (page 31) may stir up some debate of its own, is another new contributor to the *Review*. Son of the late *New York Daily News* (and *Newsday*) columnist Bill Reel, and brother and brother-in-law of Ursula and Matthew Hennessey, whose work has also appeared here, Mr. Reel writes from Seville, Spain, where he lives with his wife and two sons. In a letter accompanying his essay, Mr. Reel told me that it had been

originally inspired by *The Debate Since Roe: Making the Case Against Abortion 1975-2010*, which I found in the reading basket of my father, Bill Reel, a year after he died. It would be gratifying to see my piece finally published in the journal that inspired it, although I have my doubts. For one thing, it’s 7,000 words . . .

It’s not often that the *Review* publishes such a long article, and in order to do so in this issue we’ve had to sideline our Appendices section. But we think it well worth the tradeoff just this once. Not because Mr. Reel’s work was inspired by the collection of *Human Life Review* essays we published a few years ago—though we were certainly gratified to hear that—but rather because as a piece of personal testimony concerning the author’s willful acquiescence in not one but two abortions, it deserves, we think, to be part of the comprehensive record of the debate the late J.P. McFadden set out to create forty years ago.

ANNE CONLON
MANAGING EDITOR



the HUMAN LIFE REVIEW

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INTRODUCTION

In a radio interview this past January, New York's Governor Andrew Cuomo, while discussing what he saw as a schism between "moderate" and "extreme" Republicans in the state, said this:

Who are they? Are they these extreme conservatives who are right to life, pro-assault weapons, anti-gay? Is that who they are? Because if that's who they are and they're the extreme conservatives, they have no place in the state of New York because that's not who New Yorkers are.

The Governor's words created a firestorm of protest from conservatives and pro-lifers (including us, lifelong New Yorkers almost all!); our take is that it's a case of "projection." The *extremism* Cuomo is highlighting is his *own*, and those who would defend the unborn find it abhorrent. In January of 2013, Cuomo declared in his State of the State address that he would push his Women's Equality Act—legislation which would *expand abortion access* in NY State, which already has one of the top abortion rates in the country (the legislation would allow non-doctors to perform abortions). As John Burger reports in this issue's lead article, "New York Coalition Turns Back Cuomo Abortion Effort—for Now," a new, grassroots, ecumenical coalition of pro-life leaders—New Yorkers for Life—was formed in response to Cuomo's threatened law, and, as you'll read, they prevailed—the legislation was defeated. "For Now," though, because it is coming up again—and Cuomo recently vowed to push his "women's agenda," if it fails in the legislature again this year, as a campaign issue as he runs for re-election against pro-life Republican candidate Westchester County Executive Rob Astorino.

Another controversial press story of late 2013, with "international headlines and bitter litigation," is one of the examples used by contributor Wesley J. Smith to illustrate what he sees as the public's widespread confusion over the concept of brain death. Jahi McMath is a 13-year-old girl who went into cardiac arrest after a tonsillectomy at Children's Hospital Oakland, California. Her doctors, as well as (after her family protested) two independent assessors, declared her brain dead; her family continued to disagree, and begged the court to allow them to keep their child on life support. Some pro-lifers championed her cause, notably with a march on a mile-long loop around the hospital; others, like Smith, while compassionate to the family, asked people to accept that brain death is death. A judge finally did award the family the right to move their daughter (at their own expense). Jahi is now at an undisclosed facility—alive, but according to her family, "still sleeping."

Smith gives us the history of the term brain death, which is “all but universally accepted in medicine, law and society.” He makes a strong case against lingering pro-life suspicions (like brain death as a subterfuge for taking organs for transplants from living persons)—but one expects that this subject will remain controversial for many, especially as trust in doctors, hospital administrators, and hospital ethicists in this utilitarian medical culture has eroded.

At a pro-life meeting I attended recently a participant expressed frustration at the lack of attention movement-wide to the stories of the *fathers* of aborted children. One such father is the author of a devastatingly honest personal account (p. 31) by newcomer to our pages, John Julius Reel. His “My Darlings: An Autobiographical Essay,” is about the (two very different) abortions of his children, about his life as a writer living and having a family in Spain, and his relationship with his father, the late Bill Reel, a well-known New York *Daily News* columnist. As Anne Conlon writes in her “About this issue . . .,” this piece may stir debate; especially about what I would say is his gripping insistence on the law’s role in protecting life: “What I know is that I need for the society I live in to believe what I believe and to pass laws that uphold what I believe, or I will act against my beliefs, erring gravely, putting lives, and at least one soul, my own, in jeopardy.”

The role of the law in saving the unborn is also very much at the root of the debate continued in our symposium (page 53), which is based on the Peter Steinfelds/George McKenna debate featured in the last two (Fall and Winter) issues. Steinfelds, in the article that began it all, “Beyond the Stalemate” (published in *Commonweal* last June) said that “the church will have to devote its energies on changing the culture rather than the law . . .” and suggests that Catholics, while arguing privately for protection of life from conception, should publicly advocate for a later date. McKenna said that would be “a bad bargain” . . . that it would harm the movement to “underestimate the dramatic significance of conception.” We have now in this issue an eminent list of thinkers voicing their own thoughts, creating a kaleidoscope of views on the Catholic Church and abortion in the public square.

We return to our articles with another New York story—fitting, because New York, as Professor Anne Hendershott writes, has been a profit center of the abortion industry for more than a century. Hendershott and co-author Victor Bermudez have written a “social history” which follows the money, from the notorious Madame Restell, the leading New York City abortionist of the 1890s, to abortion entrepreneur Lawrence Lader in the 1960s, to New York City’s newly elected Mayor Bill de Blasio, who has vowed to “expand access to abortion” and has “a strategy to close down the competition—the pro-life crisis pregnancy centers.” It’s amazing how little has changed. Madame Restell in the 1890s performed abortions with no formal medical training, and many of the women died—yet she managed to always “escape without serious or lasting consequences,” because, Hendershott reports, of the complicity and corruption of so many, including policemen and politicians, in the lucrative abortion industry.

INTRODUCTION

Our final article is a fascinating account of a pivotal—and perhaps not fully-understood—time in the history of the pro-life movement. While evangelicals and fundamentalists have a large and integral part in pro-life advocacy today, this was not always the case, so explains Robert Karrer, in his article on page 87. At the first attempts to liberalize abortion laws in the spring of 1967, it was primarily Catholic doctors, lawyers, priests and bishops who protested—and the “pro-life movement remained a Catholic grass roots crusade” until the *Roe v. Wade* decision. Karrer quotes Kristin Luker (author of *Abortion and the Politics of Motherhood*), who said, “More of the people we interviewed joined the pro-life movement in 1973 than in any other year, before or since; and almost without exception they reported that they became mobilized to the cause on the very day the decision was handed down.”

It was *Roe* that spurred the evangelicals to action, as you will read. That was certainly our story. We have recounted several times in these pages my father J. P. McFadden’s “road to Damascus” moment, after the *Roe* decision was handed down—it changed his life forever. J. P. immediately set up the Ad Hoc Committee in Defense of Life, a pro-life lobbying organization, and through that, as Karrer writes, he provided the seed money for the first “genuinely Protestant (and evangelical) pro-life group in the nation,” the Christian Action Council, founded by Harold O.J. Brown. (See a profile of Brown on the “Heroes of the Foundation” page on our website at www.humanlifereview.com). Karrer writes of the other key moments in the 1970s that led “socially conservative Christians to the public square” to fight for the unborn—the mighty power and presence of evangelicals and fundamentalists now “attests to what happened during the late 1970s.”

Our final piece is in “Filmnotes”—John Grondelski’s interview with Jennifer Lahl about her new documentary *Breeders: A Subclass of Women?* Lahl is the Director and Executive producer of *Breeders*, as well as president and founder of the Center for Bioethics and Culture. This is the third film she has produced on artificial reproductive technologies (the previous two dealt with egg donation and anonymous sperm donation). Grondelski asks rigorous, thoughtful questions, and Ms. Lahl’s answers are eye-opening about the far-reaching effects of surrogacy—on the surrogates themselves, and on the children who are the products of such third-party conception—as well as the importance of raising awareness about such issues in the current culture where having children is increasingly considered a “right,” no matter what it takes to make it happen.

Our full issue allows no room for appendices, but we did manage to sprinkle in a few spirit-reviving cartoons from the talented Nick Downes. Until next time ...

MARIA MCFADDEN MAFFUCCI
EDITOR

LETTERS

TO THE EDITOR:

You and your staff do an incredible job of reviewing and presenting the finest of the pro-life movement's writings. And now you have developed a website worthy of the work you do. Thank you for a continuing job well done! . . .

—*Jim Bracher*
Carmel, CA

[**Erratum:** *We reprint the following letter from our last issue (Winter 2014) as it contained a transcription error in the second paragraph (see italicized copy below) which rendered one of its sentences non-sensical. We apologize for the error.*]

TO THE EDITOR:

I read with interest Professor George McKenna's article, "A Bad Bargain," in the Fall 2013 issue of the *Human Life Review*, pp. 21-28. Regarding the complete futility of supposing that the United States could somehow endure permanently "half slave and half free" on the issue of abortion, have you read the essay by John T. Noonan, Jr. "On the Dynamism of the Liberty," Inquiry 9 in his book *A Private Choice: Abortion in America in the Seventies* (Toronto: Life Cycle Books, 1979)?

Regarding the difficulty of imagining that anything so small as the human embryo in its earliest stages of development can be the bearer of human rights, I am reminded of a proof method used by the mathematicians, namely, proof by contradiction. To establish the validity of a given proposition, start by assuming it to be false, and examine the logical consequences of that assumption. *If the result is a logical contradiction, then, assuming that mathematics is self-consistent, the initial proposition must be true.* [Our emphasis.]

In a certain sense the nation is engaged in a massive uncontrolled experiment of denial, testing the truth of the proposition that the humanity of the unborn child must be acknowledged and fully respected from the moment of conception. Biologically, that this is a new human life, from conception, is certain. Our novel encounter with the unborn, our newly acquired ability to manipulate, to exploit, and to destroy human life from its earliest stages, may be no less momentous for our civilization than the European discovery of the New World, and may call for an equally difficult adjustment for us to be able to "see" the humanity of the other.

—*Edward Campbell*
Houston, TX



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For four decades, the *Human Life Review* has armed proliferators with facts and arguments about abortion, euthanasia, eugenics, and other egregious assaults on the dignity of human life. This year the *Review* bestows its annual Great Defender of Life Award on two most deserving people. **Kristan Hawkins** is President of Students for Life of America. **Clarke Forsythe** is Senior Counsel, Americans United for Life, and author of the highly acclaimed *Abuse of Discretion: The Inside Story of Roe v. Wade*. To learn more, visit the *Human Life Review's* website at www.humanlifereview.com. Or call us at **(212) 685-5210**. You may also email us at humanlifereview@verizon.net

New York Pro-life Coalition Turns Back Cuomo Abortion Effort—for Now

John Burger

You might not know it, but abortion rights in New York State are in danger.

That's right. According to some advocates, the state where abortion was liberalized three years before *Roe v. Wade* could one day see abortions being relegated once more to the proverbial "back alleys."

That's what Gov. Andrew M. Cuomo would have you believe, anyway. In 2013, with the help of NARAL Pro-Choice New York and other abortion advocates, he doggedly tried to change state law so that New York would stand firm in "protecting a woman's right to choose," should the Supreme Court one day reverse itself on *Roe*. Cuomo's effort failed, and while pro-lifers in the Empire State are basking in a rare victory, they remain vigilant. The vote to defeat what they see as an "abortion expansion bill" was extremely close, and they know they face formidable and determined opposition.

Cuomo repeated his call for passage of the bill in his 2014 State of the State address Jan. 8.

Pro-life advocates fear that conforming the law to *Roe* and its companion decision, *Doe v. Bolton*, would open the door to many more abortions, particularly those after 24 weeks gestation. Because New York State bans abortion after 24 weeks unless the life of the mother is in danger, and not the health exception stipulated in *Roe* and *Doe*, very few doctors are willing to do abortions after 24 weeks.

"It's the legal uncertainty of it that deters them from doing it," said Edward T. Mechmann, the public policy coordinator for the Archdiocese of New York. "So one of the things we're concerned about is that if you include an explicit health exception, especially that open-ended health exception that the Supreme Court has created, that's basically a license for anyone to do 24-plus-week abortions here in New York, and any disincentive there may be from the current law will be removed. We're afraid then that New York will become a magnet for this."

The Supreme Court in 1973 interpreted health reasons so broadly that a woman could put forth practically any reason to get an abortion legally through all nine months of pregnancy, pro-lifers often charge.

There also seems to be a concern among pro-abortion advocates that *Roe*

John Burger is news editor of Aleteia.org.

could one day be reversed, leaving each state once again free to prohibit abortion. On the day Cuomo introduced the proposed change as part of the Women's Equality Act, his office issued a press release that included a quote from Kathryn Kolbert of Barnard College Athena Center for Leadership Studies. (Kolbert had argued on behalf of Planned Parenthood before the Supreme Court in the 1992 decision *Planned Parenthood v. Casey*.) "Having twice asked the U.S. Supreme Court to reaffirm *Roe v. Wade*, I am keenly aware of the powerful forces at work across the country seeking to gut, if not overturn, that landmark decision. Gov. Cuomo's proposal to update New York State's abortion laws to align with *Roe* and to make clear a woman has the right to choose—regardless of what other states do—could not be more timely or more necessary."

Four states have "trigger laws" that would ban abortion immediately if the U.S. Supreme Court reverses *Roe v. Wade*: South and North Dakota, Mississippi, and Louisiana, according to Mary Spaulding Balch, director of the National Right to Life Committee's Department of State Legislation. Whether it's a real possibility that abortion access could one day be severely restricted in New York, the state has one of the highest abortion rates in the nation. It has no waiting period or parental consent requirements, and there is taxpayer funding of abortion.

From the outset, pro-life advocates emphasized this reality in making the case that New York did not need a more liberal abortion law. On the very day that Cuomo proposed the bill, Archbishop of New York Cardinal Timothy M. Dolan pointed out in a letter to the governor that the state's abortion rate is double that of the national average. "Sadly, nearly 4 in 10 pregnancies statewide end in abortion. In some parts of New York City, the rate is higher than 60 percent," wrote Cardinal Dolan, in his role as president of the New York State Catholic Conference, the public policy arm of the state's Catholic bishops. "I am hard pressed to think of a piece of legislation that is less needed or more harmful than this one."

Cuomo kicked off the controversy with his State of the State address on Jan. 8. "We are a community based on progressive principles, and we must remain that progressive capital of the nation," said Cuomo, who successfully pushed a same-sex "marriage" law in 2011. "We passed marriage equality. Let's make history again and let's pass a Women's Equality Act in the State of New York."

The Women's Equality Act included this codification of *Roe v. Wade*: "The state shall not deny a woman's right to obtain an abortion as established by the United States Supreme Court in the 1973 decision *Roe v. Wade*. Notwithstanding any law to the contrary, New York protects a woman's right to

obtain an abortion when the fetus is not viable, or when necessary to protect a woman's life or health as determined by a licensed physician."

The governor's speech reached a crescendo when he declaimed: "Protect a woman's freedom of choice because it is her body, it is her choice. Because it's her body, it's her choice. Because it's her body, it's her choice."

Repackaging a Spitzer Bill

In effect, Cuomo was reviving a "Reproductive Health and Privacy Protection Act" that had been floating around since 2007, when Eliot Spitzer occupied the governor's office. Before he resigned amid a scandal over his association with a high-class prostitution ring, Spitzer had introduced a bill that would have updated New York's 1970 state law (which legalized abortion three years before the Supreme Court's *Roe* and *Doe* decisions, though it did not envision the full license that the Supreme Court would extend to late-term abortion through its vague "health of the mother" language) to include a health exception. The *New York Times* had pointed out in 2007 that the current New York State law treats abortion as a homicide but has "broad exceptions that allow the procedure in many cases." Spitzer's bill, the *Times* said, would have removed abortion from the criminal statutes of New York and made it a "matter of professional and medical discretion." The newspaper further pointed out that Spitzer introduced the bill in the wake of *Gonzalez v. Carhart*, in which the U.S. Supreme Court upheld the federal Partial-Birth Abortion Ban Act, "at a time when several other states are moving to tighten restrictions on abortion."

Spitzer's bill, introduced when the New York State Senate was dominated by Republicans, never got anywhere. But in 2013, with power in the State Senate shared by Republicans and a small group of breakaway Democrats, and Democrats still in control of the Assembly, Cuomo apparently felt it was time to push the envelope again on this issue.

However, for Kathleen Gallagher, director of pro-life activities for the New York State Catholic Conference, the governor's new push sparked a "rejuvenation" of the pro-life cause in New York. "For the first time in 40 years, abortion was a live issue here," said Gallagher. "It had become a settled issue. And anytime we tried to get any kind of regulations or restriction on abortion, like the vast majority of other states have, like parental notification, it was just a non-starter because we were the 'progressive' state, and New York wasn't going to allow any regulation or restriction on abortion." Cuomo, she said, reopened "the whole Pandora's Box on its face, not even tangential issues around the edges, but the real meat and potatoes of abortion, which was really an invigorating battle for us to be in."

Gallagher got right to work. It just so happened that statewide pro-life groups had already scheduled a meeting in Albany, the state capital, for the day after Cuomo's oration. In response to his speech, the pro-life leaders formed New Yorkers for Life, a non-partisan, non-sectarian coalition to fight the proposal.

"We were working with other groups, evangelical Christians, Democrats for Life, Feminists for Life, New York State Right to Life Committee, the Conservative Party of New York State," said Dennis Poust, the Catholic Conference's director of communications in Albany. New York Archdiocese public policy coordinator Edward Mechmann spoke of the importance of working with evangelical Christians. "They were very important, especially upstate," Mechmann said. "They have a lot of influence in the upstate districts. Their leaders were very innovative in using social media, YouTube ads and things like that. It was really a great [ecumenical] effort."

New Yorkers for Life launched a Facebook page that was very active over a six-month period, Gallagher said. It was "a go-to place where people could find out if there was going to be a rally or if there was some action needed."

When the Catholic Conference held its annual lobbying day in Albany, on March 19, Cardinal Dolan, who was also at that time president of the U.S. Conference of Catholic Bishops, was in Rome at the conclave that elected Pope Francis. But other bishops in the state, in dioceses from Buffalo to Long Island, converged on the capital to lobby. They also were active in speaking out through op-eds and radio interviews.

Son of a Guy

Cuomo is the son of a New York governor who once was lauded as one of the most eloquent political figures in recent decades. Mario M. Cuomo, who governed New York from 1983 to 1994, formulated in a famous 1984 speech at Notre Dame how a Catholic politician like himself could be "personally opposed" to abortion and yet be "pro-choice" in his public life. Andrew Cuomo seems to have gone beyond Mario's formula, however, by not only accepting the legality of abortion but actually pushing it further. But his State of the State proposal remained more or less nebulous until he finally presented a written bill on June 4, with just a few weeks left in the legislative session.

Only a portion of the 10-point bill concerned abortion. The rest addressed reforms to achieve "pay equality" between male and female workers, stop sexual harassment in the workplace, stem the tide of domestic violence and human trafficking, and ban discrimination against pregnant women in the workplace.

“He tried to regroup it with a bunch of other initiatives, some of which were very important and needed,” Poust said. “He tried to make it very difficult for legislators to vote against it.” Indeed, as Gallagher found out when she went on lobbying visits, legislators were reluctant to oppose the bill.

“The fact that the bill had been around since 2007 and never came to a vote shows it was a very heavy lift,” said Gallagher. “You’ve got to give him credit for repackaging it with all these wonderful benefits for women. To a certain degree, he was successful. I would meet with senators who said to me, ‘Kathy, you know I’m pro-life. But when you put it together with things like helping domestic violence victims . . . that’s been the focus of my entire career. I can’t say no to that.’”

But Cuomo’s emphasis on “codifying federal law” gave pro-lifers an opening. “We blew that apart by showing that federal law has some really good pro-life provisions in it,” Gallagher said, “like the Partial Birth Abortion Ban Act and the Hyde Amendment, prohibiting Medicaid funding for abortion. Which part are you going to codify?”

Cuomo claimed that he respects religious freedom “and therefore our bill does not change any existing state and federal laws that permit a health care provider from refraining from providing an abortion due to religious or moral beliefs.” Pro-lifers disputed that claim. The Catholic Conference considers the conscience clause in Cuomo’s bill “both vague and extremely limited. It claimed to protect ‘health care providers’ with religious or moral objections, but it failed to define the term, making it unclear if it would have protected hospitals or individual doctors and nurses.”

The bill states: “Nothing in this section shall be construed to conflict with any applicable state or federal law or regulation permitting a health care provider to refrain from providing abortions due to the provider’s religious or moral beliefs.” Sen. Ruben Diaz, a pro-life Democrat who represents part of the Bronx, warned in his comments during debate over the bill that the legislation “could compel Catholic Charities and Catholic schools to counsel and refer for abortion. It could compel all hospitals, even Catholic hospitals, to allow abortions on their premises.”

Pro-life strategy focused on the language being used to describe the Cuomo proposal and the perception of what it would do. In reviewing the accomplishments of 2013, Gallagher took a certain amount of pride in “taking control of the language early on,” continually referring to the proposal as the “late-term abortion expansion act.”

“We did it so successfully that the media started calling it the ‘late-term abortion expansion act,’” she said. “Every time the governor said ‘women’s

equality,' we just said 'abortion expansion.'" Cuomo rejected the assertion that the bill expands abortion rights.

"We did some polling that showed New Yorkers don't want an expansion of abortion in New York; they don't want late-term abortions," said Poust. "So by the time the governor finally released his bill in June, there was already a large population of religious people in the state opposing it. We'd gotten thousands of people to contact their legislators."

"We reframed the issue successfully early on and we never conceded the momentum to the other side," said Mechmann.

Every time they put forward a proposal we contested it immediately, and we kept on reframing it away from their buzzwords and to the truth, really, that it was an abortion expansion bill, that it was about late term abortion, that it was going to let non-doctors do abortions—all the things that were bad in the bill we emphasized . . . I think what that showed, first of all, is that you can contest the issue when you get past the labels. What it also showed was that the issues are on our side, once you get past the labels. Even in New York, the polls that we had showed that people agreed with us, and we just had to tap into that and just get away from buzzwords that the governor's people were using about women's equality.

"We also used softer, gentler language than the governor," Gallagher said. Cuomo was "up there screaming, 'It's her body, her choice,' and we came up with this slogan, 'Can't we love them both?' New Yorkers for Life had banners and t-shirts and images of a pregnant woman with her daughter saying 'Can't we love them both?' in a very soft approach. 'Can't we offer women more than abortion?'"

The proliferers' use of women as spokespersons was important too. "We had women up front writing op-eds, letters all over the state, showing how this is abortion expansion, it's not good for children, it's not good for women," Gallagher said. The Bishops Conference also recruited some pro-life female legislators to speak out.

On Feb. 28, New Yorkers for Life held a press conference at the Capitol, with medical professionals testifying that abortion is never medically needed after 24 weeks, that it is safer for a woman to deliver a baby at that point. Of the 25 to 30 doctors present, the majority were women. "The room was packed with media," Gallagher said. "Only a few days later, the governor's women's coalition used the very same room to kick off their Women's Equality Agenda coalition . . . Many of the same reporters were there, and the only questions the press asked were about, 'Well, what about this late-term abortion expansion part?'"

"When I look back on it, it was like the hand of God," Gallagher said. "It was so wonderfully timed."

The Impact of National News

Timing or coincidence or Providence, if you will, also came into play because of a couple of national news stories. Gallagher feels the pro-life cause was aided, ironically, by Cuomo's actions in the aftermath of the school shooting in Newtown, Conn. Because of that massacre, Cuomo pushed through gun control legislation on the very first day of the legislative session, Jan. 15, using a device known as a "message of necessity."

"Nothing ever passes on the very first day of a legislative session" in New York State, Gallagher noted.

Normally, it has to age for three days so the public and lawmakers get to read it. He waived that and said this is a necessity because of what happened in December in Newtown . . . I think he just wanted to be the first in the country to pass some kind of gun control legislation. But the way he did it infuriated legislators on both sides. "Wait a minute; we didn't even get to see the bill. What are you doing?" I think it took some of the steam out of his agenda going forward with the rest of his agenda, which included the women's equality agenda.

"I think a lot of legislators who were bullied by him and fooled by him for voting for the SAFE [Secure Ammunition and Firearms Enforcement] Act know they were clearly in a lot of trouble now with the moderate, conservative voters, who are also pro-life," said Michael R. Long, chairman of the New York State Conservative Party. "I think they were concerned that if some of them participated in the SAFE Act and would have participated in expanding abortion, they would really open the doors to a lot of primaries."

In Long's view, Cuomo is pushing for a reproductive rights bill to shore up support among his left-wing base for a possible run for national office. "The governor was . . . only thinking of himself politically on the national level, only using this to improve his chances of the possibility, his national image, with so-called liberal ideas and appeal to certain groups at the cost of human life," he said. "I think he veered, not only on this but on a number of issues, heavily to the left at the beginning of the year. I think he was positioning himself politically, if the door opens."

The other national story that intersected with the pro-lifers' battle in New York was the Kermit Gosnell trial. Gosnell was ultimately convicted of the murder of a child that survived an abortion at his Philadelphia clinic.

"The Gosnell case went to trial in March and ended in May, right smack in the middle of our debate over late-term abortions," Gallagher said. "It was so helpful for us to be able to point to Anderson Cooper doing this show on CNN about Gosnell, and all the tweeting going on about Gosnell was really helpful to us. And we were certainly making it an issue in the New York

State legislature, handing out *Philadelphia Inquirer* articles to lawmakers and saying ‘Look, this is what late-term abortion is all about.’”

Politically, the Catholic Conference secured public commitments from people like Senate Republican Leader Dean G. Skelos of Long Island early in the year. “We held him to it,” Gallagher said. “And we supported him. Whenever we met with him, we gave him talking points he could be using. We thanked him for his public pro-life pronouncements. We kept him on board throughout the legislative session.” On April 23, Skelos declared that he would not allow a floor vote on any late-term abortion expansion bill. “Expansion of late-term abortion is extreme, in my opinion. It’s not progressive, it’s extreme,” he said. He also termed the bill “unnecessary.”

“Very few people at all ever believe that—whether you’re pro-life or pro-choice—the abortion laws in New York would ever be changed,” he told the *New York Times* on May 1.

As the Senate debated the measure, New Yorkers for Life brought about 700 people to the Capitol. “We just filled the Senate gallery with people just giving a silent witness with their shirts and their signs saying ‘Can’t we love them both? Stop the abortion expansion act.’ And when Skelos walked onto the Senate floor these people just erupted in cheers for him, just applauding him for his stance,” Gallagher recounted. “The man was beaming to know there were hundreds of people supporting him.”

“We saw in groups that came first for a candlelight vigil and later on, near the end of session, a real show of strength and support for those who were standing with us in the legislature that you’re not alone,” said Rev. Jason McGuire, executive director of New Yorkers for Constitutional Freedoms. McGuire is a minister of a Christian church who was one of the leaders of the New Yorkers for Life coalition. “And I think they were a little surprised by the amount of pro-life support they found in New York. That’s something they’re not used to and I think it will help to show them that there are just tons of people who support them in that position.”

When the New York State Assembly, controlled by Democrats, took up the measure, several Republican Assembly members, including Steve McLaughlin, Brian Curran, Nicole Malliotakis, and Andy Goodell argued strongly against abortion expansion. Republican David DiPietro laid out the scientific and medical facts surrounding unborn life and abortion, exhorting his colleagues to “push back the government’s war on the unborn.” But the Assembly voted 98-47 to pass the entire 10-point package.

In the Senate, the abortion plank was going to be a tougher sell, so Cuomo agreed on unbundling the 10 points of his women’s agenda. The Senate passed the nine non-abortion-related planks. Sen. Jeffrey D. Klein of the Bronx,

leader of the Independent Democratic Conference, a four-member group of breakaway Democrats who conferenced with Senate Republicans, offered the late-term abortion expansion plank as an amendment to a bill having to do with medical records. The acting president of the Senate ruled the late-term abortion expansion amendment to be germane to the bill, but the ruling was appealed. By a narrow margin of 32-31, the Senate voted that the amendment was not germane, effectively killing the late-term abortion expansion amendment. All 30 Senate Republicans cast procedural votes to block the late-term abortion expansion amendment, as did Democratic Sens. Diaz and Simcha Felder, who represents part of Brooklyn. Thirty-one Democrats voted to allow the abortion expansion amendment.

Cuomo called for the Assembly to pass the nine non-abortion-related parts, but a number of pro-abortion assembly members were unwilling to compromise. “Which kind of begs the question,” commented Gallagher. “Really? Is a symbolic abortion expansion agenda more important than getting women pay equity in the workplace?” So the 2013 legislative session came to an end without any portion of the Women’s Equality Act becoming law.

There was an interesting side note to the tussle in the Senate over the hostile amendment. Felder, a freshman senator, is an observant Jew. The vote took place on a Friday afternoon, and it appeared that Felder’s vote could be crucial to rejecting the amendment. It was well known that Felder needed to be back home in Brooklyn by sunset, the beginning of Sabbath. If the Democrats pushing the amendment could just delay the vote until Felder absolutely had to leave, they had a chance to get it through.

“It just so happened that the Independent Democratic Conference had the chair of the Senate that day,” said Mechmann. “So they controlled the calendar, the pace of the calendar and when the Senate would meet, and they were in favor of the bill It was clear that they were deliberately stalling in a way to force Sen. Felder to leave. They knew that in a fair vote they were going to lose, they knew we had the votes, they knew they didn’t have the votes. But they were taking one last chance of maybe getting this bill onto the floor by a maneuver.” Gallagher said she approached Felder and said, “Senator, it’s June 21; it’s the longest day of the year. There’s a lot of daylight, and I have a very lead foot. I could drive you.”

But Felder consulted with a rabbi, who said that “because abortion is an issue of life and death, I was compelled to stay and cast a vote,” the senator told the *New York Post*.

“He voted with us. And I saw him get in the elevator with his suitcase; immediately after the vote he had to get on the road,” Gallagher said. “It was very dramatic.”

Preparing for Act II

Indeed, it was a dramatic year. And the curtain is opening on Act II. Cuomo has not given up on the women's equality agenda. He has threatened to make the 2013 vote an election-year issue in 2014. There were already rumblings last June that the issue could reverberate in the upcoming cycle, when he and New York's legislators are up for re-election. The super-PAC Friends of Democracy, for example, co-founded by Jonathan Soros, the son of billionaire activist George Soros, suggested supporting primary challenges to members of the Independent Democratic Conference. In July, after the Women's Equality Act failed, NARAL Pro-Choice New York's Andrea Miller stated, "Our plan in the coming months is to target those New York State senators who hold the key to securing reproductive rights in our own state law. . . . It's hard to imagine that the members of the two Senate leadership conferences want to face the majority pro-choice electorate in New York next year with a record of failure on an issue as salient to voters as a woman's right to choose."

The *New York Times* also weighed in, editorializing on June 24: "Voters should keep this in mind . . . when next year's elections roll around, especially those of Dean Skelos, the State Senate leader; his Republican allies; and two Democrats who are hostile to women's issues: Senators Ruben Diaz Sr. of the Bronx and Simcha Felder of Brooklyn." And yet, Diaz, Felder, and Skelos voted yes for all the other nine parts of the Women's Equality Act, except for one part, when Diaz was absent and Felder was excused.

In October, a political website, Capital New York, reported that Cuomo and New York City mayoral candidate Bill de Blasio discussed backing primary challenges to members of the breakaway Democrats. De Blasio was subsequently elected mayor of the Big Apple (and has pledged to tighten restrictions on pro-life pregnancy help centers).

"We're going to go back to Albany in January and we're going to tell the Republicans in the Senate and the co-conspirators of the Republicans in the Senate, you pass the Women's Equality Act because that's what New Yorkers believe in and that's what New Yorkers want," Cuomo said at a rally in White Plains for several Democratic county executive candidates on Oct. 26.

And, though he voted for the hostile amendment last June, signaling his support for the abortion plank, State Sen. Timothy Kennedy, a Buffalo Democrat, faced a primary challenge from someone who is thought to be a safer bet when and if the bill gets another vote. This apparently led Kennedy, thought heretofore to be generally pro-life, to reaffirm his public support for the abortion expansion bill, drawing a swift rebuke from the new bishop of Buffalo, Richard J. Malone.

“For anyone to say that he or she is a faithful Catholic and to be pro-abortion/pro-choice is totally inconsistent with Catholic teaching, which is clearly articulated in the *Catechism of the Catholic Church*,” Bishop Malone said.

Sen. Diaz, who also fought passage of same-sex “marriage,” sounded worried about prospects for the bill: “We were able to hold it [in 2013], but I don’t know how much longer we’ll be able to hold it, especially next year, when the governor is coming up for reelection,” said Diaz in an interview in October.

“The question is how much pressure will be on Republicans,” Poust said. “This is a Republican Party that passed same-sex ‘marriage.’ Right now there’s really a one-vote margin. If one Republican were to change his or her vote, it could pass. The thing is to keep it off the floor. You don’t want to take a chance on somebody flipping. The governor can be very persuasive.”

Long echoed that assessment, describing the pressure the governor can exert: “If you don’t do it you’re not going to get your bills passed. You get the cold shoulder, you get the threat of him campaigning against you, finding a candidate to run severely against you,” the Conservative Party leader said in an interview. “He did it on same-sex ‘marriage.’ He got four Republicans to vote with him, made them this big promise that he would defend them. The other thing that helped us, while it’s very sad that the same-sex ‘marriage’ bill passed, his promise to protect them really wasn’t worth much because three of them are gone. There’s only one left. And it’s only a matter of time he will face a problem with the voters.”

One of those Republicans who flipped on same-sex “marriage”—and decided not to face the consequences in the following election—seems to have made out pretty well. In August, James Alesi was appointed to the state’s Unemployment Insurance Appeal Board. Poust called it “a plum job” with a higher salary than he made as a senator.

“So the governor takes care of people who help him, whether they’re Democrats or Republicans,” Poust said. “Will he attempt to do that this time? Probably. Is he making promises to legislators? I’m sure he is: ‘Don’t worry, if you lose your seat, you’ll be taken care of.’”

“The question is,” Poust said, “can we hold the line one more year and see if we can make some pro-life gains in the elections of 2014?”

The Power of Personal Witness

What can proliferators do to hold the line? Gallagher suggested that the Catholic Conference could “get involved in voter registration drives and efforts to educate people about this issue.”

“We’ll have meetings with statewide pro-life groups. Some of them have political action committees, so they can get more involved in electoral

politics than we can, so we are going to encourage them to do so,” she said. “We have to keep putting women up front,” she continued. “We have to speak about the Church’s defense of women. Our regard for women is so much higher than Planned Parenthood’s. We care about women—mind, body and soul.”

What Gallagher seems to like to talk about most from 2013, however, is an incident that shows how powerful a personal witness can be. She had discussed the issue informally with a friend of hers, who in turn discussed it with her neighbor. The neighbor, it turned out, was a key member of a women’s organization in the Albany area. One aspect of the governor’s efforts to push the Women’s Equality Act was to solicit support from women’s organizations for it; Cuomo’s staff eventually gathered endorsements from 700 to 800 groups that supported the 10-point women’s equality agenda. When a staffer visited this particular organization, the friend’s neighbor stood up at the meeting and asked the governor’s representative to explain the “reproductive agenda.”

“That forced the woman to explain it, and then the other ladies started raising their hands and saying, ‘Well, why do we need more abortions in New York State? Don’t we have enough?’” Gallagher said. “And at the end of the day, they voted no on the resolution to support the governor’s agenda.

“It gets back to that one-on-one personal conversation,” Gallagher continued. “Pro-life people say, ‘What can I do? I’m just one person. I can’t make a difference.’ All I did was have a conversation with one of my friends, who in turn had a conversation with her next-door neighbor, and that led to a rejection by a reputable organization that’s not church-related or anything. I just think it shows the power of one-on-one personal conversations in converting people and really changing hearts and minds.”

Said the veteran lobbyist, “It’s even more important than the lobbying of elected officials sometimes.”

An August 2013 survey found that 58 percent of New Yorkers say they need more information before they can decide whether they’re going to support or oppose the Women’s Equality Act. “That’s our cue as pro-life people,” Gallagher said. “If 58 percent of the people say they need more information, we have to get them that information. Don’t let Planned Parenthood get them that information.”

Total Brain Failure Is Death

Wesley J. Smith

In December 2013, 13-year-old Jahi McMath entered Children’s Hospital in Oakland, California, for serious throat surgery to relieve her sleep apnea. She survived the surgery without incident, even enjoying a Popsicle after awakening from anesthesia.

Then came a terrible complication: Jahi began bleeding profusely and suffered a cardiac arrest. It took many minutes to restore her heartbeat. Too late: Jahi was later declared “brain-dead.” Doctors informed Jahi’s mother that she had died and that they would soon remove all medical technology sustaining her.¹

Jahi’s family protested. She was still warm, they noted. Because of medical machinery, air was still flowing into her lungs, and her heart was still beating, pulsing blood through her arteries. Surely, they pleaded in anguish, she is still alive.

With hospital administrators and doctors adamant that, tragically, Jahi was dead—and would be so treated—the family went public. The story exploded into international headlines and bitter litigation ensued.

Alameda County Superior Court Judge Evelio Grillo appointed a Stanford University Medical School neurologist to render an independent assessment. When this well-respected physician also determined that Jahi was brain-dead—the third to so conclude—Grillo declared her legally deceased and Alameda County issued a death certificate.²

But the judge did not force her off of medical support—as he could have under California law.³ Rather, he ultimately arm-twisted the parties into a settlement under which the hospital released Jahi to the Alameda County Coroner and thence to her family—still on the ventilator. As of this writing, Jahi is being maintained at an undisclosed location.⁴

At about the same time, a similar tragedy in Texas made the news. Marlise Muñoz, 14 weeks pregnant, collapsed. She received CPR and was rushed to the hospital but never regained consciousness. When she was declared brain dead, her husband Erick requested that her life support be terminated so that the family could make final arrangements.

But John Peter Smith Hospital administrators refused. It wasn’t that her

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doctors disagreed that Marlise was dead. But they worried that complying with the request would violate a Texas statute that states:

A person may not withdraw or withhold life-sustaining treatment under this subchapter from a pregnant patient.⁵

Erick sued, claiming that Marlise would not have wanted her body maintained, that her body was deteriorating—as usually happens in such cases—that tests showed the fetus was irremediably damaged by the mother’s death, and that the statute did not apply in any event since, as a deceased person, Marlise was not a “patient.”

A judge agreed, ruling that the law indeed was not applicable to the facts of the case “because Mrs. Muñoz is dead.”⁶ The hospital was ordered to remove medical intervention, which came to pass, even though by then the fetus was 22 weeks or so along.

The white-hot McMath and Muñoz controversies reignited public interest in a story that had broken in the *Daily Mail* in November 2013, but which had received little attention at the time. Hungarian doctors reported the birth of a healthy baby from a brain-dead mother:

A baby which was 15 weeks old when its mother was declared brain-dead was delivered by Caesarean section at 27 weeks, after doctors kept the mother alive on life support. The Hungarian doctors who delivered the baby in July believe the birth is one of only three such cases in the world.

The above reporting made a subtle mistake—often seen in stories such as this—which adds to the public’s confusion about brain death. As will be described in more detail below, if the Hungarian mother was actually brain-dead, the doctors did not keep her “alive,” but rather, kept her organ systems functioning long enough for the baby to be delivered. As we shall see, at least legally, that is a distinction with a profound difference.

Back to the story:

In the spring, she had been rushed to hospital, operated on but was declared brain-dead. She was kept on life support and doctors were able to see through an ultrasound that the foetus was moving. “In the first two days we struggled to save the mother’s life and it was proven . . . that circulation and functions stopped,” said Dr. Bela Fulesdi, president of the University of Debrecen Medical and Health Science Centre.

The baby was delivered when, like that of Muñoz, the mother’s body began to deteriorate:

While they were hoping to keep the baby in the womb as long as possible, in the 27th week, the woman’s circulation became unstable and doctors decided to deliver the baby because the womb was no longer safe.⁷

The confusion and public debate that erupted around these “brain death”

cases shows how little the concept is understood by most people and the media. It also raises important scientific—and ethical—questions: Is brain-dead really dead? Why do the bodies of brain-dead people remain viable for a time? Can I decide that I don't want my own death to ever be so declared?

What is “Brain Death?”⁸

The term “brain death” was coined by French physicians (*coma dépassé*) in 1959, in recognition of how the “profundity of coma, apnea [cessation of breathing] and unresponsiveness exhibited by patients with destroyed cerebral hemispheres and brain stems differed fundamentally from previously described forms of coma.”⁹

The condition's existence was an unexpected consequence of the technological revolution in medicine that transformed health care in the middle of the last century. Indeed, because a person who is brain-dead cannot breathe, the condition would not exist at all but for the development of the ventilator and other forms of medical technology that have saved the lives of so many desperately ill and injured people. For some of these patients, high-tech medicine was the road that led to a full recovery. For others, ongoing high-tech life-sustaining treatment is necessary to prevent death. In contrast, for a relative few—the most catastrophically injured or ill—the functioning of the whole brain was utterly destroyed by the underlying disease or injury, but the medical machinery kept other body systems viable for a time. It is this latter group that has come to be known as brain-dead.

The concept of brain death has become inextricably linked with organ donation. Into the early 1960s, most organ transplants were limited to single kidneys, liver grafts taken from living relatives, or kidneys removed from donors whose hearts had stopped beating. At about this time, a few donors belonged to the class we would today consider brain-dead. But because there was not yet an accepted understanding of brain death as constituting “death,” medical interventions were ceased for such patients so that cardiac arrest would ensue before procurement.

Then, in 1967, the South African physician Dr. Christiaan Barnard electrified the world with a heart transplant taken from a donor declared brain-dead, a concept then accepted in South Africa. However, even Dr. Barnard did not procure the heart he transplanted until after removing the medical machines from the body and waiting for cardiac arrest.⁹

The question of whether “brain death” was a valid concept moved swiftly to the forefront of medicine, pregnant with possibilities for saving the lives of those needing organ transplants. At that time, organ transplant medicine lacked today's capability to substantially delay the onset of organ decay in

those declared dead by standard means (irreversible cessation of cardiopulmonary function, or “heart death”). As a consequence, many donated organs were rendered unusable.

But if brain death could be accepted as a biologically legitimate and verifiable condition, the problem of decay could be reduced dramatically, since the donor’s organs would remain in the body where they could be kept healthy by the medically maintained circulation of blood until the very moment of procurement. That could save many lives among potential organ recipients that were being lost because organs became nonviable.

Organ donation was not the only pressing issue for which the concept of brain death potentially provided a solution. These were the years when many doctors were very reluctant to remove life support from living patients. However, there has never been an obligation in medicine to treat dead persons. More pragmatically, if brain death were accepted as legal death, no doctor could face criminal charges for turning off the ventilator of a dead patient—rarely an issue today but a significant fear at the time. Thus, when a committee was convened at Harvard University in 1968 to determine the criteria that could legitimately be used to determine when a human being had died, investigating brain death was high on the agenda.

The Harvard Committee Report concluded that brain death was a physiologically and ethically sound means of determining death, and that objective diagnostic criteria could be developed for establishing when it had occurred. This new method to determine death won quick approval in many segments of society, including among widely respected representatives of religious groups (then a more important societal force in public policy matters than now), as well as by medical and legal professional organizations.

Assent was not, however, unanimous. A minority of commenters worried that brain death was simply a utilitarian expedient to permit the exploitation of profoundly disabled people for their organs. (Some, as we shall see, still think that.) But these voices carried little sway.

In 1970, Kansas became the first state to formally include brain death in its statute defining death; the rest of the nation and then most of the Western world quickly followed suit. Because organs procured from brain-dead donors were much more likely to function properly after transplant, the use of heart-dead donors fell substantially out of favor in transplant medicine until some 20 years later, when it was revived—a matter not without its own controversies, the details of which are beyond our scope here.¹¹

The Uniform Determination of Death Act—which has essentially been adopted in all 50 states—defined brain death as follows:

An individual who has sustained . . . irreversible cessation of all functions of the

entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.¹²

The American Academy of Neurology similarly defines brain death as “the irreversible loss of the clinical function of the brain.”¹³

Brain death is sometimes misunderstood as meaning that no living brain cells remain in the brain. That isn’t required for a determination of brain death and, in any event, it also isn’t true when a person is declared dead because his heart has stopped. In fact, studies have shown that brain cells may remain alive for an extended time after heart death, with one study reporting that viable brain cells were obtained during an autopsy conducted *eight hours* after death.¹⁴

Part of the continuing intensity of the brain-death controversy may be due to nomenclature. According to a white paper put out by the President’s Council on Bioethics in 2008, the term “brain-dead” causes much public confusion. First, this term (like heart death) wrongly implies that there is more than one kind of death:

Whatever difficulties there might be in knowing whether death has occurred, it must be kept in mind that there is only one real phenomenon of death. *Death is the transition from a living mortal organism to being something that though dead, retains a physical continuity with the once-living organism.* (My emphasis.)

Second, describing a deceased person as brain-dead “implies that death is a state of cells and tissues constituting the brain.” Rather, “what is directly at issue is the living or dead status of the human individual, not the individual’s brain.”

Finally, the Council noted that death “is a *clinical state or condition* made evident by certain ascertainable signs.”¹⁵ In other words, there are measurable indicia of life—or its absence—that can be determined in the clinical setting.

The Council recommended replacing the term “brain death” with the more comprehensible “*total irreversible brain failure*,” or “total brain failure,” for ease of wording.¹⁶ This is very helpful and elucidating: Just as a patient has unquestionably died when her heart and lung functions have irreversibly collapsed, so too has the human being ceased to be *once her brain has totally failed*.

Another useful way of describing brain death is “death declared by neurological criteria.” In laypeople’s language, all of this means the *entire brain, and each of its constituent parts*, is not functioning as a brain and never will again. There is very little or no neural electrical activity; there is no respiratory drive; there is a complete absence of even the most rudimentary brain stem reflexes. For example, the pupils remain at the midpoint, just like the pupils of heart-dead corpses. Nor do they react to bright light. The usual

gagging response is absent, even when a tube is inserted through the mouth into the pharynx. According to a finding of the American Academy of Neurology published in 2010, there have been “no published reports of recovery of neurologic function [in adults] after a diagnosis of brain death.”¹⁷ None.

The popular media also sow confusion about whether brain-dead is dead, sometimes incorrectly using the term for a patient diagnosed to be in a persistent vegetative state (PVS)—such as the late Terri Schiavo. This is a misnomer. Unlike those who have experienced total brain failure, *patients in PVS are unquestionably alive*—both legally and physically. For example, the persistently unconscious have measurable brain activity, some reflex function, and, like Schiavo, can often breathe without medical assistance. In contrast, people who have experienced total brain failure exhibit none of these properties of living persons.

Is Total Brain Failure Really “Dead?”

Brain death remains heatedly controversial among a minority of observers. Some pro-life activists worry that the concept is actually a subterfuge to permit organ harvesting from severely disabled but still-living people, or see it as an excuse to stop life support for expensive and/or morally devalued patients.

Perhaps the most well-known and passionate of these advocates is the neonatologist and pediatrician Dr. Paul A. Byrne, who argues that brain-dead people remain alive *precisely because* ventilator-facilitated respiration works and these people’s hearts continue to beat:

Without respiration and circulation, health of the person deteriorates, ultimately ending in death. This deterioration is manifest in cessation of vital activities and structural changes of disintegration, dissolution and/or destruction of cells and tissues of organs and systems. These changes can be detected at the microscopic level, but eventually in death, they become evident as decay, decomposition and putrefaction. After true death chest compressions or a ventilator can only move air; there cannot be respiration, because respiration is a function of a living human body.

Byrne also brings religion into his advocacy:

Contrariwise, if such efforts at ventilation and respiration are successful, that can be only because soul and body unity is still present, i.e., because the person is still living, not dead. Respiration, circulation and heartbeat can be present only in a living person, not a cadaver.¹⁸

Souls can’t be measured. Moreover, Byrne’s thesis is belied by the scientific fact that the heart does not require a living body (or hence, the presence of a soul) to continue beating. In fact, kept in a proper solution, the heart can continue to beat outside the body for hours because it has independent nerve centers that stimulate its contractions.

Moreover, ventilation requires no intrinsic activity of the lungs. The lungs themselves are inflated with air only if the diaphragm and some chest wall muscles contract. Deflation occurs when those muscles relax, and the natural rubber-like elasticity of the lungs squeezes them down to their former volume. Contraction of the muscles essential for breathing occurs only if a signal descends from the brain to direct that contraction. Unlike the heart, the lungs have no intrinsic nerves to maintain their activity. When the brain totally ceases to function, breathing stops.

Byrne's use of the words "ventilation" and "respiration" (see above) could leave the misleading impression that they are synonyms. But these are distinct biological activities. Ventilation simply is air moving in and out of the lungs, just as it does in a bellows. In contrast, respiration is the "sum total of the physical and chemical processes in an organism by which oxygen is conveyed to tissues."¹⁹

Thus, when the brain totally ceases to function, spontaneous ventilation does not occur. Artificial ventilation can put oxygen into the blood, and the intrinsic activity of the heart can make the blood circulate, and can maintain respiration throughout the body. Importantly, however, in the case of brain death, there is no blood flow to the brain, and therefore *there is no respiration in the brain*. In fact, that is why the brain is dead and will never recover.

The fact that a heart can beat and the lungs function passively after death has been demonstrated vividly by the recent invention of machines that allow both organs to work from the time of removal from a donor's body until they are later transplanted into living patients. (Previously, the hearts and lungs, like other transplantable organs, would be kept cold but inert during this time period.) As one story reported:

When the lungs are inside the Organ Care System, "they are immediately revived to a warm, breathing state and perfused with oxygen and a special solution supplemented with packed red blood cells," according to the UCLA press release. UCLA is also known for developing the "heart in a box," a similar technique that keeps a transplant heart beating and warm before transplantation.

In November 2012, a team at UCLA successfully completed the first "breathing lung" transplant on a 57-year-old patient who had pulmonary fibrosis. Pulmonary fibrosis is a disease causing the air sacs of the lungs to be replaced by scar tissue. The patient received two new lungs and recuperated properly afterward.²⁰

Clearly, then, the heart can beat and the lungs function passively when not inside a still-living person. It is thus hardly surprising that other organs and body functions that don't require direct brain involvement continue to function in the brain-dead. In almost all cases, however, despite technological interventions, even these self-directed capacities will eventually be lost in someone with total brain failure as the medical complications accumulate with the passage of time.

Ah, but not in every case, notes brain-death skeptic Dr. Alan Shewmon. The neurologist, once a believer in the validity of brain death, now asserts that the rare *extended* continuation of bodily function after declaration of brain death calls into question the entire concept.

Years ago, Shewmon identified some 175 cases of brain-dead bodies functioning for one week or more. One-half of these cases experienced body survival for one month, one-third for two months, and seven percent for one year. One person declared dead by neurological criteria had been kept functioning for more than 16 years at the time Shewmon wrote his paper.²¹

I am not convinced that these rare anomalies undermine the concept that total brain failure equals death. Maintaining long-term body viability involves much more than artificial respiration. For example, the bodies of those with total brain failure don't manufacture crucial hormones, which therefore must be administered. Blood pressure also becomes a significant issue and needs to be addressed by medical means.

With advances in medical sophistication, it is possible that more of the brain-dead could be maintained long term. But that isn't the same thing as being "alive."

Both Drs. Byrne and Shewmon are motivated by a sincere belief in the Hippocratic tradition, and a devout adherence to the sanctity and equality of all human life. But it seems to me that, *accurately determined*, someone who has experienced total brain failure is just as "dead" as someone who has experienced irreversible cessation of cardiopulmonary function. It is an objectively measurable, medically determinable, *biological event* that is not any less real because of the tiny percentage of those whose organs and body systems have been kept functioning for extended periods. This would be true even if a majority of the bodies of brain-dead people could be maintained long term through modern technology.

The extent and thoroughness of testing required for a proper finding of total brain failure gives weight to this perspective. First, the finding of total brain failure requires an accurate patient history of extended absence of oxygen delivery to the whole brain. It also requires extensive testing while the patient is not on sedating drugs. There can be no measurable electrical brain function. And here are just some of the criteria the American Academy of Neurology has established for determining death by neurological criteria (my emphases):

A. Coma.

Patients must lack all evidence of responsiveness. Eye opening or eye movement to noxious stimuli is absent. Noxious stimuli should not produce

a motor response other than spinally mediated reflexes. The clinical differentiation of spinal responses from retained motor responses associated with

B. Absence of brainstem reflexes.

- *Absence of pupillary response* to a bright light is documented in both eyes.

- *Absence of ocular movements* using oculocephalic testing and oculovestibular reflex testing. Movement of the eyes should be absent during 1 minute of observation. Both sides are tested, with an interval of several minutes.

- *Absence of corneal reflex.* Absent corneal reflex is demonstrated by touching the cornea with a piece of tissue paper, a cotton swab, or squirts of water. No eyelid movement should be seen.

- *Absence of facial muscle movement* to anoxious stimulus.

- *Absence of the pharyngeal and tracheal reflexes.* The pharyngeal or gag reflex is tested after stimulation of the posterior pharynx with a tongue blade or suction device. The tracheal reflex is most reliably tested by examining the cough response to tracheal suctioning. The catheter should be inserted into the trachea and advanced to the level of the carina followed by 1 or 2 suctioning passes.

C. Apnea Test

- *Absence of a Respiratory Drive.*

- Absence of a breathing drive is tested with a CO₂ challenge. Documentation of an increase in PaCO₂ above normal levels is typical practice. It requires preparation before the test.²²

The tests, which should be administered at least twice, several hours apart, should come to identical conclusions. And in addition to physical examination, sophisticated brain scanning such as an EEG, MRI, and cerebral angiography is done.

If any of the above (or other) tests demonstrate even the most rudimentary responsiveness, the patient is alive and there will (should) not be a declaration of death, because total brain failure has not occurred. As most of the members of the President's Council noted in accepting brain-dead as dead:

[T]he patient with total brain failure is no longer able to carry out the fundamental work of a living organism. Such a patient has lost—and lost irreversibly—a fundamental openness to the surrounding environment on his or her own behalf . . .

A living organism engages in self-sustaining need-driven activities critical to and constitutive of its commerce with the surrounding world. These activities are authentic signs of active and ongoing life. When these signs are absent and these activities

have ceased, then a judgment that the organism as a whole has died can be made with confidence.²³

A more vivid—if crass—way of describing why total brain failure equates with death is this: “Imagine a person with his head cut off, who is somehow kept from losing blood and whose circulatory system is intact,” one doctor told me when I researched this subject for my book, *Culture of Death*. “*That is the functional equivalent of a true brain death. We can keep the body going for a time through medical technology, but would anyone really consider a headless, but functioning body, a living person?*”²⁴ For me, that remains the most compelling argument.

What If You Don’t Believe Total Brain Failure Is Dead?

Some readers of this article may remain unconvinced that total brain failure means that a person is really dead. The question thus becomes: Can anything be done to ensure that they or their loved ones are not declared dead by neurological criteria and/or to ensure medical maintenance in the face of total brain failure?

The simple answer in most states is no. New York and New Jersey allow a religious exception to brain death. But most state laws and/or hospital practices are like those followed in California. If the family objects to the finding, they may have to litigate. In such cases, a judge will often obtain an independent medical opinion, as happened in the McMath case. But this will not be a contest about *whether* total brain failure means that someone is dead—that is now settled law. Rather, the litigation would primarily contest whether *the condition was properly determined* in the particular circumstance.

It is true that some, like Jahi’s family, opt to maintain (the bodies of) their loved ones for as long as possible. But with rare exceptions noted above, they don’t necessarily have the legal right to do so, and in any event, the costs will not be paid for by health insurance or government benefits, because the brain-dead person is not legally a living patient.

But what if one refuses to be an organ donor? Will that provide protection against a declaration of brain death and the subsequent withdrawal of all medical interventions?

No. The question of organ donation and the declaration of death are distinct. The ultimate issue isn’t whether a patient will be an organ donor *but whether that patient is alive*. Once death has been declared, by either brain or heart criteria—again, with rare exceptions—the hospital has no legal obligation to continue medical intervention beyond a brief adjustment period. Moreover, as with the Jahi McMath case, a death certificate can be issued.

Conclusion

Brain-death controversies get a lot of attention, but the concept is all but universally accepted in medicine, law, and society. It is also accepted by most religious traditions. For example, the Catholic Church—hardly an advocate of utilitarian medicine—recognizes total brain failure as a valid basis for declaring a person to be legally dead.²⁵

Whatever one might believe individually, here's the hard bottom line: Once a patient is brain-dead, he or she is no longer among the living but has, as Shakespeare artfully put it, passed "through nature into eternity."

NOTES

1. Many commentators use the term "Jahi's body" when describing her current circumstance. While I believe that, properly diagnosed, "brain death" is death—as described above—I don't employ that terminology because it would be so hurtful to Jahi's family and there is always the possibility, however unlikely, that the doctors' determinations were erroneously made.
2. Carolyn Jones and Bob Egelko, "Judge Rules Against Brain-Dead Girl's Family," *San Francisco Chronicle*, December 24, 2013, <http://www.sfgate.com/news/article/Jahi-McMath-is-brain-dead-doctor-testifies-5091298.php>
3. *California Health and Safety Code* section 7180. "An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards." See also, section 1254.4.
4. Henry K. Lee, "Hospital Agrees to Let Jahi McMath Family Take Girl," *San Francisco Chronicle*, January 3, 2014, <http://www.sfgate.com/bayarea/article/Hospital-agrees-to-let-Jahi-McMath-family-take-5111584.php?cmpid>
5. Texas Health and Safety Code Section 166.049.
6. *Munoz v. John Peter Smith Hospital*, District Court of Tarrant County, Texas, Cause number 096-270080-14, Judgment, January 24, 2014. <http://www.scribd.com/doc/202053415/Judges-Order-on-Munoz-Matter>
7. Kristina Jovanovski, "Baby Born to a Brain Dead Mother," *Daily Mail*, November 13, 2013. <http://www.dailymail.co.uk/health/article-2506281/Baby-born-brain-dead-mother-foetus-survives-15-27-weeks.html>
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9. James L. Bernat, "A Defense of the Whole-Brain Concept of Death," *Hastings Center Report*, March-April 1998, p. 15.
10. *Id.* p. 20.
11. See, for example, Mohamed R. Rady et al., "Organ Procurement After Cardiocirculatory Death: A Critical Analysis," *Journal of Intensive Care Medicine*, 2008 23: 303 <http://jic.sagepub.com/content/23/5/303.full.pdf>
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15. President's Council on Bioethics, *Controversies in the Determination of Death*, December 2008, pp. 17-18. <https://bioethicsarchive.georgetown.edu/pcbe/reports/death/>
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17. Eelco F.M. Wijdicks et al., "Evidence-based Guideline Update: Determining Brain Death in

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- Adults: Report of the Quality Standards Subcommittee of the American Academy of Neurology,” *Neurology*, June 8, 2010, <https://www.aan.com/PressRoom/Home/GetDigitalAsset/8470>
18. Paul A. Byrne, “A Living Human Person Until Death,” *Renew America*, February 11, 2015, <http://www.renewamerica.com/columns/byrne/130211>
19. *Dictionary.com*, <http://dictionary.reference.com/browse/respiration>
20. Lecia Bushak, “‘Organ Care System,’ Medical Device, Allows Lungs to ‘Breathe’ Outside Body Before Transplant,” *Medical Daily*, February 11, 2014, <http://www.medicaldaily.com/organ-care-system-medical-device-allows-lungs-breathe-outside-body-transplant-269099>
21. D. Alan Shewmon, “Chronic ‘Brain Death’: Meta-Analysis and Conceptual Consequences,” *Neurology*, Vol. 51, December 1998, p. 1542. Electronic correspondence to author, October 5, 1999.
22. Eelco F.M. Wijdicks et al., “Evidence-based Guideline Update,” *supra*, pp. 1911-1918.
23. President’s Council, “Controversies,” *supra*, pp. 90-91.
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“Permission to speak in rhyming couplets, Sir!”

My Darlings: An Autobiographical Essay

John Julius Reel

For more than 25 years, my father, Bill Reel, was a newspaper columnist with an enormous, loyal readership in New York City. Writing first for the *Daily News* and later for *Newsday*, there was no more hard-lined, vociferous, stingingly articulate pro-life writer in the New York press. He was also my hero; it would be hard to imagine a son admiring his father more, yet when I was 20 years old I did what was anathema to him: I aborted my child.

Although I am a writer too, in constant and, on occasion, desperate search of material, and although the decision to abort was pivotal in defining my personality and character—perhaps no other decision having marked me more—I never got around to writing about it, at least not directly. Finally, a month before my father died of a five-year bout with cancer, the laxity of abortion laws in my current country of residence, Spain, prompted me to write a bare-all, don't-do-what-I-did confession. It was published on July 31, 2010, three months after he died. Although the timing of the piece and its publication wasn't premeditated, I find it hard to believe that circumstances didn't have something to do with when the truth finally emerged.

Having lived across the ocean from my father for the last four-and-a-half years before his passing, not seeing the grueling aftermath of his chemotherapy sessions, not witnessing his precipitous final decline, when his imminent death was clear to everybody in the family but me, and then having only his ashes, not his corpse, to ponder and touch when I finally did get home, just in time for the funeral, all this made his passing seem unreal to me for quite some time. Perhaps that's why I first published the article in Spanish, a language that none of my American loved ones can read. Little by little, on trips back to the States, as I was confronted by reminders of his physical presence, but never him—the New York Jets playing in the semifinals of the NFL playoffs, and my parents' TV turned off; his boxes of decaffeinated Earl Grey tea still piled up in the kitchen cabinet, beside the supersize bottle of Golden Blossom honey (he used to put three bulbous spoonfuls in each cup)—his death began to sink in. One evening, I plopped down into his reading chair, reached into the basket of magazines and journals at my feet, its offerings unchanged since he last sat there, and randomly pulled out *The Debate Since*

John Julius Reel is an American writer and English teacher living in Seville, Spain. In May (2014) he published his first book, *¿Qué pinto yo aquí? Un neoyorquino en la ciudad de nunca jamás* (Where do I fit in? A New Yorker in Never-never City.) Only one other accomplishment makes him feel prouder: his two home-schooled, bilingual sons.

Roe: Making the Case Against Abortion 1975-2010. It hit me that it might have been the last book he'd read. After a good hour immersed in its contents, it finally occurred to me to translate my piece:

Forgive Me for My Sin

While working as a writing professor at the City University of New York, sick and tired of the lifeless, passionless essays that my 18-, 19-, and 20-year-old students were handing in to me, I decided one day to bare my soul:

“When I was your age and at college, I got my girlfriend pregnant. Until we received the bad news, both of us had been proud to be products of traditionally religious homes. In any debate or discussion about political or moral issues, we always staunchly defended our conservative positions, reserving special enthusiasm for the right of the unborn. Abortion was chilling, unthinkable to us. How could a mother or a father condemn his or her own flesh and blood to death?

“Suddenly we knew. It wasn't the right time for us to have a child. We would have to interrupt our studies to raise it. We believed this lie, justifying ourselves with the age-old cliché that we would have and raise our child the right way: once we were well-established in our careers, with house and savings, so we could provide everything that he or she deserved.

“The contradiction of this logic—that this child, the one already conceived, didn't even deserve life—we barred from our brains. Like almost everybody who ends up making the same decision we did, we managed to convince our consciences that we weren't shirking a duty, or, according to our beliefs, committing a crime, but doing the responsible and selfless thing.

“I should say that we almost convinced our consciences. In fact, my girlfriend and I hardly mentioned the topic. I played the role of understanding boyfriend, trying to sway her neither one way nor the other. When the campus doctor asked if we wanted the baby, we said no, which was true. She didn't ask if we wanted to abort it, just assumed that, and told us the steps. Relieved, we followed them.

“In the U.S. in the late eighties, the abortion cost us two trips to the doctor—two study breaks—and 90 bucks, paid, as everything was in those days, by our parents, who never asked what we needed the money for, as long as the amount we asked for was reasonable.

“The day of the abortion, my girlfriend kept strong during the intervention, but passed out, collapsed to the floor from emotional exhaustion, as we stepped out the door of the clinic. I had to carry her in my arms to her car, a gift from her parents at the start of the semester for always having been an exemplary daughter.

“I lost my way on the trip back to campus. A female police officer caught me going the wrong way up a one-way street. I told her I hadn’t seen the sign. Laughing, she said to her partner, ‘Well what do you know! A college boy who doesn’t know how to read!’

“What that college boy didn’t know was actually far more shameful. He didn’t know who he was, other than a phony and a killer. As far as how my girlfriend felt, upon whom I had laid the entire responsibility of our decision, the truth is, I’ll never really know, but I’m sure she felt worse than I did.

“When we finally got to campus, I left her alone in her dorm, and went on a drunken binge with my friends. That very same night we happened to take the photos we would end up publishing in the yearbook. I don’t remember taking them, but there they are, there I am, frozen in time, just hours after the low-point of my life, apparently ecstatic.

“My girlfriend and I swore the next day that we would compensate for the wrong we had done, that we would use our crime to seal the pact of our love forever. After a year and a half of tension, fights, jealousy, and a lack of sexual desire, none of which we had experienced before the abortion, we gave up. By then we knew we couldn’t compensate for what we’d done, only live with it.”

Right there I ended my story, soaking up the stunned silence of my students, the grand majority of whom were just about the age that my son or daughter would have been if my ex and I had let him or her live. Then I dropped the punch line:

“Would you folks please start handing in essays that show at least a modicum of desire to reveal and therefore to get to know yourselves better?” A dramatic and, it turned out, very pregnant pause. “Class dismissed.”

The following week, from this random class of 30 young New Yorkers, a United Nations of nationalities and religious faiths, I received four confessional essays about abortion, all written by women expressing categorical regret. For one of the writers, her essay wasn’t enough. She approached me after class to unveil the tattoo on her upper arm: a crucified Christ, and below it the words “Forgive me for my sin.”

In following semesters, using this same pedagogical tactic, I got to know a young woman dogged by nightmares in which she relived the butchery of her abortion over and over, as though watching it from inside her womb, others who, in the emotional aftermath, stopped studying and working because their act had filled them with an all-encompassing apathy, one who tried to kill herself, and another who ended up hating her own mother for convincing her, against her will, to abort her child.

For this article, I’ll put to one side the aborted children, whose souls, I’m

sure, are in peace, and focus instead on their parents, the executioners, marked for life for having made a decision, if not exactly without thinking, then certainly without thinking deeply, and egged on by the moral and political zeitgeist. We are a multitude, victims of our own cowardice and lack of integrity, but also of a law, supposedly enacted for the good of women and society, but in fact which suppresses and oppresses our humanity: allows, even encourages, us to be animals, I can't decide whether wolves or sheep.

My ex-girlfriend and I, basically good kids, well-educated and well-raised, instilled with a set of values in which we truly believed, nonetheless lacked the courage to live by our convictions and therefore save ourselves from ourselves. In today's Spain, we all know how easy it is for children, whether figuratively or literally—at just 16 years old, without needing the consent of their parents or guardian—to abort children and therefore suffer, for the rest of their lives, bitter, sordid, and tormenting regrets.

Or no. I suppose there are those who, afterwards, believe that they did what any reasonable person would have done in their situation, and therefore have acted correctly. Perhaps it's true that the majority would have done the same. After all, the easy way is almost always the most enticing. Although it should go without saying that to realize ourselves as human beings in the fullest and noblest sense of the term, life often demands that we choose the most difficult way.

As far as those of us who have already chosen the easy way, there's no going back. We'll never manage to forget what we consented to, and if we do manage to forget, there's no imagining what barbarities we're capable of committing.

In Spain, my writerly forum is a biweekly column of cultural journalism in the *Diario de Sevilla* (Seville Daily) called “La Sevilla del guiri,” which can best be translated as “A Yankee in Seville.” It's odd but true that I found my voice writing in Spanish, my second language. I began to learn it when I was 36. I began to write in it when I was 41. Just over a year after publishing “Forgive Me for My Sin,” I started a personal blog, also in Spanish, that goes hand in hand with the articles I write for the paper. It's a blog about the craft of writing. I write an entry every time I publish a column, about how I crafted that column, then link the entry to the column in the digital edition of the paper and vice versa. The blog's called *Matando a los Queridos* (Killing One's Darlings), a rather ugly term, you'll agree, but quite common in creative writing circles: It means that a writer must possess the sangfroid to kill his favorite sentences, images, metaphors, and sometimes even poems, stories, or novels in order to realize his ambition as an artist. I'm not questioning the

logic, only the image. Nonetheless, if we're going to be brutally honest, the term seems coined for me. A translation of the blog's first entry, published on September 19, 2011, reads as follows:

Before Anything

The title of this blog seems like a tasteless joke if we consider that "Forgive Me for My Sin," currently my most-read article, is about the abortion of my first child. To that crime, I owe my way of thinking. As a consequence, I realized that to achieve real character and integrity I was going to have to work at it for the rest of my life. Hence was born a hunger to understand myself in depth as well as the world around me. Hence was born my vocation to write.

Maybe the life of that lost child and the responsibility of raising it would have served just as well to open my eyes to reality and make me a writer. But it would have been a different reality, most likely a less violent one; I would have been less intent on finding peace and resolution.

Here I am, a Yankee in Seville, writing "La Sevilla del guiri," writing "Killing One's Darlings," raising my two sons, loving my wife, darlings who I'd never have known if not for that victim of more than 20 years ago, a darling who, if I could live my life over again, I would spare. That's the principal contradiction that weighs upon my life and work.

Three months later, I wrote two columns that make clear how this contradiction, and others relating to it, manifest themselves in my life and, as a consequence, in the lives of my wife and children. The first was published on December 10, 2011:

Positive

We met late and had the first two in quick succession, as if wanting to compensate for lost time. My wife gave birth to the first at 40, to the second at 41. Because all went off without a hitch, and because having children was the best thing that had ever happened to either of us, we were considering trying for a third.

Having a child is an irrational decision. Like getting married (in the Christian sense of the term), it's accepting a cross. The advantages of taking this path only benefit the soul, inadmissible evidence in the cold tribunals of the mind, because everything that might make us feel truly useful, generous, and good, everything that might become a momentous reason to live, could just as well become the opposite if we carry that cross without enthusiasm, integrity, and courage.

Like a responsible couple, we would think and debate before making our

decision, keeping in mind that, although the cons would probably exceed the pros, that didn't mean the former would have to outweigh the latter.

"We need time," said my wife, "just you and me, our time, for this marriage to function."

"Is something not functioning?"

"Being together, working together is not the same as being soul mates or lovers. When I think how little time I had to show off my body with you! What was it? Six months? Five?"

"Come on! I enjoy your body every day."

"How? In your imagination?"

"Look," I said. "A child is a lot of work, we both know that. Having two is more. Having three, well, just imagine. But better not to think about it. Everything that's worth anything in life requires work and sacrifice. I realize that work and sacrifice exhaust the energy required for romance. But it's a passing stage. All marriages go through it."

"I know, but I don't want to grow apart. I don't want to be a statistic."

"But if we share the goal and responsibility of having and raising kids, we'll never grow apart."

"So many years of our life together overrun by small kids? Having a family is more than that."

"There are two undeniable proofs of our happiness: happy child one, and happy child two. If we have another, we'll never regret it. Think of the richness we've added, not only to our family, but to the world, with our two children. It'll be the same with one more. Right now the child is just a figment of our imaginations. That's why we can debate the advantages and disadvantages of its existence. Once flesh and blood, he or she will be sheer joy, and lots of work, it goes without saying, but it's the joy that will remain with us."

"To have a child at 43 years old is to look for problems. I can fight the fight for a sick child if only you and I have to suffer my disappointments and depressions. But if our boys are going to have to suffer them too, then it's irresponsible for us to tempt fate."

"You have a good history birthing healthy babies. C'mon, let's give it one more try."

"It's not you who has to carry the result, with all its sky-high risks, for nine months."

"Could it be that the habits of the overly prudent American have finally taken root in you, while the Andalusian impulsiveness and fatalism have finally taken root in me?"

"You act as if we're talking about spending a hundred euros on a caprice, or choosing between Japanese or Italian food. The consequences of our

decision will last for the rest of our lives.”

“If not now, when? Never?”

“What’s gotten into you? What about all the books you wanted to write? Let’s say everything goes well with the baby and it’s a girl? As puritan as you are, are you going to be able to handle a daughter who comes of age, reaches the flower of her beauty, when you’re over 60 years old and want to finally get back to all the projects you’ve left unfinished and need peace of mind to complete?”

“We’ll send her to an American university where she’ll learn to walk like a rugby player and wear flip-flops and baggy sweatshirts all year round. Tonight let’s conceive the girl. If we want romance, we have to make it a priority. Let’s see if, between the marital sheets, the suddenly trigger-shy Andalusian is able to resist the advances of an American gun-slinger finally freed from the inertia of overthinking.”

A month later, I woke up with her at the crack of dawn, before work, and waited in bed while she went to the bathroom with the pregnancy test. She reappeared and went straight to the bedroom bureau, opening the bottom drawer and lifting out an embroidered box. In it, two other pregnancy tests, their results definitively corroborated by healthy, sleeping bodies a room away, sat amidst a collection of hospital bracelets and release slips.

“Positive,” she said, dropping in the piece de resistance, making a happy little triumvirate of home diagnostics.

“Do you think 6:30 in the morning is too early to open a bottle of champagne?” I said.

She wasn’t paying attention, but rifling through some papers that had been stashed beneath her chest of sentimental souvenirs, looking for the obstetrician’s phone number. After back-to-back pregnancies, she knew the steps by heart. I stayed in the background with my illusions, she in the foreground with her worries

The sequel was published the following week. It’s relevant to say that, after publishing “Forgive Me for My Sin,” the city desk had reprimanded me for having diverged too much from cultural journalism. This time I made sure to leave my editors no cause for complaint, and perhaps, in the process, managed to avoid the real issue, or rather to address it only glancingly:

Negative

At the very first ultrasound, as soon as the image appeared on the monitor screen, the doctor said, “Hija, lo siento, pero esto no sigue.” After a pause to assimilate the blow, my wife, who I consider the personification of her sex

in that moment, burst out crying. For a few minutes it was impossible to console her, although I say that without having tried to. I, who I also consider the personification of my sex in that moment, only wanted to know the next step and to get it over with as soon as possible.

Months later my wife would say to me, "I suspected that your main concern in that moment was how all this was going to affect your routine." Her suspicion could not have been more accurate. What I most wanted to do when I heard the news was to throw myself into my work, because, more than anything else, more so even than family, my work, my writing, gives me a sense of purpose.

The doctor was kind enough to walk with us to the hospital exit. My wife tried to explain to her why her heart was broken.

"I already loved it."

"C'mon," said the doctor, trying to lift her spirits. "Love? That's impossible."

"Maybe I was just thrilled," said my wife.

It was love, not a thrill. My wife is living proof that it's possible to love a ten-week-old child.

She would say to me months later, when I was finally ready to speak in depth about the subject, "It was a contradictory feeling to have a dying life inside me. I wanted to continue giving it strength and love like I had done from the very beginning, but at the same time I wanted to distance myself, to not suffer any more."

To be honest, we only knew that, according to the doctor, and days later a second one (although we hadn't asked for a second opinion, and I wasn't there to hear it), the baby wouldn't survive. "Hija, lo siento, esto no sigue" means "Daughter" (a term of affection in Andalusia), "I'm sorry, but this doesn't continue"—a phrase that's vague even in its original language version, but doubly so to someone who spent the first 36 years of his life speaking only English; yet I, normally very curious, even insistent, to know the details, especially where medical treatment is concerned, kept my mouth shut for fear of putting my conscience in a dilemma.

My sister-in-law, not me, accompanied my wife during her weekend in the hospital.

"My sister will understand me better than you," she said. "She knows what I need. Besides, the kids are better off with you than with anybody else."

What luck to have a wife who keeps her equanimity even when I'm making it a point not to feel her pain.

Despite her sister's almost constant presence, it was impossible to avoid

moments of loneliness, for example, on the bus, on the way to the hospital. She would tell me months later, when I finally worked up the courage to ask her the details (because I wanted to write this article), "You catch the bus feeling no physical pain, knowing that you're lucky because it could have been far worse, far more dramatic, but also knowing that you're about to lose a momentous reason to live."

Lying on a gurney, waiting in the dark hall that opened to the operating rooms, my wife listened to women "enjoying giving birth." As though the star of a bad, tear-jerker of a film, she was asked by a euphoric new mother coming out of the very operating room that my wife was about to enter, "Is yours a boy or a girl?"

My wife pretended not to hear.

I'm glad I wasn't there. I'd probably have been reading in that moment, or outlining an article, or taking notes. In my defense, I don't have much to say. Is it a legitimate excuse to say that in my current life, when I'm with my wife or when I'm not, I can't afford to dwell on, to just sit in pain, because our kids are always there, or about to be, wanting us, needing us?

"It's not legitimate," said my wife. "We can face both things at the same time. If we don't, we lose out, us and the boys. It's like when I justify to myself not visiting my parents more often, telling myself that I'm wrapped up with the kids at home. I'm depriving myself more than I'm depriving them."

Generous of her to recognize that we all make the same mistakes, we all contradict ourselves; although let's admit that some of us make them, and contradict ourselves, more often than others.

"But pain can be paralyzing," I said.

"Let it paralyze us," she said. "It passes."

"I'm not sure it's as simple as that."

Shirking the emotionally difficult, calling it water under the bridge, justifying my actions by saying that there were things to do—I believe this behavior embodies the masculine. On the other hand, my wife grieved like the embodiment of the feminine, letting her shattered hopes consume her, giving them priority over the tasks of everyday life, justifying her inaction by saying that the pending was just that, it could wait. That's precisely why I bring it to your attention here, in a column that compares Seville, the eternal city (more eternal, in my opinion, than Rome, which has unfairly appropriated the name), with New York, the city that never sleeps.

*According to Manuel Chaves Nogales, whose book *La Ciudad* (*The City*) might be the best thing ever written about Seville, my current city "tows old, extinguished grandeur behind it." It glorifies the past, the gone.*

According to a famous New York Times editorial, published October 30,

1963, lamenting the demolition of the old Penn Station, “We will probably be judged not by the monuments we build, but by those we have destroyed.” Yes, my former city where I once resided, where I was born and raised, glorifies progress, the new and the next.

Let’s consider New York as my father, and Seville as my mother. They’re actually quite compatible. The mark that the former has left on me complements the mark the latter is leaving on me. They keep each other in check, sometimes even cancel each other out, letting me find my own way. If right now I live with my mother, not my father, it’s because I’m a parent now too, and I prefer the city that best cares for my kids, both in this world and the next.

My wife, as much the embodiment of her sex as of her city, will make sure that our child is never forgotten. I, likewise typifying my roots as much as my gender, have written this column to put the matter behind me once and for all.

The blog entry in “Killing One’s Darlings” that accompanied the above article brings us full circle, or nearly so. It’s worth pointing out here that, in Spanish, the word *aborto* is used in common speech for both miscarriage and abortion. There is no single word that only signifies miscarriage. You can distinguish it, like doctors do, by saying *aborto espontaneo* (spontaneous abortion) and *aborto intencional* (intentional or elective abortion), but most people don’t. They let the context do the talking. In the following blog entry, *aborto*’s dependence on context served me quite well. I left it deliberately vague.

Black Humor

Thanks to “La Sevilla del guiri,” I have hit on a subgenre of journalism that might be called “Interview with intimates.” It’s far superior to the “intimate interview” when it comes to revealing the truth, about both author and subject. In this subgenre, my subject has always been my wife.

Of all such interviews I’ve published, “Negative” has required the most work. The graveness of the theme, *aborto*, did not permit any witty, clever, and certainly not snide, segues or transitions. Humor is a very useful resource when it comes to writing dialogue, helping conversations flow, to have them get somewhere and finish neatly. But it’s also my preferred escape route/defense mechanism, and therefore it was better not to employ it when my main objective was to confront and then expose myself.

In the process, I hoped to elucidate what are, in my opinion, the differences between men and women, or more specifically, the masculine and the feminine (I believe that all of us are made up of some mixture of the two), and how

these differences manifest themselves even more so in moments of great loss. It just so happened that I had finished an earlier version of "Positive," the precursor to "Negative," only a couple of hours before the ultrasound demonstrated the pregnancy null, if not void. On the bus ride home, with my wife dead silent at my side, I realized that the column that I'd finished that day, that I'd worked so hard to make witty and humorous, no longer worked, that I'd have to write it over again from scratch. This upset me more than the doctor's diagnosis.

This selfish, superficial, and (I believe) masculine reaction, and others along the same lines that I've confessed to in "Negative," come into stark relief, if seen in the light of "Forgive Me for My Sin," an article born of my remorse for having eliminated, without hesitation, my own son or daughter when I was in college. This remorse clearly did not stop me, in a similar situation 23 years later, when I could no longer blame my lack of conviction on my youth, or on a conscience still in its infancy, from thinking principally about personal plans and projects, and giving them priority over the far more important issue at hand. This type of humor, black humor, humor that makes me laugh and then feel ashamed for laughing, does contribute something to the topic without making light of it. It implies that I haven't changed much.

Have I changed much? God knows. If the reader doesn't mind, we're going to leave my wife out of the moral muddle I'm about to segue into. Unlike me, she doesn't doubt the authority and recommendations of doctors. She puts herself instinctively, unquestioningly, in their hands. This quality in her is not self-compromising or weak; it's trusting and brave. In the vast majority of cases, on issues of principle, at least, she does the same with me. The dynamic of our marriage—a healthy dynamic, as long as both parties pull their weight—is that she cedes to me on issues of principle, and I to her on issues of sentiment. Her reaction after the *aborto*, how she confronted and then assimilated the pain, even if it had to be done alone, without the emotional support of her husband, makes clear that she held up her end of the marriage dynamic. I can't help wondering what would have happened if I'd done the same; if, instead of washing my hands at the first opportunity that presented itself, I had taken a moment to recollect my priorities and remind myself of my beliefs.

American readers (at least those not on Medicaid) likely do not know the power and influence doctors have over the fate of their patients in a system of socialized medicine like the one in Spain. Its services, even the most costly ones, are the same and free for everyone, rich or poor, blue-blooded or foreign, tax-paying or terminally unemployed. Even taking into account its

bureaucracy, the rampant civil-servantitis, and its politicized (i.e., corrupt) and often incompetent administration, to say nothing of how the citizens overuse and abuse it, Spanish health care is, in this user's opinion, a social good. That said, because of the endless stream of patients that pass before state physicians, midwives, and nurses at ten-minute intervals during a work day, the majority of these health workers becomes reduced, little by little, to harried and/or robotic paper pushers. They ask questions, or rather mumble them, while staring at their PC screens and typing in data. If you manage to proffer a query yourself, the reply will most likely be brief and noncommittal, and almost always given without eye contact and while your state health professional is half-distracted doing something else. The average government health worker seems mechanically programmed to get or keep the bureaucratic ball rolling, so that the system continues carrying on in its juggernaut-like and generally effective way. When I used to accompany my pregnant wife at her trimesterly appointments (three visits, that's all you get, if mother and child are deemed healthy) at our local clinic, occasionally there'd be no space in the waiting room for even pregnant women to sit, yet we'd all be attended to rather quickly.

Glitches in the admirably streamlined *seguimiento prenatal* occur upon encountering irregularities, that is, upon pregnancy becoming tied, in some degree, to illness. Although the current conservative government is attempting to pass a legal reform that will radically reduce women's rights to interrupt their pregnancies, right now abortion is unrestricted up until 14 weeks and permitted up until 22 weeks if the life or health (mental counts as well) of the mother is considered at risk or the fetus is shown to have grave anomalies or malformations. Doctors are given quite a lot of room to interpret. And as the system is set up to foment the quick fix, I'm sure my wife and I are not the only couple who, upon reflection, wonder if we were railroaded, if the decision to end our problematic pregnancy was taken for us.

But actually, we, or at least I, have no real recourse to this claim, because during this particular pregnancy, we were privileged to have our first prenatal checkup in a private hospital, free, as the doctor was the sister of a friend. In this case, our doctor did have the time and interest to attentively answer our questions and to clear up our doubts, or would have, if we'd expressed any. The waiting room wasn't filled; in fact, not a soul was there, otherwise the doctor wouldn't have been able to walk with us to the hospital exit, offering consoling words. As she handed us the paperwork so that the procedure she recommended could be approved by and then performed in the public system, I recall her saying, in her unflinchingly reassuring tones, something about this being nature's way to prevent future, far graver

problems. Why the hell didn't I ask her what she meant?

What if, after her snap diagnosis, I had first sat with my wife, trying to comfort and console her, letting her know that she wasn't alone, and then, once I'd made my solidarity with her clear, I had asked the doctor for a full explanation? Would she have given me a clear and satisfying answer about why the pregnancy couldn't continue on its own, without modern medicine and mentality assuring that it didn't? What if, after first ensuring that the pregnancy wasn't a serious health risk, I had tried to convince her (my wife) to let nature—our idea of nature—resolve the issue, explaining that a doctor should only come into the picture when called for, and not before? What if, in the gentlest possible terms, I had used my wife's very own logic to state my case? What if I'd said, "Okay, according to the doctor, the baby's doomed, and you have to carry it, not me; you have to love it and mourn it, or both things at the same time, which is even harder, every single moment, night and day, while waiting in constant, excruciating suspense for the axe to fall, or not. But I promise I'll do all I can to support you. And you'll help me support you. Whatever happens, we can face it together. All of us. The boys, too. If not, we lose out, as much as, if not more than, the life that's inside you. If you want to know the truth, I think you were born to carry this baby. If there's a chance for it to live, for love to heal it, then your womb, nobody else's, is the ideal place for such a miracle to occur. Although we can't expect a miracle, how can we dare eliminate the possibility for one? That contradicts everything we stand for."

I'm sure, if I'd done my part, if I'd pulled my weight, if I'd pointed us toward the truth, and then drawn on the strength that the truth always provides for its most undaunted supporters, I'd have managed to convince her. For better or for worse. I'm not going to simplify or romanticize matters. Most likely, it would have been both for better and for worse. We'd have been better people for it, more at peace with ourselves and our convictions, but perhaps our lives would have been worse, more difficult and dolorous.

All this, I realize, is at this point mental, or rather moral, masturbation. For all I know, at that first ultrasound, our child was already without a heartbeat, nothing more than a miscarriage waiting to detach itself from my wife's womb. Although three and a half years have passed, I could find out without the slightest bureaucratic muddle. The doctor and I are practically neighbors. We occasionally run into each other on the street. A few months ago, I did some translation work for her husband. I could reach out with an email or a phone call, and I'm sure she'd be willing to attend to whatever belated questions or doubts might be nagging at me. But what good would her answers do me? I'd learn either that God had been merciful, or that my

lack of character had mortal consequences. To me, neither one nor the other would resolve anything important or give me a sense of closure. The undeniable fact, and the only relevant one to me, is that I deliberately didn't act, when acting was a matter of life and death, when it concerned my own flesh and blood, that, just like 23 years earlier, I let myself be led. As it is now, in two instances separated by a generation, the pregnant woman at my side and I left ourselves willingly in the hands of doctors who thought they had our best interests at heart, but who didn't share our convictions—and we, or at least I, knew that. I dare say I preferred it that way. I don't consider myself a bad man for all this, just a lazy and frightened one, perhaps neither more nor less so than the majority of human beings; only God knows that too. What I do know is that I need for the society I live in to believe what I believe and to pass laws that uphold what I believe, or I will act against my beliefs, erring gravely, putting lives, and at least one soul, my own, in jeopardy. Two of my unborn children had to be dispatched by *abortos* for this self-knowledge to become unquestionably clear to me.

One reader of “Forgive Me for My Sin” scolded me, rather self-righteously, for not forgiving myself. I'll leave the forgiving of myself to other people, thank you, and to my Maker. More germane, I think, is that I don't trust myself. For example, if my wife got pregnant again (and to be clear, after our *aborto*, we've stopped trying), and if an ultrasound detected problems or malformations or disconcerting probabilities, and the doctor was humble enough to give us all the details and facts, without slanting them one way or the other, and then to let us decide for ourselves what we were going to do about it, and my wife told me that she didn't have the strength to carry, birth, and raise the child, I don't know, even after having failed twice to walk the walk, and having beat my breast for it, both in private and in print, that I'd have the strength to convince first myself and then her to take the more difficult path.

Speaking of difficult paths, let's switch for a moment to my career path, because it's relevant. I discovered my vocation to write the summer after I graduated from college, just about when my aborted child would have been born. As my very first blog entry insinuated, I killed this human darling, only to have it resurrected as another, purely literary one, which became, almost instantaneously, the apple of my eye. I had great hopes for it, was certain that it would bring me immediate satisfaction and success. For 15 years I kept after it, day after day, making its development my sole preoccupation, even my obsession, but, alas, despite my dogged persistence, my passion and my prayers, it never grew wings. Still, I carried on, discouraged perhaps, but

undeterred, certain that success was right around the corner and that it would taste sweeter for having eluded me for so long. In 2006, I came to Spain, in search of inspiration. Spain, it turns out, has given me much more than an inspiring backdrop; it's given me a wife, two children, and a new language, both to speak and write in, a new voice, even an authoritative one, and a forum to publish, and therefore readers.

But if we're going to be honest, the writing continues to be a sick child. I know my decision to keep it is irrational. Not only doesn't it earn me a cent, it's an economic drain, preventing me from teaching more English classes, which do help pay the bills. I continue to obsess over it. I do all that I can, more than I should, so that it will finally leave me in peace by finding its niche, and maybe even give back. Perhaps that's selfish of me, but I can't help it; I love it, and I want it to love me in a way that's easy for me and for everybody else to understand. I want my reward; I want recognition. Perhaps I'll get it one day, in life or in eternity. Or not. Whatever the case, I'm resigned. I'm committed. Since it doesn't have a soul (only expresses soul, when I write well), my conscience would be clear if I killed this darling, but I can't. I'll always be there for it, ready to do anything it wants, or anything within reason at least. And, of course, it does give back. It teaches me about myself, and teaches others too; those who let it. If it weren't for my writing, I wouldn't know how to define myself, either to myself or to others, although the others are secondary—it's taught me that too. It's brought me back from the dead, spiritual death, again and again; it's shown me my errors and weaknesses, and helped me correct them, to the extent that it's been possible, at least for a while; it's shown me my strengths and how to use them in the service of love and my loved ones. And best of all, or worst of all, it'll never grow up, never get better, will always need and depend on me.

All the same, if a prophet had told me when I first took up the call that, if I stuck with the writing, then 20 years on I would find myself, along with a wife and two small boys, crammed into a tiny apartment, in a filthy, low-income neighborhood, that I'd be far from home, writing and publishing, it's true, but for a salary—a free subscription!—that I'd be ashamed to mention even to friends, that I'd be contributing, meagerly, to the family income, with what amounts to a 20-dollar-an-hour job teaching English to up-and-coming businessmen, most of them younger than I am, looking down their noses at the long-haired, bohemian dreamer (“I'm a writer,” I tell them, self-consciously, and they look at me as if I said that I collected stamps), and that the majority of my co-workers would be recent university graduates, also puzzled by a 45-year-old in a 20-year-old's job, wondering why a biweekly column in the local paper keeps me from starting my own academy; if a

prophet had described this daily cold bath of humility that lay in wait for me, and I had been humble enough at the time not to laugh arrogantly in the prophet's face, I would have chosen the easier path. Upon seeing the very first ultrasound, I would have beaten that well-meaning but, I believe, misguided Spanish doctor to the punch. "I'm sorry," I'd have said. "This doesn't continue."

Despite knowing, and even having lived, thanks to my vocation, the undeniable spiritual benefits of taking the difficult path, I will still, even now, only take it by mistake or because I have no other choice. Although I'm a man of many strong convictions, I haven't the fortitude of character to champion them through my actions, if it inconveniences me too much. While I have a gift for self-analysis perhaps, and the guts—whose twisted sister is self-disdain—to express the ugly truth about myself, I sometimes ask myself: What good is self-knowledge, what good is wisdom, if it doesn't help me improve myself, if I lack the will to act on it? Well, for one thing, wisdom and self-knowledge can keep me from falling from my state of incompleteness into a state of hopelessness. For me, hopelessness would be if I changed my beliefs in order to call myself a man of principle: an international pastime, if you ask me. One thing is to lack integrity, another is to lack it while considering myself irreproachable. In the meantime, while I grow or remain stubbornly the same, I will do the only respectable thing: live with my errors and call them by their rightful name.

At the start of this piece, I implied that my abortion was a taboo writing topic for me until my father passed away. I also claimed that he was my hero. I believe this hero-worship was part of the problem, or at least symptomatic of it. Picture Yours Truly, standing around a keg in college, saying to his cronies: "When I was ten years old, my old man's mug appeared on the sides of all the New York *Daily News* trucks, and under it the tag line, 'Read about Reel people.' At that time, the *News* had the highest circulation of any paper in the country, more than three million copies on Sunday, one of the days his column ran. Three million copies! How many trucks did that mean were out and about the Big Apple every morning, showing my dad's face blown up as big as a movie screen?"

I'd let slip that Frank Sinatra was a fan, that he used to call the *News* from Palm Springs to congratulate my dad after reading a column he especially liked, and that another admiring reader was Angelo Dundee, Mohammed Ali's trainer and corner man, who once got my brother and me into Ali's Catskills training camp, where I got to shake hands with and then sit around drinking soft drinks with The Baddest Cat on Earth.

Sometimes, I just blatantly lied: for instance, that I'd been with my father in the Yankee Stadium press box when Pope John Paul II said his Mass there in 1979. "When the pope said 'Peace be with you,'" I'd say, paraphrasing from one of my father's columns, "and 60,000 Catholics responded in perfect and enthusiastic unison, 'And also with you,' making the very foundations of the stadium shake, only then did the term 'community of faith' become resoundingly clear to me."

Or I name-dropped nearer to home:

"After my dad switched over to the competition, New York's *Newsday*, during a strike, a *Daily News* readers poll revealed that he had been the most popular columnist at the paper. So who calls our house, trying to recruit my dad back, but Mr. 'Shooting from the Lip' himself. I pick up the phone, he introduces himself, and, without skipping a beat, I let the phone hang down and shout out, 'Daaad! Lupica's on the phone!' The *News* ended up offering my dad double what *Newsday* was paying, but he didn't budge, no way, remained true to his word that, if the *News* came groveling back, he'd stay put."

In 1996, when I'd started working as a reporter for the Staten Island *Advance*, and was well on my way, I believed, to following in my father's footsteps, perhaps even to eclipsing him, Donna Hanover, who was the wife of then New York mayor Rudolph Giuliani, had a role in the Milos Forman movie *The People vs. Larry Flynt*. My father lambasted the film for portraying the founder of the hard porn magazine *Hustler* not as the lowlife he certainly was, but as a champion of First Amendment rights. My father wrote that if Giuliani were the Catholic he claimed to be, and his wife truly concerned with defending and respecting her gender, then they should both be ashamed that she'd taken part in such foul and simpleminded Hollywood propaganda. In response, the Giulianis invited my father and mother to dinner at Gracie Mansion with a dozen other people they perhaps hoped to get in their pockets with their savvy, bury-the-hatchet hospitality.

Picture Yours Truly, sitting around a Staten Island diner, drinking bad coffee in the wee hours of the morning with other budding newspapermen and women, throwing out the following nugget of journalistic "in-ness" and wisdom:

"Did my dad accept the invitation? Damn right he did; and it only confirmed, as he knew it would, one of his favorite maxims about the business: The most boring people to talk to are actors and politicians."

While the maxim really was my dad's, both he and my mother enjoyed themselves that evening at the Giulianis, and came home describing their hosts as genuine; but of course this conflicted with the champion-of-the-common-man image of my dad (read: myself) that I was so dead set on

cultivating in those days, so I kept the facts to myself.

I am quite aware that, during my 20s and early 30s, I could very well have been the poster boy for the Left's biggest and perhaps most legitimate gripe against the Right: that we're just a bunch of privileged folk who demand the hard line, the grueling road of sacrifice and suffering, from everyone except ourselves, the chosen ones, who can choose the sacrifices and sufferings we want, with only our maker to answer to, whom we've created in Our image. In those days, I shared the same beliefs as my dad, not for any deep or soulful reasons, but because such beliefs had worked for him, professionally speaking, and I therefore believed they would work for me. When the time came to live by these beliefs, when integrity was called for, an integrity that seemed to impede rather than foster the worldly success that, as an insider's son, I considered my birthright, it should come as no special surprise that I simply passed, because I could. I often wonder if it's possible that the type of hypercritical naïf and then hypocrite that I was in those years is as legion as the repentant parents of aborted children.

If my career as a writer had taken off when and how I had expected it to, I'm sure I'd have devoted, and would perhaps still be devoting, a substantial part of my vocation to writing exactly the kind of article that I so enjoyed reading in those days, but which I no longer have the slightest patience for: neatly composed, intellectual arguments that tweak in cleverly subtle ways the same old clichés that define the Right in all the typical social policy fights of our time—abortion, embryo research, marriage, etc. I imagine that, like many of those who write in this vein, I'd consider my specialty to be the kind of piece that skewers with indignant sarcasm, pawned off as wit, the puff-ball logic of some pundit or politician in the opposing camp. All of this would no doubt be in an attempt to cover up, compensate for, or obliterate my secret treacheries and my fear of understanding myself.

Let me say that, if I am at all representative of the whole, then antiseptically cerebral, impeccably reasoned pro-life arguments do little, if anything at all, to decrease the number of abortions in the world. In fact, in my case, I suspect that they served the opposite purpose, feeding the lie that I could stow abortion away in some tidy, sealed-off place in my mind and forget about it if I wanted. And it's clear that I can't. In this piece, the reader will notice that I'm trying to convince with anguish, not reason. But if the anguish that haunts me and that I am so dead set on making palpable has not, as the second *aborto* demonstrates, made me more decisively and coherently principled, how will a mere literary evocation of it prevent others from committing crimes against the unborn? Perhaps I am just one more idiot (in the purely Shakespearian sense) whose tale contributes to the ever more voluminous sound and fury,

signifying nothing. One thing's for sure: if I do manage, with God's help, to further the cause in more than just a purely rhetorical way, perhaps by pointing to the potentially malignant and renegade strains as much within the fold as without it, it won't be thanks to any epiphanies provoked by my *aborts*. True to form in me, my sacrificed human darlings remained hardly, and certainly not frankly, acknowledged, until I first came to terms with the unremitting illness of the literary darling I so favored. Appropriately, it was my father who—finally transcending the hero role that I'd typecast him in—pushed me to take this vital step.

When I was 32 and enjoying bachelorhood to the max, I believed I'd finally written the book that would gain me fame and fortune: a hilarious (in my opinion) account of all my romantic encounters up to that point, glossing over the shameful parts, it should go without saying. As my father had approved of the project when I ran it by him over dinner one night at Minetta Tavern on MacDougal Street in Greenwich Village, I made sure he was the first to read it. No one has ever encouraged me more in my writing. He was always attentive, the most dotting of grandfathers to my sick child, whenever I needed him to be.

"I only want you to help me perfect the prose," I told him, handing over the stack of pages.

A week later, he came over to my apartment and, poker-faced, dropped the manuscript on my kitchen table.

"What did you think?" I asked.

"The problem with the book isn't the prose," he said.

"Oh no?"

"No."

"Then what?"

He lowered himself into a chair, his suddenly drawn face showing that my book had made him suffer.

"It's your thinking."

"My thinking?" I said. "What's wrong with my thinking?"

While he pondered the question, I took some guesses.

"Unorganized?" I said. "Unclear? Inconsistent in places?"

"No," he said, always a stickler for the *mot juste*. "Juvenile from beginning to end."

So began a long, intimate, and humbling apprenticeship, during which my hero transformed into my guru. My principal realization during this transition was the priority, middling at best, that my father gave and had always given to his professional career. He much preferred spending time with his wife

and children: eating with the same four unglamorous people every night; attending our ball games, even if we sat the bench; grocery shopping on the weekends to relieve his wife of her most hated housewifely chore; driving us to practices, movies, or our friends' houses, then picking us up afterwards; talking us through disappointments; taking vacation days to drive us 800 miles to our college campuses each fall; and, in the summers, shutting off ball games or putting down books to listen attentively to our tiresome problems, plans, and dreams, knowing when to counsel, when to encourage, and when to say nothing at all. Finally, at a time when most other kids our age had found their way, he used his coveted free time to read our (my sister, Ursula Hennessey, is a writer too) lame attempts at literature and journalism, telling us the blunt truth about them.

As I look back, all of my father's favorite advice about writing—"Avoid useless words," "Bless, don't impress," "It never gets easier, but you might get better at it"—could just as easily apply to fatherhood. Accordingly, his best columns, the ones that endure, that have no expiration date, are not the ones that Sinatra liked, or that put hypocritical politicians in their places, or even that defended the rights of the unborn; they were about his family. To quote or summarize his work here wouldn't do it justice. Suffice it to say that, with masterfully composed personal anecdotes, he was able to point out, indirectly but indisputably, that perhaps the greatest possibility for human usefulness and therefore happiness resides at home, creating and raising a family. My father was able, when in the throes of inspiration and writing about those and what he loved, to reproduce the essence of his existence in prose. It was precisely this essence, this living, breathing, and edifying ideal, that I so glibly and blatantly betrayed with my abortion(s). Raising his kids to respect what was sacred, because therein lies peace, was the only endeavor that really mattered to him. Would he have thought it all for naught, if he'd known that at 20 years old I'd snuffed my own flesh and blood without pausing to think? The second *aborto*, which fell six months before he died, he knew of only as a miscarriage, what he called "God's will." But of course it was my will, which is the will that has always been so duly and promptly executed whenever I've felt that control was slipping out of my hands.

During the last decade of my father's life, I'd send him my writings, he'd judge them as worthy of working on or no, and then we'd hash through the pick of the bunch, line by line. "What did you want to say here?" he'd ask, underlining a phrase. I'd hem and haw, racking my brains, until finally something clear and sensible emerged from my lips. "Well, why didn't you just write it like that in the first place?" he'd say, scribbling my words, the ones he'd pulled from me with his implacable persistence and patience, into

the margin of my text. Again and again, one of his staggeringly precise adjectives or insights would take the hot, self-circulating air out of my sails, thus putting my work, and therefore me, back on course, propelled by stronger, fresher winds that neither he nor I could really take credit for. Finally, after streamlining and limning the prose, after making me look like a far sharper stylist than I really was, he'd say in his self-effacing but nonetheless authoritative way, as though sending a son out into the world, "That's about as far as I can take it, old boy. Let's see what the powers that be have to say."

While he was alive, the only pieces that I ever submitted to the powers that be without first receiving his stamp of approval were those published in the *Diario de Sevilla*. I published 20 before he died. He was too sick at that point, too exhausted to read, much less to line-edit, anything I wrote, so I'd said, what the hell, why not write in Spanish. In retrospect, it makes perfect sense that my darling, and therefore his darling, would finally fledge just as he was fading. The language, English or Spanish, was secondary. If I wanted to be a writer, I had no choice but to finally, once and for all, assimilate everything he'd taught me. And so I did—no small achievement, either for him or for me, and one day, in one of our last conversations, he made that gratifyingly clear to me.

"You had to move to another country," he said, "learn the language and to write in it, in order to get the forum you deserve."

This comment was and is, hands down, the most meaningful compliment I've ever received as a writer. But what if, before going to his reward, in addition to the satisfaction of having seen his son/mentee's writing finally grow tiny wings, he'd known that, with his son pointing the way and his daughter-in-law shouldering the emotional burden, we'd checked the officious and relentlessly efficient Spanish health-care system (i.e., the easy way), when life took an anguishing and perhaps even precarious turn? Or what if, even more fantastically, he'd had the incomparable joy of seeing a real live grandchild, a darling of flesh and blood, pass from infancy into adulthood, blessed, as he or she fledged and then flew the nest, as much with his mark as with my own. I'm convinced it would have happened that way. Although it was never his custom to praise those who did the only decent thing, in my daydreams I like to imagine him giving an even greater compliment to a different, much more courageous me:

"Sadly enough," he might have said, "when you were 20 years old and got your girlfriend pregnant, it was a time when, for a white, liberal arts undergrad like you, having a child out of wedlock was generally considered a far bigger screw-up than aborting one, yet you had the guts to face down the stigma, and not commit a horrible crime in order to hide an understandable

error. It took a lot of depth, a lot of foresight, for you to see ahead to this moment, when none of us can imagine life or happiness without that kid.”

It turns out that there is life and happiness, albeit tainted, without that kid. The father who cheats the children he never knew, never wanted to know, out of their rightful inheritance, to lavish favors and opportunities on the children that came according to plan is a little like the athlete who wins the final fair and square, after having cheated in the quarters or the semis. The fruits of victory, while redemptively sweet, are also incriminatingly bitter, and therefore difficult to digest. Our systems are not prepared to assimilate such a contradictory cocktail of nutrients.

At times I suspected that my father knew, at least about the first darling I killed. For years, over many, many drafts, he helped me polish, to the best of our ability, a first-person novel whose protagonist lived under the same crucible of guilt that I did. But there was always the guise and buffer of fiction to take the edge off, leaving the cold, hard facts in doubt. And so I was deprived of his direct, unfettered absolution, which I’m sure he’d have offered, even if my profane act had caused him great pain. Perhaps one day he did offer it.

We were talking about his mother’s side of the family, five sisters born, one after the other, to a housewife and her drunk, unemployed husband in rural northwestern Connecticut. They lived in poverty, unsure from one day to the next if there’d be bread on the table, or if they’d freeze to death.

“I sometimes think,” said my father, “that if abortion were legal in those days, my mother, and therefore me, and therefore you and your brother and sister would never have been born.”

In a sentence, he summed up the gravity of my crime, and at the same time put me at ease. He could clearly comprehend how his own flesh and blood, if encouraged, if egged on by the temper of the times and the laxity of laws, could condemn his or her own flesh and blood to death.

Symposium: Should the Catholic Church Go Wobbly on Abortion?

[The seeds of this symposium were planted by Peter Steinfels in “Beyond the Stalemate,” a 2013 Commonweal essay in which he urged the Catholic Church to abandon conception as a legal marker and support legislation establishing a later gestational cut-off date for abortion—he suggested eight weeks—one “where there is much greater likelihood of achieving a moral consensus.” That would be “a bad bargain,” countered George McKenna in a widely read critique published in these pages last fall: “Today—with an Administration wholly committed to routinizing abortion—is no time to go wobbly.” After another round of Steinfels v. McKenna (see responses by both men in our Winter 2014 issue) we thought it might be interesting to invite other commentators to participate in the debate—ed.]

William Murchison

All right, a little combustible material got lighted here, wisps of smoke drifted up the chimney—so what? Under our constitutional theory, this is what exchanges of viewpoint are all about, am I wrong?

Here is my own viewpoint, crystallized by the exchange of rhetorical hostilities. It is that we—all of us who, from whatever perspective, wish nothing but the best for unborn life—must get down to brass tacks. It is well enough—vital enough, perhaps—to get into chromosomes, quickening dates, opinion polls, and the like, saying nothing of laws and court decisions. We must make sure the discussion gets mired neither in biology nor in politics. We are in a theological debate. We must talk theology.

Is that so hard a thing? Well, yes; we Americans, we Westerners, don't do much of that sort of thing these days—talk to all within earshot about God and Creation and the importance, yea, the urgency, of acknowledging and honoring the intentions of Him who brought life into this place we call Earth.

Possibly Mr. Darwin helped cure us of this ancient habit; possibly the religious wars contributed to it, and also the rise of the Enlightenment, and of Rationalism, and of the sense among us, growing like a weed, that religious discourse in a democracy must acknowledge the truth claims of others besides ourselves. Whatever the proximate cause or causes, Westerners have lost the zeal for religious reformation.

Which leaves us where we are now: reduced, regarding human life, to wranglings that owe more to the lab and the legislative chamber than to earnest consultations about the will of the God who for us men and for our salvation came down from heaven, and was incarnate by the Holy Ghost of the Virgin Mary, and was made man . . . and you know, or intuit, the rest.

Without a religious narrative to explain human life and its origins (apart from long-forgotten patches of African ground) there is little chance—I might

say there is no chance—of restoring to our culture much appreciation of that wonderful creature called variously “the fetus” and “the unborn baby.”

Peter Steinfels, in “Beyond the Stalemate,” gives us some sense of what is really to be done, though to my mind he makes too little of the achievement. He says, “[T]he church will have to focus its energies primarily on changing the culture rather than the law,” using its “heritage of philosophical reasoning.” So must the church, he continues, become “a community of witness.”

I cannot sit here and tell you whether by this call, of a sort, to arms, of a sort, Mr. Steinfels has in mind the full picture I would urge. I suspect he has not. But I think he is on the right track. This is not—please!—to submit to my readers that changes in law have only small consequences as over against the task of “changing the culture.” We see from the effects of *Roe v. Wade*—viz., “the routinized killing,” as Prof. McKenna puts it, “of unborn children . . . at an average rate of nearly 3,000 a day”—how much changes in law can effect when they present as suddenly acceptable (not to mention beneficial) a thing or practice formerly suppressed. Law has formative consequences. I, for instance, hate !#\$#!^%@ mandatory seat belt laws; but I obey them. They are after all the law—at least until my grouching sends the Legislature into panicked reassessment of this particular enactment.

Let us consider, nevertheless, what underlies the law in a democracy: to wit, the theoretical consent of the majority. The state can do as it likes in North Korea but not in America. It must bow to the people’s will. So, for all the doubts and uncertainties that poll respondents register with their questioners regarding abortion, no majority is yet willing to foreclose the right to abortion in all, or nearly all, circumstances. I believe that is what Mr. Steinfels has in mind when he says that “clear-cut consensus” on the matter is “highly unlikely for the foreseeable future.”

I agree with him save for the “foreseeable” part. I know humans talk like that; I just think it’s dangerous when they do. Who foresaw “the deflowering of Europe”—Wilfred Owen’s words—as a likely outcome of the war that broke out 100 years ago this summer? Who foresaw, if we get down to it, *Roe v. Wade*? Old assumptions wither. New ones arise. To change cultural assumptions about human life—to stand present ones on their heads and shake out their pockets—is the task for us today.

However, I said “assumptions about *human life*.” Period. I did not say unborn human life. This is because assumptions about human life and its purpose are all of a piece. The reigning assumption—the one that underlies the abortion culture—is made up of claims and declarations having to do with personal autonomy and the freedom afforded by that condition to make choices without reference to non-personal concerns. As large—too large—

numbers used to exhort their fellow denizens of the Nineteen Sixties, “If it feels good, do it!” Abortion might not feel specifically “good,” but getting rid of an unwanted “product of conception” certainly did, and does, to many.

The assumption of autonomy is post-theological. It can exist, and prevail, only in a culture whose attachments to God are—to borrow from Prof. McKenna’s argument—“loosey-goosey;” maybe vital in some degree, in others not; maybe dispositive, maybe just descriptive.

The life question is eminently, magnificently a theological question—only by courtesy a biological, a political, a humanitarian question. The matter at issue is this: Did God the Father Almighty, as theological rumor has it, create men and women in His very own image? The question suggests a related inquiry: To whom, if not God, are humans responsible for questions that touch on their membership in the race of humans?

This is the whole of the matter. We get nowhere fast without probing for the answers to these and like questions. The dimensions, the physical well-being of life sprung up suddenly in the womb is secondary to the question: Who’s the father? I do not mean in the human sense. I mean in the sense of Origins and First Causes.

The Father is the father. If it is someone, or something, else (save in a less cosmological, more fleshly way), the whole of Western history has been a farce, and we should demand our money back. The implications of this basic admission reach beyond the presenting issue of abortion. All human life questions are theological; all demand theological answers. Gay marriage is one such question. Another has to do with whether sexual identity, as it comes to us at birth, may be altered.

Still more theological questions: Have we the moral right to end our own lives? If so, when? And how? And with what sense of responsibility toward others? What about divorce? What about war and capital punishment? What about human suffering in its varied manifestations? Not a one of these questions escapes theological inquiry and decision—to the extent decisions in the theological realm have the same appearance from age to age, place to place. The God who made human minds invested them with a sense of unfolding wonder. That theological analysis may waver, even take variant forms, in the face of accumulating knowledge and changed circumstances is given. The perpetual need for such analysis—bold, public, unashamed, persistent—is similarly given.

What is hard about it—eh? Would such activities prove uncomfortable in a secularizing society? Maybe—and so what? Is the telling of Truth, on account of difficulty and possible resistance, a matter to be muted? Suppose the *New York Times* editorial page, supported by Rachel Maddow, Jon Stewart,

the ACLU, Bill Maher, the Daily Kos, Nancy Pelosi, and 97.8 percent of the Harvard faculty, denounced the airing of religious truth claims in the context of secular discussions on marriage or “reproductive rights.” Would that matter? It would matter not at all. The First Amendment explicitly allows— if not encourages—theological expression. That takes care of the matter constitutionally. The claims of God to the obedience of His people hardly require justification. Believers in the mighty works of God have the duty, surely, to spread those works across the public record, and to seek as wide respect for them as possible.

American culture as a whole, as Mr. Steinfels suggests, needs addressing. I think the form of address should be generous and kind and loving and public-spirited but also blunt; patiently dismissive of secular superstitions such as personal autonomy promoted to the station of Privilege and Right. If there is really a God, notwithstanding the protestations of Sam Harris, and if this God really made human life, would we not call this a factor necessary to the shaping of all policies having to do with life?

There’s no space here for laying out an agenda. Suffice it to say the dumbest and most futile thing the friends of unborn life could do is play exclusively on the chosen turf of their secular opponents. For the chance to say as much, I thank Prof. McKenna and Mr. Steinfels alike. That is how it should be with disputes that really dispute. They clarify; they stir brain cells to activity. Sometimes—you never know when—they even teach.

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Edward Mechmann

In the exchange between Peter Steinfels and George McKenna, it is clear that the two are addressing very different visions of the pro-life movement and the political environment of our present day. But McKenna rightly points out that Steinfels’ vision bears little relationship to reality, and in fact badly misjudges fundamental principles of Catholic social teaching.

Steinfels seems to think that he is offering the pro-life movement useful advice on how to maneuver its way through the current political climate, by shifting priorities to pragmatic proposals that reach out to undecided moderates.

Where has he been for the last 25 years? The Supreme Court decisions in *Webster* (1989) and *Casey* (1992) expanded the range of opportunity for state regulation of abortion beyond what was possible in the early years after *Roe v. Wade*. In response, the pro-life movement has pursued an intelligent strategy of pressing for reasonable, limited bills that enjoy wide popular support. This effort has not only led to the enactment of many good laws, but has also

served to expose the extremism and intransigence of pro-abortion advocates.

The partial-birth abortion ban was one of the earliest examples of this successful incremental strategy. And it's important to remember that "pro-choice" advocates bitterly opposed that bill, as well as every other moderate pro-life proposal since. As McKenna correctly observes, they are implacably opposed to any compromise whatsoever on the laws of abortion.

A few examples will easily suffice to illustrate this. In New York, we are struggling to oppose a significant expansion of abortion, which would allow non-doctors to perform surgical abortions up until the moment of birth. This proposal is supported by all the pro-abortion and feminist groups, which falsely promote the bill as being about "women's equality." Elsewhere, efforts are being made to enact such reasonable measures as clinic health and safety regulations, restrictions on late-term abortions, and laws requiring full informed consent and parental involvement in abortions by minors, all of which are supported by wide majorities of Americans, but which, again, are opposed by all "pro-choice" advocates. On the international level, women's rights groups are unrelenting in their cultural imperialism, putting pressure on traditional-minded nations like Ireland, with the goal of eliminating any restrictions on abortion. They ignore the values of actual women in those nations, and instead rely on their allies in the American and European governments and in international organizations to impose coercive conditions on foreign aid to force their point home.

This is not an encouraging record if one hopes for compromise. In fact, one would be hard-pressed to find any evidence—any at all—of a "pro-choice" openness to accommodation. Nor does Steinfels cite any.

Perhaps he has been blinded to this reality by his implausibly positive vision of contemporary feminism. He lauds that movement in uncritical terms—"world-historic" is his favorite term—but he has apparently not noticed that contemporary feminism has moved far from its original laudable goals of ensuring equal treatment for women in law and society. The sad fact is that organized feminism (apart from the relatively small number of Feminists for Life) is not at all ambivalent about the morality of abortion. In fact, it is committed to promoting abortion as an unconditional positive good that is indispensable for women's full participation in society.

As a result of his misreading of political realities, Steinfels holds to an utterly implausible belief that if proliferators would merely offer more compromises, pro-abortion advocates would come to the table with open hearts and minds. More likely, as McKenna rightly understands, they would take this as a sign of weakness and use it to push for even more.

But Steinfels' fundamental error lies not just in misjudging the true face of

the pro-abortion movement or the current political climate. Rather, he fails to take into account fundamental truths about the human person and the human community, as taught by science, reason, and the Catholic Church.

Steinfels' argument rests on a false and morally perverse "intuition" that is actually central to the pro-abortion mentality—namely, that the size of a newly conceived human being, at its earliest stages of development, renders her less morally significant than a child who has come out of the womb. He summarizes this sentiment when he states plainly that "it is counter-intuitive, it challenges much of our everyday sense, to insist that anything so small can be the bearer of rights that would outweigh the drastic impact that its continued existence might have on the life of its mother or her family."

It is deeply shocking to see a person who claims to be pro-life dismiss the moral importance of these new members of the human family, based on nothing more than a mere inchoate feeling that flies in the face not only of science but of common sense. It is also, to be blunt, callous and cruel.

Steinfels may not realize where such an "intuition" leads. If so, then he should read Justice Breyer's majority opinion in the *Stenberg v. Carhart* case from 2000, which dealt with a state partial-birth-abortion ban. The learned judge gave a cold-blooded account of the barbaric abortion procedure and then proceeded to explain in sterile legal terms why such infanticide must be protected by the Constitution. That is the ugly face of the pro-abortion mentality, and the inevitable result of an "intuition" that unborn children are less worthy of moral and legal protection—even if they know what an unborn child is, and what abortion does, they act as if they don't care.

The correct moral intuition, of course, is that we must both know and care. Based on reason alone, we cannot help understanding that every human, regardless of temporary characteristics like size or visibility, is unique, special, and endowed with the innate capacity to know and to love. A newly conceived human being is a part of the human family from the very first moment of existence, and not some abstract concept that can be placed in the scales and evaluated based on its potential impact on the lives of others. Instead, from the moment of conception, he or she is already in a relationship with a mother, a father—and ultimately with all of us. In short, this new member of the human family is and always will be a "who," and never a mere "thing."

This relationship is a present reality, not an abstract future possibility, and it has profound moral significance. It imposes on all of us a moral obligation to stand in solidarity with our newly conceived brothers and sisters, and to protect and nurture their lives with the same care as we do our own.

This is what the Church and proliferers in general mean when we speak of solidarity, or a sense of community among all members of the human family.

Our common humanity imposes on us a duty to act with self-giving love in all our relationships, particularly those with human beings who are smaller and weaker than ourselves. The health of our society depends on this: We can only develop and flourish when we ensure that everyone else can as well.

Pope Benedict XVI expressed this very clearly: “The earthly city is promoted not merely by relationships of rights and duties, but to an even greater and more fundamental extent by relationships of gratuitousness, mercy and communion” (*Caritas in Veritate* 6).

To put it in plain terms, there is a duty not just to *know* that an unborn child is a human being and not a thing, but to *care* about him or her as a person, in the way that we care about ourselves, and then to *act* in that child’s best interests, even if it seems politically or personally difficult. Steinfels completely misses this essential point.

This duty to act in the best interests of the unborn lies at the heart of the pro-life movement. We know that any law that denies the basic humanity of anyone—no matter how small—is fundamentally evil and must always be resisted. No compromise of principle can ever be made with a regime that maintains such a law, even though we are often forced to accept, and even support, imperfect temporary measures to ameliorate a situation of grave injustice.

Steinfels is right that cultural and moral persuasion is essential for the pro-life movement, and we cannot put our sole emphasis on legal measures. Of course, we knew this already, and our movement actually spends most of its efforts on serving parents in need. But McKenna is certainly correct that Steinfels’ basic assumption is irretrievably flawed, and his policy prescriptions are thus gravely wrong.

If we were to follow Steinfels’ advice, we would grievously surrender our fundamental duty to all our unborn fellow human beings—to treat them with love and generosity and solidarity. And we would get nothing in return.

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Stephen F. Schneck

The sharp elbows that George McKenna throws at Peter Steinfels make no sense at all. How disappointing that McKenna cannot see Steinfels for the ally that he is.

Indeed, both Steinfels and McKenna make variations of the same smart argument. Each at one point has insisted that the pro-life movement must work with the political realities that define our times and pragmatically pursue what progress against abortion can be won. McKenna has promoted incremental restrictions on abortion, such as parental notification and waiting

periods. Steinfels' current proposal resonates with contemporary pro-life political and cultural efforts that emphasize banning abortions at the point of the unborn's heartbeat or the experience of pain. He proposes that, for political purposes, we should define life as beginning at eight weeks, or at the earliest point in early pregnancy for which a consensus could be forged that human life is present. Obviously, if a political and cultural consensus could form that would support ending abortions in America after eight weeks, it would mean enormous progress for the pro-life cause.

So, the barbs that McKenna aims at Steinfels in their recent exchange in the pages of the *Human Life Review* make no sense. Or, is this just one more instance, in what has become a self-destructive pattern, of the pro-life movement spurning any ally who is not politically conservative?

In a 1995 *Atlantic* article, George McKenna famously advised the pro-life movement in the United States to take its political bearings from Abraham Lincoln's pre-Civil War opposition to slavery. Lincoln in those years rejected the politics of the abolitionist movement because of its divisiveness and because its political absolutism thwarted progress toward reducing and, he hoped, ending slavery. Eschewing abolitionism, Lincoln advocated a prudential and incremental politics of containment—not allowing slavery to spread to new Western states. Lincoln hated slavery as a moral evil, but seeing the political failure of abolitionism, he adopted tactics that McKenna described as “permit, restrict, discourage.” Lincoln even considered amending the Constitution to guarantee slavery within existing slaveholding states if that would help to keep the cancer of slavery from spreading and hold the Union together.

Drawing parallels between the antebellum politics of slavery and the current politics of abortion, McKenna in his 1995 article argued that the pro-life cause should take a page from Lincoln. A Lincolnian stratagem to “permit, restrict, discourage” should be the template for political efforts to reduce and ultimately end abortion in our time. Specifically, McKenna proposed working for what might actually be achieved with a step-by-step gradualism that built political progress for parental notification, waiting periods, opposing late-term abortions, and similar incremental restrictions. Underlying McKenna's call for Lincolnian incrementalism was a savvy political assessment, the need to broaden the pro-life political coalition by attracting support or acquiescence from some who still want abortion legal in some cases.

McKenna's arguments won me over then and they ring as true today as they did in 1995. The numbers tell the story. In 1975 Gallup reported that only one-fifth of Americans believed that abortion should be illegal in all circumstances. And, despite 40 years of tireless and inspirational pro-life efforts, and despite some progress in awakening more public appreciation of

the moral horror of abortion, in 2013 it was still just the same one-fifth of Americans who believed that abortion should always be illegal. Our sights must be aimed at what progress can be achieved, and such progress requires reaching out beyond that unchanging one-fifth and, yes, reaching across the aisle, to form coalitions for broadly supported measures that promise to restrict, discourage, and reduce the number or rate of abortions.

Peter Steinfels raises an interesting idea toward that end. In his June 2013 *Commonweal* article, he suggested that—for political reasons—the pro-life movement should disentangle itself from insistence that human life begins at conception. Instead, the movement should identify a later moment in pregnancy, such as eight weeks into development, for which there would be a broader coalition of support for protecting the life and rights of the unborn.

Steinfels does not specifically endorse legislative efforts to forbid abortions after eight weeks or similar points. He implies that his hopes are as much for forming a cultural consensus as they are for forming political coalitions—and such cultural initiatives have for too long been only an afterthought, with the pro-life movement focusing on political change. Yet, the implications of his proposal resonate with North Dakota’s recent legislation to end abortion after six weeks or the Arkansas twelve-week law that a federal court ruled unconstitutional in March of this year.

He carefully explains that eight weeks is not his own belief for when life begins. A Catholic, he subscribes to the teaching of his Church that life begins at conception. He points out, however, that most Americans disagree with the Catholic position. This includes many groups who might be supportive of efforts to limit abortions, such as Orthodox Jews. For the Catholic Steinfels, the moral and scientific argument for when life begins is a critically important truth. But, if politically defining life to begin at eight weeks enables legislative coalitions for laws that would save thousands of unborn lives each year (that otherwise would not be saved), then prudence requires that we should consider such measures.

To be clear, Steinfels makes his argument not to the pro-life movement nor to the American public square, but to his Church. Nodding to the complexities of perspectives on this subject amidst American pluralism, he advises Catholic bishops “to acknowledge the inherently difficult boundary-line obstacles to perceiving the moral status of unborn human life at its earliest stages.” The Catholic Church, he says, “should work for the legal protection of unborn lives from a point where there is much greater likelihood of achieving a moral consensus”—in other words, at eight weeks. Glossing on this, he adds that his Church’s public efforts to partake in such consensus-building should be joined with concerted demonstrations of “its

compassionate concern for the poor, the weak, the alien, and the outcast,” so as to fully convey that its embrace of the unborn is inseparable from its comprehensive concern for the fullness of human life and dignity. Within the moral hierarchy of such a consistent ethic of life, protecting the life of the unborn has extraordinary gravity in our time. It is a priority, but the whole of Catholicism’s ethic of life is seamless.

I have only niggling concerns about Steinfels’ proposal. One is legal and the other is religious.

On the legal side, recent years have seen courts rejecting efforts to limit abortion to periods earlier than that prescribed by *Roe*. Courts are presuming that legal precedent has been established for a “viability test” that trumps legislation. U.S. District Court Judge Susan Webber Wright struck down the Arkansas twelve-week law in March, declaring much of it unconstitutional on those grounds, referring to previous court decisions that determined abortion could not be restricted until after the unborn child’s viability, which is usually at twenty-two weeks. The six-week law in North Dakota is on hold as a result and the governor of West Virginia, Earl Ray Tomblin, recently vetoed a bipartisan twenty-week bill from his legislature, citing the Arkansas decision. As part of the organization Democrats for Life of America, I am urging Governor Tomblin to reconsider and to recall the legislature to take up this bill again, but legal obstacles to such bills based on the courts’ “viability test” will continue to complicate progress on this path unless the Supreme Court intervenes.

About religion, as a Roman Catholic myself I worry a bit that my friend Peter Steinfels does not draw a bright enough line between what might be needed in politics and what are matters of our faith. I applaud his creative ingenuity about how best to construct a big tent that organizes a larger and politically more powerful pro-life consensus around some yet-to-be-determined number of weeks in early pregnancy. At moments in his essay, though, Steinfels seems to cross over into intramural matters of religion and ask for a Catholic “relaxation” of concern about when life begins. He suggests that the Church itself should acknowledge the difficulty of determining the status of unborn life in its earliest stages. I wonder about the form such relaxation might take. More to the point, I believe that the immediate need is in the political sphere and complicating that with changes in the message of the Catholic Church risks counterproductively entangling matters.

The gist of Steinfels’ proposal, though, falls in areas that I wholeheartedly endorse: building a broader pro-life consensus to effect change and finding incremental ways to reduce the number of abortions, all in hope of ending this moral horror. This brings me back to the squabble between McKenna

and Steinfels that prompted this discussion. Because, are not both Steinfels and McKenna in agreement about incrementalism and coalitions? So, what's the fuss about?

As I mentioned previously, I am associated with Democrats for Life of America, having now served on its governing board for many years. My perspective on McKenna's unwelcoming response to Steinfels reflects my personal experiences as an active, progressive, liberal, Democrat in public life who is also utterly opposed to abortion and who supports all efforts to reduce or end it. In my experience, the pro-life leadership in the United States may talk on occasion about enlarging its tent, it may even cooperate across the political aisle for a rare tactical purpose, but in practice only conservatives are truly welcome within the movement itself today.

George McKenna's bitter initial review of Peter Steinfels' proposal is a case in point. In passing, Steinfels' essay criticized the pro-life movement for being captured by conservatism, hinting that this capture worked against the movement's ability to reach beyond its base, thereby limiting prospects for pro-life progress. Pricked by the criticism, McKenna responded by lambasting a litany of liberals (Mario Cuomo, Russ Feingold, Nancy Pelosi, Barbara Boxer) and then dismissed "Commonweal Catholics" like Steinfels for guilt by association. According to McKenna in 2014, we can never work with anybody who is not a conservative. They will sell us out to the powerful pro-choice interests that circle the Democratic Party. Speaking specifically about the Steinfels eight-week proposal, McKenna asks "what are the chances of bipartisan compromise on limiting abortion to any month of pregnancy?" And even if they did, he continues, the other side will just "pocket our concession and use it to advance their cause."

Hmmm Tell that to the legislatures of Arkansas, North Dakota, and West Virginia.

George McKenna was right in 1995 and Peter Steinfels is right now. The pro-life movement desperately needs to appeal more broadly for success. It needs to recruit more liberals and progressives, not repel them. Culturally, it needs to develop an approach that is more welcoming to those who do not share the confident certainty of its unchanging 1975-2013 one-fifth. Lincoln's shrewd tactic was to limit slavery geographically, as a way of moving toward its ultimate elimination. Progress for that, Lincoln perceived, depended in part upon appeal to those who, while having qualms about slavery, would not support abolitionism. Steinfels gets this now. McKenna got it in 1995.

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David Mills

As far as I can remember, it wasn't a big deal among my peers. In "Beyond the Stalemate," Peter Steinfelds mentions those who were 15 when the Supreme Court announced their decision in *Roe v. Wade*, and as it happens I was 15 then, living as a fairly secular and leftist young man in a very secular and leftist New England college town. I heard about the decision from a very short news item on the radio while driving with friends, and none of us thought anything of it. It had no more obvious relevance to us than a decision on corporate accounting procedures. I don't think our sexually active peers, of whom there were certainly fewer than current stereotypes suggest, thought much of it either, though that may reflect the youthful delusion that nothing as wonderful as love ever goes wrong.

Abortion was not, for 15-year-olds even in a town like that, the compelling political issue it was for some older people, including some of our parents. It was an abstraction, a theoretical matter, not as urgent as big corporations and economic justice or the nation's intervention in other countries' affairs.

I don't think we really understood what it meant, partly because the argument for abortion as "a tragic decision" or "a sad necessity" made some sense. The idea that anyone would think of abortion as a kind of back-up contraception, and that the great majority of abortions would be performed in situations other than those heart-wrenching hard cases then used to argue for changing the law, would have horrified even those who welcomed *Roe v. Wade*. No one imagined that abortionists would be able legally to kill a child shortly before birth. No one expected the number of abortions would be so high. No one thought that embryonic human beings would be the subject of experiment. Anyone who predicted these results of the Supreme Court's decision would have been thought hysterical or insane.

When I did think about abortion, the wrongness of killing an unborn child seemed obvious. The unborn child was a human being from his conception—for what else could he be?—and we did not kill human beings, except in war and revolution and then only when several strict rules had been satisfied. My politics and those of my peers committed us not only to the protection of the vulnerable and marginalized but to helping them flourish.

We wrestled with the most difficult cases when consequentialism seemed imperative, as in the bombing of Hiroshima and Nagasaki, and most of us came down on the side of an absolute morality, in this case the wickedness of purposely killing civilians. We knew that such positions brought suffering and pain. But there were, we felt, things man should not do, whatever the consequences.

Our teachers taught us to see things from the victims' point of view. Arguments that slavery should have been allowed to avoid war were contrasted with stories of the lives of the slaves that such prudential argument would have left in slavery. We did not like arguments based upon the greatest good for the greatest number, because too many people suffered too greatly from the decisions utilitarianism justified, and we saw that the greatest good for the greatest number tended to be defined by the interests of the wealthy and powerful.

My politics and that of my peers seemed to require the defense of the unborn. One of the disturbing aspects of the history of the last four decades is how the absolutist view of abortion "rights" became one of the non-negotiable foundations of the left in America. Then, as I say, the pro-life position seemed the logical extension of my politics, and this was true for many if not most of my peers.

That is why, I think, Steinfels' argument bothered me. He presents his claim about the ambiguous status of the unborn child as an objective fact, not simply as a description of the people with whom we are speaking.

His practical conclusion is one about which those committed to the greatest possible legal protection of the unborn can disagree, though like George McKenna, I'm confused about whom he is writing to and why. He takes rather a long time to say that, for various reasons, proliferators can only hope to outlaw some abortions and that the Church must work to eliminate the rest by changing hearts and minds through her witness. The mainstream of the pro-life movement already thinks this, while holding out the hope for an absolute ban he thinks impossible. He also offers a prosecutor's description of the pro-life movement and the Church's work and builds his analysis on political assertions, dubious ones I think, that he never argues.

The real problem, however, is that his understanding of the reason for this position will create a milder, less assertive, more politically acceptable, and much less effective defense of unborn life—one that would not have sustained the pro-life movement for 40-some years or led to the limited legal protections of the unborn the nation now enjoys. Through what I suspect is a generous desire to understand how other people see the matter and to find an effective way to work for the unborn in a society in which they are at risk of death, as well as to satisfy his own political and cultural commitments (and fair enough), Steinfels makes the moral claim about the humanity of the unborn uncertain and ambiguous.

He insists that the pro-life position that life begins at conception is "less clear, far more ambiguous than its proponents realized," an ambiguity that "exists in the situation itself." Arguments that he doesn't himself hold, "taken

cumulatively,” make him think this. He offers the examples of Orthodox Judaism and a conservative Christian political philosopher who reject the absolutist position, though in both cases he muddies the argument by reference to hard cases the Christian tradition answers through the doctrine of double effect.

He notes also that the humanity of the unborn child is a scientific judgment but that what rights these tiny human beings have is a moral one, and in that space he inserts the ambiguity. The conviction that abortion, even if wrong, is a wrong that should be made illegal, he writes, “is nowhere near as obvious as many of us who hold it suppose.” Clearly true. But to whom is it not obvious, and why? Is it perhaps obvious but rejected? Might others be blinded by some form of invincible ignorance, whatever their virtues? That is a crucial question he does not ask. It is a very delicate matter, involving judgments about motives and intentions, but that the nature of the unborn’s moral claims is unsettled is not obvious.

Steinfels offers as an example the fact that the embryo is so small. “It is counterintuitive, it challenges much of our everyday sense, to insist that anything so small can be the bearer of rights that would outweigh the drastic impact that its continued existence might have on the life of its mother or her family.” This, as a reason the humanity of the unborn is not obvious, is not obvious. What seems to me obvious, and a matter of everyday sense, is that the size of a creature has no relevance to the question of what it is. Some people will think it has, certainly, but they think this because they are not thinking well, or because it suits them to think it, not because the reality itself suggests that size matters.

At times it would have been widely considered counterintuitive that people with very dark skin, or people who were mentally challenged, or people who came to this country from eastern Europe, or women, deserved the full protection of the law and legal equality with everyone else. Their everyday sense would have told them these people didn’t deserve what others had. Giving every concession to the intellectual limits of the age in which these prejudices were the mainstream assumption, Americans now see that they were wrong and feel that at some level more people than should have known they were wrong. We recognize those who insisted these people were human beings who must be treated as human beings as prophets and heroes.

As a study in the world in which we speak for the life of the unborn, Peter Steinfels’ essay has much to commend it, though I would not commend much of his criticism of the Church’s pro-life work. He has thought carefully and with empathy about the way other people see the matter. But as an assertion of a particular way of understanding the matter, there his essay fails, I think.

My politics have evolved since I, one of Steinfels' 15-year-olds, was a highly political and leftist 15-year-old living in a highly political and generally leftist world, but my fundamental commitments have remained the same. I suspect most of my peers changed their minds on abortion, though they shouldn't have done so. I can think of all sorts of idiotic ideas I then held with adolescent fervor and certainty, and with the teenage male's intolerance for ambiguity, but on the matter of the unborn, there at least the teenager's simplicity let him see one central and crucial truth. That embryo is a child and we do not kill children. There is no space between what he is and what rights he has.

—*David Mills, the former executive editor of First Things, is a writer.*

Jo McGowan

Standoffs between the single-hearted and those more open to nuance and complexity are common. As one who is by nature an absolutist, I find much to admire in George McKenna's defense of the strict pro-life position held not only by the Catholic Church but also by many other traditional anti-abortion activists.

While I don't appreciate his patronizing—sometimes almost insulting—tone, McKenna's argument is strong, articulate, and convincing. I particularly admire his masterful rejection of Peter Steinfels' description of the “fundamental problem” between them: As Steinfels sees it, McKenna believes victory for the pro-life cause is inevitable; Steinfels himself does not.

In his rejoinder, McKenna says: “You think [that I believe] the pro-life movement is on the way to inevitable victory—and therefore I can't abide the doubts you have raised about its future. Oh, Peter, you couldn't be more wrong! Hegelians, Marxists, and Progressives believe in the inevitable triumph of political movements; Christians believe that God is in charge, and that His ways are not always ours.”

It took both these seasoned thinkers a pretty long time (two lengthy essays each) to get around to the point, but this, to me, is the heart of the matter: McKenna bases his entire political argument on a spiritual belief system in which victory and loss are irrelevant; Steinfels is in it for the win.

So for Steinfels, strategy and compromise are vital; for McKenna, they represent moral capitulation. Think Dan and Philip Berrigan up against the Just War theorists.

I've been a citizen of the Moral High Ground myself, and although I am now an ex-pat, I still feel its pull. The certainty of absolutes! The way that Black and White match with everything! The small, smug thrill of pleasure

one feels at being righteous and true!

And I admit that in the case of abortion, the death penalty, and war, which really do seem black and white, it's not only tempting to stay there—someone *has* to. As McKenna says: “Moral absolutism, holding fast to what is doctrinally and biologically certain, has held the line against the abortion lobby for the past 40 years.”

I was one of those lonely voices of truth on the anti-abortion front myself and the first person in the country to go to jail over the issue way back in 1977. I was a militant peace movement activist at the same time and I marched to the Pentagon and the United Nations. I was arrested trying to prevent workers from making nuclear submarines. I protested against nuclear power and the death penalty. I stood trial, I went to jail, I did time, and the more *ineffective* I was, the more justified I—and my comrades in the struggle—felt. “See, this is how they treated the prophets before you,” we often said to each other.

But now I see things differently. Acknowledging complexity and being willing to compromise seems, to the single-hearted, like a sell-out. In my own purist days, that's precisely what I thought about those who got tired of the “solitary witness” gig and joined politics or took up teaching or became community organizers. Now I believe that kind of engagement is crucial for change to happen.

That doesn't mean I don't value the purity of George McKenna's position. In fact, I treasure it. And I don't mean to be patronizing. Without the clarity and the courage of his conviction, it would be all too easy for those out in the field making deals to forget how high the stakes are. Moral absolutism is essential.

But so too is skillful diplomacy, political strategy, and an understanding of where people are and what they are capable of.

I run a foundation for children with special needs in India. Ours is a family-centered, strengths-based program and we work closely with parents to help them help their children. Part of what we do is diagnostic. We identify a child's difficulties and then give them a name: Cerebral palsy. Down syndrome. Autism. There is no getting around the truth, no way of making its harsh reality easier for families to bear.

And as professional clinicians, we know what our kids need. One requires “intense interaction” to help her develop communication skills; another needs regular occupational therapy, at least twice a day. Another needs physiotherapy for at least an hour every day. The list of suggestions for a family can be endless and we know that each item on it is crucial.

But it's a rare family to whom we give them all. Most parents simply

aren't ready. They *cannot* do all that needs to be done—yet—and if we make the mistake of asking them to do too much, we may overwhelm them, making them feel they cannot do anything at all. Our special educators and therapists tailor their advice and programs to each family's capacity, and step-by-step, little by little, we move along.

Here in India, where Child Protective Services does not exist, a child with a disability whose parents aren't prepared to take care of her is almost as vulnerable as a child in the womb whose mother doesn't want her. Because no child has any security which does not flow from the willingness and the active love of the child's mother and father.

In this complex little metaphor I am creating, I see George McKenna as the diagnostician—the one who names the condition unambiguously and without apology. And Peter Steinfelds is the special educator, the one who acknowledges both the truth of the diagnosis and the complex realities of the families receiving the news.

We have to tell the truth yet also accept the harsh and dreadful landscapes in which so many people live. Both McKenna and Steinfelds have vital roles to play. Our precedent comes from St. Paul himself, who said in Corinthians, Chapter 9: "Woe to me if I do not preach the Gospel," yet followed it up just a few verses later with: "I have become all things to all people so that by all possible means I might save some." No responsible diagnostician can shrink from informing a family about a child's disability; no good special educator will burden a family with more than they are capable of handling.

Bravo to both of these fearless champions of life. May we all continue to discuss and debate and further fine-tune our arguments. We can only grow stronger and more effective in the process.

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Rebecca Ryskind Teti

Goodness, where has Peter Steinfelds been for the past 30 years?

It's 2014, see, and Steinfelds thinks it's high time the pro-life movement does two things. First: When life begins is a matter of science and not debatable, he says, but since it's not obvious to everyone that these new lives have rights the state must respect, the movement should try a pragmatic, incremental approach to imposing rational limits on abortion, rather than insisting from the start that abortion should be banned from the moment of conception. Second: Prolifers should try to be perceived as more kind and welcoming.

To dispense with the first matter, everyone knows the American people

are divided. We don't quite have the guts to ban abortion outright, but we disapprove of most abortions that actually take place in the United States. Steinfels thinks we should capitalize on this and strive for some abortion restrictions we can all agree upon.

He should be pleased to know, then, that that is exactly what the pro-life movement has been doing in the political arena for more than 30 years.

I'm not sure how he missed the 2008 Kennedy-Brownback Bill to reduce the abortion of Down syndrome children, or the Partial-Birth Abortion Ban of 2003, supported by 70 percent of the American people and passed with the support of then-Majority Leader Tom Daschle, or the Born-Alive Infants Protection Act of 2002, which the Democratic Senate passed unanimously, or, in the old days when we used to pass budgets, the repeated bipartisan support for the Hyde Amendment banning federal funding of abortion. Those are all areas where pro-life politicians and their grassroots supporters worked for and built consensus with their pro-choice neighbors in favor of more protection for innocent life.

Even during these lean years of the Obama presidency, proliferers have been hard at work persuading their fellow citizens to defend the unborn. In 2013, a total of 22 states passed more than 70 restrictions on abortion, according to the Guttmacher Institute's state policy review. Eleven states passed bans on abortions after 20 weeks gestation. Arkansas passed an abortion ban after 12 weeks, and North Dakota passed a ban on abortion after a fetal heartbeat is detected.

Each of these measures is the culmination of just the sort of moral persuasion and search for common ground Steinfels calls for, yet where he might have praised these pro-life achievements, he does not appear even to be aware of them.

Nor does Steinfels seem to know that these actions are the fruit of a conscious strategy adopted more than 30 years ago in response to Gov. Mario Cuomo's infamous 1984 speech at Notre Dame during which he claimed to be personally pro-life, but washed his hands of responsibility to champion the unborn in the political arena, lest he impose his religion on others.

To that, Amherst Professor Hadley Arkes—and with him many others—rejoined that politicians are never helpless before political consensus (or lack thereof). They help shape it by the legislation they propose, and precisely the way to educate the American people on the unlimited abortion license unleashed by *Roe v. Wade*—and also to begin to roll that license back—was to test what restrictions people could agree on.

Writing in *Crisis* magazine in 1990, for example, Arkes showed how putting a modest first question before the American people was an important

means of beginning a conversation about the value of life:

One modest step may easily beget another. A public that has absorbed the reasons for taking the first step may be more than prepared to consider the moves that plausibly follow: Even people who are pro-choice are willing to restrict abortions in the third trimester, and perhaps also in the second. They may be persuaded to bar those abortions chosen because of the sex of the child, to bar the performance of this surgery on minors without the knowledge of parents, or to require the consent of the father before a child is destroyed (a proposition that has commanded the support of most women in the country).

Arkes continued:

To keep taking these steps is to keep putting these questions to the public; and to keep putting the question is to give the public practice again—perhaps to give it practice for the first time—in thinking seriously about the justifications for abortion. The shrewdness of a public man comes in knowing that, through steps of this kind, he may reshape the “consensus” of opinion (see “Every Man His Own Church? A Jewish Writer Defends Catholic Teaching Against Mario Cuomo,” *Crisis*, Oct. 1990).

The Arkes approach marked a change in strategy and unleashed energy and creativity for a host of initiatives that had real practical effect. Prior to that time much of the movement’s energy was focused on garnering support for a human life amendment—a consummation still devoutly to be wished, but one which requires political consensus on the value of life that must be built, not merely asserted.

That’s been the pro-life political approach for 30 years, admirably summed up in George McKenna’s response to Steinfels as an invitation for others to “ride with us as far as they [feel] comfortable.”

If it’s odd that Steinfels seems to have missed the entire thrust of pro-life political activity in recent decades, it’s downright painful to read his shame for the way his liberal friends think of proliferators. It’s not that I don’t share his pain. In the massive crowds marching for life each January in Washington, the cameras can always find a weirdo who doesn’t speak for me, and of the many gaffes committed on the campaign trail in an election year, only the anti-abortion mistakes make late-night television.

When your friends have the wrong idea about something, though, you don’t just sit there cringing, you labor to correct the misimpression. It’s odd that Steinfels feels the need—at 20 years remove!—to distance himself from Randall Terry’s dormant Operation Rescue but demonstrates no similar impulse to praise the work of more than 2,200 pro-life pregnancy centers that help women in crisis keep or arrange to have their children adopted.

Why not tell his sneering friends about the priest in Arlington, Virginia, last year who learned of a couple considering aborting their child because he

had Down syndrome? Within hours of word going out on a prayer chain, the priest was inundated with more than 900 calls from people offering to adopt the child (see “Hundreds call to adopt Down syndrome baby, save it from abortion” by Annie Z. Yo, *Washington Times.com*, July 9, 2013). Why not shine the spotlight on Project Gabriel shelters for pregnant women, on Project Rachel and other post-abortion ministries that bring emotional and spiritual healing to women wounded by abortion, or Abby Johnson’s *And Then There Were None*, with its mission to help abortion workers leave the industry by shepherding them to new jobs and subsidizing their bills during transition? Has there ever been a movement so kind not only to its own, but so ready to receive the stranger and bind up the wounds of its enemies?

I don’t understand why Peter Steinfels doesn’t know these things already, but he should find them encouraging.

—*Rebecca Ryskind Teti is a former pro-life lobbyist and is now web editor for CatholicDigest.com and writes for CatholicVote.com and Catholic News Agency.*

Ryan T. Anderson & Sarah Torre

While it is a self-evident truth that all men are created equal and endowed by their Creator with certain unalienable rights, including the right to life, what is self-evident in the technical philosophical sense is not always readily assented to, or immediately obvious. In many ways this is the story of debates throughout American history, and it is true today in the debate over unborn human life.

That truths are not obvious and are not readily agreed upon, however, is no reason to prematurely accept defeat and to compromise on the rights of others. That the unborn possess a right to life is not necessarily a truth obvious to all, but it is a truth. We must work to help others see it for the truth that it is. Doing so requires a full panoply of defense—intellectual, cultural, and legal—bearing witness to truth.

We thus cannot agree with Peter Steinfels’ judgment that because the pro-life conclusion is not obvious, the unborn must settle for less than equal protection under the law. Steinfels affirms, with us, that “from the very earliest stages of its life, the unborn offspring of human beings constitutes an individual member of the human species deserving the same protections from harm and destruction owed to born humans.”

But he adds that this conviction “is nowhere near as obvious as many of us who hold it suppose.” Steinfels reaches this conclusion while citing the book by Robert George and Chris Tollefsen, *Embryo: A Defense of Human Life*, that one of us (RTA) helped prepare as his first job after college.

Growing up in the 80s and 90s, in the shadow of *Roe v. Wade*, we have never taken the pro-life conclusion for granted or as an “obvious” truth. So we aren’t shocked by Steinfels’ suggestion that

... we must admit that this latter perception is surrounded by a degree of ambiguity and by conflicting moral traditions and intuitions that makes any clear-cut consensus about it highly unlikely for the foreseeable future. That fact is what poses seemingly intractable problems for law and policy.

But a lack of “clear-cut consensus” need not pose “intractable problems.” It just means we have work to do. Steinfels concludes that proliferers “should strive for the legal protection of unborn life not from conception but from that point where not one but a whole constellation of converging arguments and intuitions can be brought to bear.”

Our ultimate objective, however, must always be the legal recognition and protection of the unborn from the moment of conception. Not because it is popularly agreed upon or currently politically feasible. But because of the truth of when life begins and of its moral value. At the moment of fertilization, a new and distinct human being comes into existence—someone who has inherent value and possesses a right to life.

The right to life is not only for the strong and powerful, the rich and famous, but for all human beings, including the weak, marginalized, and infirm—wanted or unwanted, born or unborn.

We have obligations to bear witness to this truth and to see it vindicated in law. This is not an issue where citizens or the government can pretend to be neutral. Either the unborn child is our neighbor, whom we have a duty to protect, or she is not.

That the pro-life movement has yet to achieve the legal protection of life from the moment of conception does not preclude it from pursuing the good work of an incremental approach to realizing that goal. Indeed, this approach has resulted in significant pro-life triumphs. Over the past decade, more pro-life laws have been passed than in the 30 previous years.

Almost a dozen states have passed restrictions on late-term abortions at 20 weeks—or five months of pregnancy. These laws not only defend the lives of children capable of feeling pain, but protect women from the devastating physical and psychological effects of late-term abortion. Some legislatures have also begun advancing prohibitions on sex-selective abortions, and still more have restricted abortion post-viability.

Parental involvement and informed-consent laws have had demonstrable impact on abortion rates in a number of states. And as the abortion industry moves to providing earlier abortions, policymakers are protecting women from unscrupulous uses of abortion-inducing drugs that can harm and even kill

women.

The horrors of Kermit Gosnell's clinic showed the nation the brutality of late-term abortion and made real the abortion industry's intentional disregard for the safety of women. Requiring abortion facilities to meet the most basic standards and mandating that abortionists hold admitting privileges at nearby hospitals are regulations grounded in common sense that should receive support across the political spectrum.

The pro-life movement should continue to prudently advance a multitude of policies like these, not wavering on the truth for the sake of supposed consensus. We must continue seeking the laws that offer a better protection of life at this moment and developing policies that challenge the deadly precedents of *Roe* and *Casey*.

There is another important arena of pro-life activity in addition to legislative sessions and courtrooms, however. Perhaps the greatest witness of the pro-life movement today is in the individual conversations and support of expectant women and men in seemingly daunting situations. Today, over 2,000 pregnancy centers across the country provide counseling and medical services to women facing unplanned pregnancies, empowering mothers with life-affirming options. These centers provide medical testing, prenatal care, ultrasounds, and child-birth classes, among other medical services. Pregnant women or expectant couples who desire to parent can find material and emotional support. Birth mothers are educated on the beautiful choice of adoption and given resources to connect with families who stand ready to open their hearts and homes to children.

Well beyond the delivery room, pro-life religious institutions and private charities are helping provide the backbone of social services to women, men, and children in need. Faith-based organizations offer some of the best and most effective services to low-income families, from rehabilitation to education to healthcare.

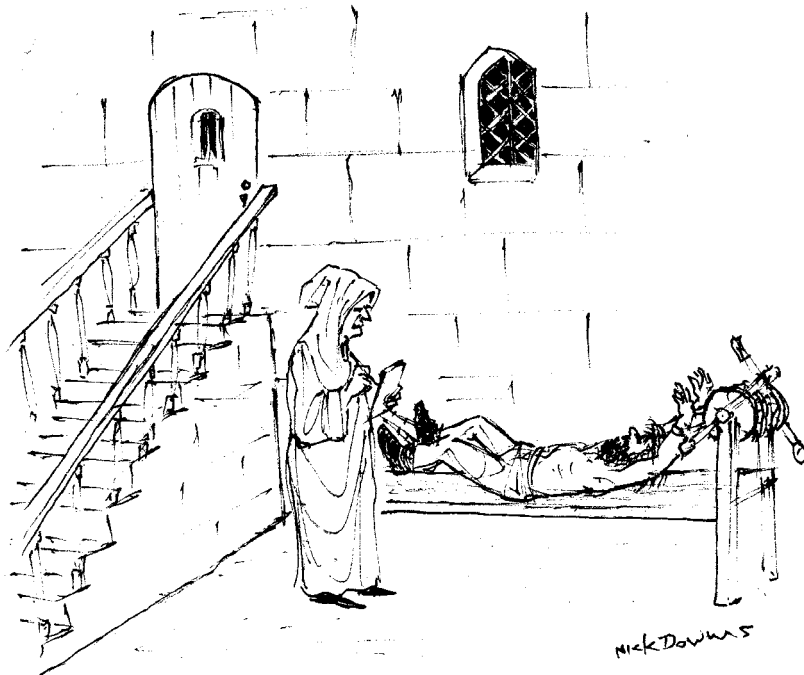
This simple witness by a tireless pro-life movement in law and culture is largely responsible for reorienting the hearts and minds of an entire generation toward the dignity and worth of every individual—born or yet to be. The original champions of abortion-on-demand are no longer able to convince the rising generation that denying life to some will lead to greater happiness for others. Polls now indicate that roughly half of Americans identify themselves as “pro-life”—including most millennials like us. Even culturally, abortion has diminished. Movies like *Juno*, *Knocked Up*, and *Bella* all celebrate choosing life. “Pro-choicers” can't even bring themselves to say which choice it is that they affirm; “abortion” has become an ugly utterance.

Despite the many victories in law and culture, challenges persist. An ever-

encroaching government threatens to trample on conscience rights and further entangle tax dollars with abortion. Rapid advances in artificial reproduction and increased demand for surrogacy threaten not only the lives of human embryos, but the dignity and safety of women. And yet another Supreme Court term is coming to an end without the Justices reconsidering the long, deadly shadow *Roe v. Wade* and *Doe v. Bolton* cast over law, medicine, and society.

These challenges, old and new, cannot be met with tiresome debates over whether we should publicly compromise on when life deserves legal protections. We cannot bargain with truth and expect to gain ground. We need to continue the prudent advancement of policies, litigation, and compassionate care that will hasten the day when every human being—from the moment of conception—is protected in law and welcomed in life.

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“And finally, may I ask how satisfied you were with the way I handled your interrogation, today?”

Maximizing the Profits in New York City's Abortion Industry: **A Social History**

Anne Hendershott & Victor Bermudez

For more than a century, New York City has been a profit center for the abortion industry. Creating wealth for abortion providers has always been the goal—and that continues today as the most recent data reveals that the ratio of abortions to viable births for women living in New York City is nearly twice that of the national average. Forty percent of all viable pregnancies in the city end in abortion. In some New York City neighborhoods, the ratio is much higher. For example, abortion ratios in Jamaica, Queens, Southeast Queens, and Central Harlem-Morningside Heights are all well in excess of 60 percent—indicating that there are more than 60 abortions to every 100 viable pregnancies. Brooklyn's Bedford-Stuyvesant has an abortion ratio of 59 percent.¹

As New York City's largest provider of abortion services, Planned Parenthood of New York City (PPNYC) has made enormous profits by increasing these percentages. According to their IRS 990 form, PPNYC revealed revenue of more than \$43 million in 2010—the most recent year posted online at GuideStar.org.² About 45 percent of that revenue is derived from government funds—in other words, taxpayer dollars.³ Sharing in the profits of the lucrative abortion industry, Maureen Paul, PPNYC's chief medical officer, received \$350,137 in salary and benefits in 2010, and Joan Malin, the chief executive officer, earned \$275,191 that same year.⁴

To ensure that the revenue streams continue, Cecile Richardson, the president of Planned Parenthood, has promised that the nation's political arm of Planned Parenthood will spend \$18 million this election season to elect pro-abortion candidates through its Planned Parenthood Action Fund and Planned Parenthood Votes.⁵ Although these facts do not seem to disturb the pro-choice majority of those living in New York City, there was a time when New Yorkers believed that ending the life of the unborn child was so egregious an “offense against nature” that it deserved the harshest penalties. It was an era when even the *New York Times* found the practice so abhorrent that the *Times* editorial staff responded to the 1878 death of Madame Restell, an infamous abortionist, with the statement that her passing was “a fit ending to an odious career.”⁶

Madame Restell's death occurred during a time when she held sway over

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New York City's abortion industry—owning a network of abortion parlors throughout the City that stretched from her primary facility in a house on Chambers Street all the way across the River to Hoboken.⁷ She was joined in New York City's burgeoning abortion business by dozens of other abortionists who were luridly described in New York's *National Police Gazette* as “fiends who have made a business of professional murder and who have reaped the bloody harvest in quenching the immortal spark in thousands of the unborn.”⁸

The practice of abortion in New York City has always been lucrative, and Restell was just the first to parlay the provision of abortion services into a personal fortune of more than a million dollars and a lavish Fifth Avenue brownstone described in the tabloids of the day as the “Mansion Built on Baby Skulls.”⁹ She shared the abortion profession with her husband, Charles Lohman, an ex-printer who took the name Mauriceau and advertised himself as a “doctor,” advocating early abortion with “potions and powders” as the “safest” alternative.¹⁰ He specialized in creating abortifacients, which he sold for exorbitant prices. In the extensively researched *Abortion Rites: A Social History of Abortion in America*, author Marvin Olasky writes that “Mauriceau was a brazen Barnum with an audacious sales technique.”¹¹ Inventing a fictitious character by the name of M.M. Desomeaux of Lisbon, Portugal, Mauriceau claimed to be the “only distributor” of what he called Desomeaux's celebrated abortifacient, Portuguese Female Pills. Olasky points out that Mauriceau sold the pills for \$5, which was then the cost of renting a New York City apartment for one month.¹²

In addition to her husband's “medicinals,” designed to eliminate the developing fetus, Restell specialized in late-term abortion. Advertising herself as “a female physician and professor of midwifery” in the daily newspapers, the self-taught Restell was able to corner the growing abortion market by developing what some authors have suggested were friendly relationships with the police and New York City politicians.¹³

While the delivery of abortion services was only a misdemeanor offense at the time, growing numbers of patient deaths moved New York legislators to add statutes in 1845 that mandated severe penalties if the procedure was performed after the quickening of the fetus. As a late-term abortion provider, Restell often found herself on the wrong side of that law—especially when her female patients died, as often happened—not surprisingly, considering the fact that she had no formal training as a physician, midwife, or medical professional. But the ever-resourceful abortionist always managed to find a way to escape without serious or lasting consequences.

Even when arrested and sentenced to a one-year term on Blackwell's Island in the East River, Restell was able to use her financial resources and political

connections to purchase excellent accommodations in prison. According to Marvin Olasky:

She was allowed to put aside the lumpy prison mattress and bring in her own fancy new featherbed instead; she also brought into the “prison suite” her own easy chairs, rockers, and carpeting. Visiting hours were altered so that her husband was able to visit at will and remain alone with her as long as suited his or her pleasure By the time Madame Restell emerged from such a penalty the excitement had died down and not much had changed.¹⁴

According to Daniel Stashower, the author of *The Beautiful Cigar Girl: Mary Rogers, Edgar Allan Poe, and the Invention of Murder*—a story of a young girl’s tragic death following a botched abortion—Restell once posted bail in the amount of \$10,000, which she paid in cash, “adding an additional thousand to demonstrate her continued goodwill.”¹⁵ So successful was Restell at evading the law that within a short time the *National Police Gazette* reported that the abortion law actually had the effect of “sweeping every rival from her path, as she remained mistress paramount in the scheme of practical destruction.”¹⁶ With the competition at bay, Restell ruled New York City’s abortion empire.

Even though the New York newspapers decried the practice of abortion and Madame Restell in particular, there was much money in the industry and sharing some of the profits with those who could help expand the abortion business bought the cooperation of police and politicians. To attempt to confront the culture of bribery and extortion that surrounded abortion at the time, Olasky points out that *New York Times* editor Louis Jennings, a conservative Christian, actually used his own newspaper to begin an “anti-abortion crusade with a Biblically referenced editorial entitled ‘The Least of These Little Ones.’” Jennings complained that the “perpetration of infant murder . . . is rank and smells to heaven. Why is there no hint of its punishment?”¹⁷

Jennings saw the need to mobilize the public and tried to do that by attempting to expose the corruption, and publishing stories of abortion cases gone terribly wrong. Focusing on abortions that ended with the deaths of the mothers, the *Times* complained about the “extreme rarity of trials for abortion in this City—an offense which is known to be very common.”¹⁸ Abortionists, the *Times* reported, “have openly carried on their infamous practice in this City to a frightful extent, and have laughed at the defeat of respectable citizens who have vainly attempted to prosecute them.”

By 1878, it seemed that nothing could stop Madame Restell and her sphere of influence over the abortion industry in New York City. An overwrought *National Police Gazette* reporter suggested that it was unlikely that any criticism of her “scheme of destruction” would bring Restell to justice: “That

hope is past.” But, as Stashower reports, Restell’s empire fell later that same year when she faced “renewed criticism from the press, and mounting suspicion over the mysterious death of her husband.” According to Stashower:

Madame Restell was placed under arrest following a confrontation with Anthony Comstock, the celebrated anti-vice crusader. After a brief stint in the Tombs, she once again posted bail and returned home to her mansion on Fifth Avenue. Making her way upstairs, Madame Restell calmly settled back into a warm bath and slit her own throat.

While her death may have been, as the *New York Times* suggested, a “fitting end” to her abortion empire, it was just the beginning of a New York City industry that continues today to provide great profits to those involved—including the politicians that promote the policies enabling the industry to flourish.

Profit Motive Behind the New York Abortion Revolution in the 1960s

The 1960s ushered in a new era of abortion—and abortion profits—in New York City. Entrepreneur Larry Lader partnered with his friend and Greenwich Village neighbor, Dr. Bernard Nathanson, a gynecologist and abortion provider in New York City, to become the true leaders of this new movement for New York and for the nation. For Lader, the abortion issue was indeed about money, and the potential for making a lot of it. But he also had a non-monetary motive. Lader, who had worked with Vito Marcantonio, the only Communist ever to be elected to the U.S. House of Representatives, was a progressive feminist and a great admirer of Margaret Sanger, the founder of the American Birth Control League, the precursor of Planned Parenthood. Writing about these early days of abortion in New York City in *The Hand of God*, Bernard Nathanson describes Lader as being “obsessed” with abortion:

Larry and I were spending a great deal of time in each other’s company Our subject was invariably abortion, if not directly then indirectly. With the election of the allegedly conservative Richard Nixon in 1968, we counted ourselves set back temporarily, but certainly not discouraged or defeated. When Martin Luther King and Robert Kennedy were assassinated in the same year, we discussed those monumental events primarily as whether they were good or bad for the abortion revolution that we were by this time scheming.¹⁹

Nathanson, who later converted to Catholicism and regretted his pro-abortion activity, recalled in his book *Aborting America* being “dragooned into planning political strategy with Lader.” By 1969, the New York duo was setting the agenda for a meeting of the leading national pro-abortion figures to take place in Chicago that year. Out of that meeting would emerge what is

today one of the biggest contributors to the Democratic Party, the National Association for Repeal of Abortion Laws (NARAL), later changed to the National Abortion Rights Action League, which today calls itself NARAL Pro-Choice America. Nathanson says that in order to accomplish the goal of abortion on demand on a national scale, they enlisted:

Betty Friedan and her corps of feminists to join us in the revolution . . . crushing the dinosaurs in the feminist movement . . . Lader, I and a handful of others such as Howard Moody, then pastor of the Judson Memorial Church in Manhattan's Greenwich Village, were the radicals, the Bolsheviks. We would settle for nothing less than striking down all existing abortion statutes and substituting abortion on demand.²⁰

The first target of opportunity was the New York State statute prohibiting abortion. Nathanson recalls that Lader knew that the governor of New York, Nelson Rockefeller, a liberal Republican, would not veto a bill striking down this state law and might apply discreet pressure to those legislators who seemed ambivalent. The media was enlisted to provide coverage on a challenge to the abortion laws through a 1970 lawsuit, *Abramowicz v. Lefkowitz*, which inspired 300 women along with Assemblywoman Constance Cook to force a bill to repeal New York's anti-abortion laws. The bill provided for legal abortion on demand during the first 24 weeks of pregnancy. The State Senate passed the bill 31 to 26; then it moved to the assembly where the vote resulted in a tie: 74 to 74. That would have been a defeat, but George Michaels, a Democratic assemblyman from a conservative district in upstate Auburn who had originally voted against the bill, changed his vote. Michaels became an instant hero for the pro-choice side, but a pariah in his own district. He had been elected by the votes of his Catholic constituency, a group that made up 65 percent of the city of Auburn.

While Michaels never again held public office, he is remembered today among the Democratic elite as one of the most courageous men of his time. In 2002, the John F. Kennedy Profile in Courage Award was posthumously given to Michaels for striking down abortion laws in New York.

Once the New York laws were changed, the city drew women from all over the country in need of abortion services. Profit-seeking entrepreneurs opened private hospitals throughout the city to meet this new demand. For a description of these days, it is helpful to read Magda Denes's 1970s-era book, *In Necessity and Sorrow: Life and Death in an Abortion Hospital*. The pro-choice Denes, a clinical psychologist who had undergone an abortion herself in a New York City hospital, spent a year interviewing doctors, nurses, and social workers who were then working in what she called an "abortion hospital" in the City.

Interviews with many of the New York City abortion providers clearly revealed the profit motive. One 45-year-old doctor involved in doing dilation and curettage (D & C) abortions on first-trimester patients and saline abortions on second-trimester patients admitted to Denes that: “The money that’s involved is a big factor in why I do this. And, I think that most doctors who do abortions also do them for the money’s sake. It is a big motive and certainly it’s nothing to be hypocritical about.”²¹

Abortion providers’ profit motives were echoed throughout the Denes book—a book written by a pro-choice advocate. Some doctors like Dr. Abraham Holtzman (Denes changed the names of those she interviewed for publication) were even more open about the financial rewards of abortion. He bragged that in the early days of the new abortion laws, “We made a lot of money in abortions . . . I found that I worked very hard, but I made an awful lot of money.”²²

Holtzman acknowledged that prior to the passing of the New York abortion law, “I don’t think there was ever a patient who came to my office in the last ten years who wanted an abortion and couldn’t get one For a hundred dollars, the patient went to the psychiatrist and he would say “You’re going to kill yourself if you don’t have this abortion? Yes. Okay, goodbye. Then he dictates a nice long letter that she’s suicidal.”²³

Although Holtzman lauded New York’s new permissive abortion laws, he lamented the fact that the law expanded the competition—and he had to begin to share the wealth that abortion could bring: “The referral agencies got into the act. Like Richard Harris ran this abortion information agency. He was charging the patients \$800, \$900, and he was paying the hospitals that did the cases \$350, because he gave them volume. And he was taking the rest. But, Louis Lefkowitz ran out and got an injunction against him and slapped all his money in escrow so he hasn’t been able to pay us for two years. He owes us about \$150,000 He made \$450 for just making a phone call, and running a limousine out to the airport.”²⁴

Dismissing any attempt to claim that he was performing abortions on women as part of a noble cause, Holtzman disclosed to Denes that “basically every gynecologist doesn’t like women, otherwise he couldn’t work with them.”²⁵ Holtzman especially denigrated those he called the “women-libbers” who demanded that abortion providers cut their prices:

Today, all the clinics are in trouble because it multiplied too fast. Basically, when you started out there was a big price war. Everybody started cutting the prices to drive somebody else out of business The business has become bastardized. Too many non-professional people have gotten between the patient and the doctor. The axiom among the referral services—I don’t care if it’s the clergy council, or it’s Reverend

Mooney, or whichever one it is—quite apparently like everything else, it's not how good can you do the job but how cheap can you do it The good days lasted—almost two years. Then the referral agencies who made this a whoring business said you won't take them for nothing then you don't get anybody. And that's what happened. We lost our referrals from Planned Parenthood and our referrals from Community Council.²⁶

Near the end of her book, Denes, who died in 1996 at age 62, admits her own ambivalence about abortion—even though she remained pro-choice. “No one undergoes this ordeal for the sake of societal gain. No one is here to reduce population growth. A given fetus lives or dies as the mother's needs dictate. And so it should be. But, not without awareness. Not without a lingering attitude of restitution that would make of the mother's spared life something better.”²⁷ Denes appears to realize, as those she interviewed know, that it is difficult to view abortion as a noble cause because it is an industry that is driven primarily by profit for the providers and self-interest for the women seeking such services. There is nothing noble about it.

Abortion Providers Continue to Attempt to Destroy the Competition

The abortion industry in New York City is likely to become more profitable than ever with the election of the City's new pro-abortion mayor, Bill de Blasio. As a candidate, de Blasio issued a position paper titled “Standing With the Women of New York City,”²⁸ in which he promised to work with abortion providers to “ensure adequate protection for clinic access by ensuring close coordination with the NYPD.” De Blasio has also promised to “work with nonprofit providers to identify those who are underserved by reproductive health services.” Both initiatives are intended to increase profits for the abortion industry.

In addition to expanding access to abortion, the mayor has a strategy to help the abortion industry maximize profits through his initiative to close down the competition—the pro-life crisis pregnancy centers. In his position paper, Mayor de Blasio has promised to address what he sees as the problem of the “sham-crisis pregnancy centers.”²⁹ These are the pro-life centers that offer pregnancy testing, counseling, and financial and practical assistance to women faced with unplanned pregnancies. To the new mayor of New York, these clinics are “sham clinics” because they do not offer what he calls “legitimate health care through abortion.” Just as Madame Restell, Larry Lader, and Dr. Holtzman attempted to maximize profits by increasing access and destroying the competition, Mayor de Blasio's plan—if successful—will indeed increase abortion in the City.

But Chris Slattery, the Founder and Director of Expectant Mother Care-

EMC FrontLine Pregnancy Centers, vows to fight back against de Blasio's plans. Slattery has been involved in the pro-life movement for more than 35 years—opening the first full-time pregnancy resource center in New York City in 1985 and pioneering the use of on-site ultrasound and prenatal care in a crisis center. Today, he heads 12 pro-life centers located throughout four New York City boroughs. In conversations for the *Human Life Review*, Slattery described a 25-year war on the pro-life crisis pregnancy centers.³⁰ In 1987, New York's Attorney General Robert Abrams sued EMC for practicing medicine without a license, and false and misleading advertising. Out of fear of prosecution, Slattery signed a 1987 consent judgment that mandated that he advise patients that EMC does not perform abortions, will not refer women for abortion, and is not a medical facility.

The abortion industry continued to enlist politicians to protect their financial interests. In 2002, New York's Attorney General Eliot Spitzer subpoenaed 24 crisis pregnancy centers for "practicing medicine without a license" because they were using ultrasound technology in their centers. Working closely with Family Planning Associates of New York, a pro-abortion lobbyist group that represents 78 family planning clinics and abortion facilities, including 15 operated by Planned Parenthood, Spitzer claimed to be probing complaints that the pro-life clinics were "luring women with the promise of reproductive health services, only to present them with anti-abortion messages." Spitzer issued subpoenas, demanding that the pro-life centers provide his office with copies of all advertisements, website addresses, services provided, names of staff members, training materials, and blank forms and records. The crisis pregnancy centers countersued, claiming that they advertise their services only as "abortion alternatives." A few months later, Spitzer withdrew the subpoenas.

In 2008, New York's U.S. Representative to the House Carolyn Maloney opened a new front in the war on crisis pregnancy centers by enlisting 11 co-sponsors to propose the Stop Deceptive Advertising for Women's Services Act, which would have required the Federal Trade Commission to "enforce truth-in-advertising standards for reproductive centers." The bill has had a difficult time, but Maloney continues her attack with her proposed legislation. Last July, lamenting that New York City "may not be able to regulate crisis pregnancy centers locally," Maloney penned an op-ed in the *Huffington Post* promising to call on Congress to pass her bill and a companion bill in the Senate—where there is a pro-abortion majority that may be willing to support anything that will enhance the profit-making of the abortion industry.³¹

Last year, Attorney General Eric Schneiderman issued yet another

subpoena against Slattery's EMC FrontLine Pregnancy Centers for not abiding by the terms of the 1987 agreement. It is likely that the impetus for the renewed prosecution of EMC emerged from a 2011 law (Local Law 17.2011) signed by then-Mayor Bloomberg, which requires that pro-life pregnancy centers disclose orally, in print advertisements, and on visible signs posted at the entrances and inside the area where women receive care, the following:³²

1. The facility must disclose whether or not they have a licensed medical provider on staff who provides or directly supervises the provision of all services offered at the center.
2. The facility must disclose that the New York City Department of Health and Mental Hygiene encourages women who are or who may be pregnant to consult with a licensed provider.
3. The facility must disclose whether or not they provide abortion services or provide referrals for abortion, emergency contraception, or prenatal care.

While the law was constructed to block competition from pro-life centers, the United States District Court struck down much of Local Law 17.2011 in *Evergreen Association, Inc. v. City of New York*.³³ Unfortunately, a three-judge panel of the 2nd Circuit reinstated one part of the provision in a 2-1 decision on January 17, 2014.³⁴ Judge Richard Wesley, the dissenting judge on the 2nd Circuit Court, expressed his frustration over the attacks on the crisis pregnancy centers, writing that "Local Law 17 is a bureaucrat's dream. It contains a deliberately ambiguous set of standards guiding its application, thereby providing a blank check to New York City officials to harass or threaten legitimate activity."³⁵

Slattery agrees. "There is absolutely a campaign to use the law to attack pro-life crisis pregnancy centers Over 42,000 mothers have chosen life who would have otherwise aborted their babies because we offered free ultrasounds. The political nature of the attack is very apparent Each day we remain open, is a day that revenue is directed away from the abortion industry."³⁶ Vowing to continue the fight, Slattery has plans to expand his centers—increasing personnel and services to women who need them: "In New York City there is a fight happening with major implications for every pregnancy center in the nation. The services we provide are helping women and saving lives, and we are going to survive and thrive."³⁷

While Slattery is determined to keep the crisis pregnancy centers open, it will be increasingly difficult for them, as Local Law 17 can still be used, as

Judge Wesley has said, to “harass and threaten” the pro-life centers throughout the City.³⁸ No one should underestimate the ruthlessness that continues to drive the abortion industry in New York City today. When abortion profits are at stake, providers and progressive politicians remain united in their efforts to close down the competition.

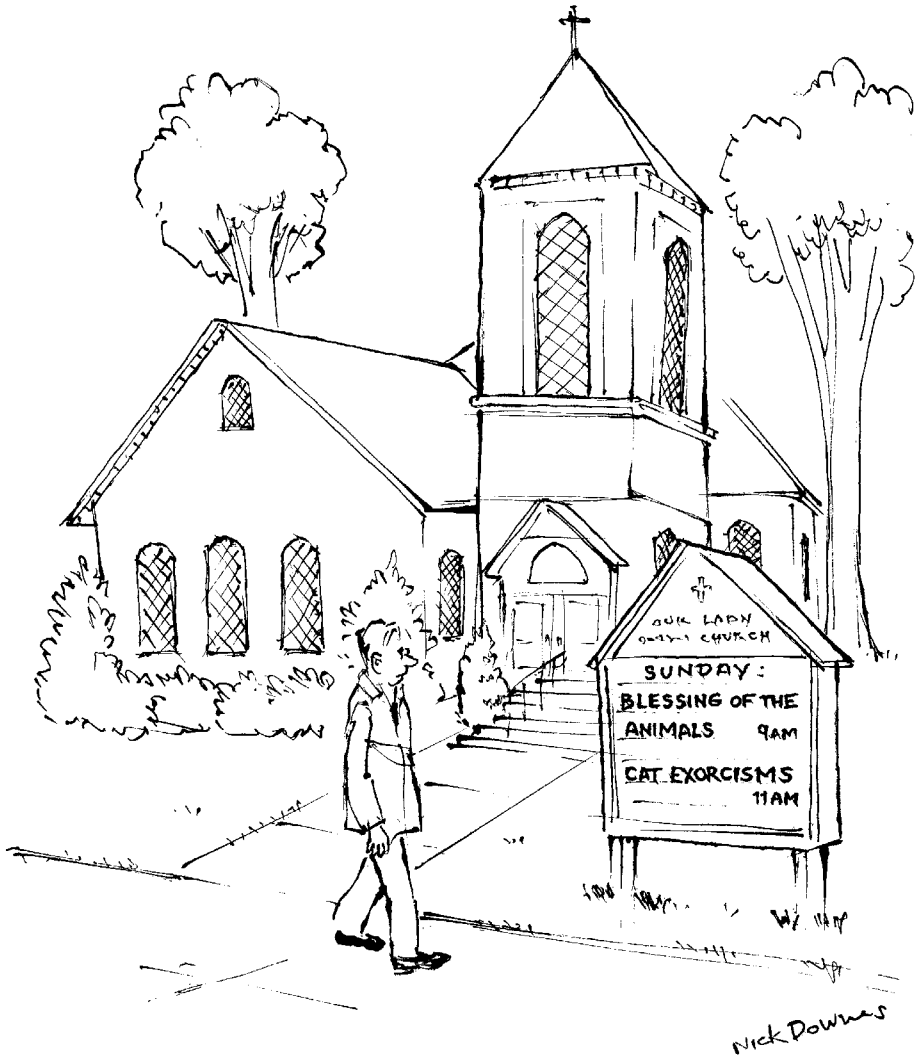
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The Pivotal Year of 1979 and the New Narrative: **Evangelicals & Fundamentalists Join the Pro-Life Movement**

Robert N. Karrer

Beginnings: A Catholic Movement

The drive to enact new, liberal abortion laws came of age in the spring of 1967 when many state lawmakers introduced legislation to replace 19th-century statutes that criminalized abortion. These initiatives met opposition from Catholic physicians and Catholic lawyers. Priests and bishops also testified at legislative hearings. Catholic Conferences sent representatives to state capitals to help block reform. A few Protestant ministers and Orthodox Jewish rabbis testified as well.¹ These individuals constituted the backbone of the infant pro-life community; however, their impact was muted compared to the emerging abortion rights movement, which demanded change in laws and new freedom for women.

Liberal physicians, law professors, and lawyers were abortion reform's champions in the beginning, working with kindred spirits in state legislatures, universities, and the national media.² In 1967 Colorado, North Carolina, and California lawmakers enacted statutes that permitted abortion in cases of rape, incest, and fetal deformity based on the model penal reforms proposed by the American Law Institute. However, these laws imposed modest changes and did not repeal existing abortion statutes. Women who were members of feminist groups like the National Organization for Women (NOW) and who believed that women should have autonomy in reproductive matters called for total repeal of existing anti-abortion laws.³

In the same year of 1967, the National Conference of Catholic Bishops (NCCB) approved the creation of the National Right to Life Committee (NRLC).⁴ It became operational the following year, established a board of directors, and linked up with a few scattered pro-life groups across the nation, primarily New York State Right to Life and Minnesota Citizens Concerned for Life (MCCL). The NRLC added several key Protestants to its board through 1972 (most importantly Dr. Fred and Marjory Mecklenburg of Minneapolis, Methodist; Gloria Klein of Detroit and Dr. Mildred Jefferson of Boston, Presbyterian; Judy Fink of Pittsburgh, Baptist; and Dr. Albert

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Fortman of Bismarck, Lutheran).⁵ Participation by evangelical or fundamentalist leaders was at that time almost non-existent. The pro-life movement remained a Catholic grass-roots crusade. Abortion-rights leaders even identified the Catholic Church as the enemy of reproductive freedom, claiming that opposition to abortion was almost exclusively a “Catholic” position, and that church leaders were trying to impose Catholic doctrine on all Americans.⁶

The myth (or fabrication) that abortion was a Catholic issue should have been dismissed as early as 1971, when Unitarian minister and Harvard Divinity School professor George Huntston Williams established Americans United for Life (AUL), soon to become the legal arm of the pro-life movement. While the group was broad-based and many Catholics served the organization with distinction, AUL provided a greater platform for non-Catholics. For example, Victor Rosenblum, an attorney and law professor at Northwestern University, was Jewish. For two decades he was one of the premier leaders of the AUL, and argued several abortion-related cases before the Supreme Court.

Another lingering myth was that pro-lifers emerged from a collective wave of conservative Americana. While it is true that the majority of active pro-lifers were Catholic, regular church attenders, and traditionally minded, a considerable number also entered the pro-life movement as former anti-war crusaders, liberals, or pacifists. Gordon Zahn belonged to this category. A sociology professor at the University of Massachusetts, he denounced as “abhorrent . . . the willingness of so many who share my political and theological approach in most respects to go along or condone . . . [abortion on demand] which so clearly contradicts the values upon which that approach is based.”⁷

Pro-life scholar and speaker Mary Meehan likewise had long liberal credentials. She marched in civil rights demonstrations, was a Vietnam War protester, and worked on Senator Eugene McCarthy’s campaign in his failed bid for the 1968 Democratic nomination. Abortion emerged as a social issue in the late 1960s and became the life-changing issue that redefined her future. She lamented that her fellow liberals no longer marched with her, that they had abandoned the helpless and defenseless unborn baby for the reproductive rights of the mother.

In the late 1960s, I marched down Pennsylvania Avenue against the war in Vietnam. The other day I marched down the same route against abortion, accompanied by a friend who had been active in the anti-war movement. We couldn’t help wondering, “Where are all the others? Why did so many of them drop off the route when the war ended? Why do so many now support abortion?” We thought that most people in the

anti-war movement shared a conviction that life is a great good, that we should . . . “Celebrate Life!” And where are the liberals? How could so many liberal politicians be against war, against capital punishment and for abortion? How can they be concerned about poverty and neglect and child abuse after birth, yet accept what someone called “the ultimate child abuse” of abortion?⁸

Thus, in the years just before and for a few years after the *Roe* decision, the rank-and-file in the movement—the volunteers (whether politically liberal or conservative), those who were members of pro-life groups in their communities, who held pro-life signs at rallies, and demonstrated in the annual March for Life, were overwhelmingly Catholic and female. They donated baby clothes to crisis pregnancy centers or baked cookies as simple fundraisers. They wrote letters to the editor of their local newspapers, and made “get out the vote” phone calls. Politically, they voted for pro-life candidates as single-issue voters.

During the reform era (1967-1972), evangelical and fundamentalist response to the reform movement was either lukewarm or inconsistent. For example, The National Association of Evangelicals issued a statement in 1971 opposing abortion on demand “for reasons of personal convenience, social adjustment or economic advantage,” but supported the “necessity for therapeutic abortions to safeguard the health or the life of the mother,” or in cases of rape or incest.⁹ Likewise, that year the Southern Baptist Convention affirmed abortion for therapeutic reasons, rape, and incest.¹⁰ W.A. Criswell, former president of the Southern Baptist Convention and pastor of one of its largest churches, the First Baptist Church in Dallas, even agreed with the *Roe* decision. “I have always felt that it was only after a child was born and had life separate from its mother that it became an individual person, and it has always, therefore, seemed to me that what is best for the mother and for the future should be allowed.”¹¹

Roe v. Wade changed the dynamic in January 1973.¹² Almost overnight the pro-life movement witnessed huge gains. Kristin Luker writes of *Roe*’s immediate impact, “More of the people we interviewed joined the pro-life movement in 1973 than in any other year, before or since; and almost without exception, they reported that they became mobilized to the cause on the very day that the decision was handed down.”¹³ Three days after the ruling, a MCCL spokesman noted that, “[M]any people who were marginally committed are now beating a path to our door asking what they can do.”¹⁴ Later its newsletter reported that a dozen new state chapters formed between January and March; by April, the group had grown by 50 percent. Indeed, groups formed across the country.¹⁵ Yet the majority of these new pro-life converts were still Catholic.

Evangelical Response to *Roe*

Evangelical response to *Roe* came swiftly. *Christianity Today* weighed in with a vigorous dissent. “We would not normally expect the Court to consider the teachings of Christianity and paganism before rendering a decision on the constitutionality of a law, but in this case . . . it has clearly decided for paganism and against Christianity.” The editorial continued, “It appears doubtful that unborn infants now enjoy any protection prior to the instant of birth anywhere in the United States.”¹⁶ When prominent abortion-rights minister Rev. Howard Moody said that the Court “may have saved the ecumenical movement, avoiding an all-out conflict between Catholics and Protestants on abortion,” *Christianity Today* opined, “The ruling may promote cooperation,” believing that Catholics and evangelicals would instead join forces to fight against abortion.¹⁷

Philadelphia pediatric surgeon C. Everett Koop, an outspoken evangelical, had been lukewarm on abortion but changed his position shortly before *Roe*. After the Court’s decision, he felt compelled to speak with greater clarity. He gave the 1973 Commencement Address at Wheaton College and listed 10 future developments he tragically expected to spring from *Roe*, especially euthanasia and infanticide.¹⁸ In 1976 Koop wrote the short book *The Right to Live: The Right to Die*, which discussed the twin evils of abortion and euthanasia.¹⁹ He penned three articles for the *Human Life Review* between 1975 and 1979 and became increasingly preoccupied with the problem of abortion, a concern shared by his friend, noted Christian philosopher and author Francis Schaeffer. By 1977 both men had begun a collaborative work that would bring them into the forefront of the pro-life movement.

Dr. Harold O.J. Brown, the Harvard-educated theology professor at Trinity Evangelical Divinity School, took the momentous step of founding the Christian Action Council in Billy Graham’s North Carolina home in the summer of 1975, the first genuinely Protestant (and evangelical) pro-life group in the nation. He joined Koop, Edith Schaeffer (wife of Francis), and a few others. During its crucial first year, the majority of financial help came from the Ad Hoc Committee in Defense of Life, a pro-life lobbying group established by J. P. McFadden, a Catholic journalist who founded the *Human Life Review*. While the Christian Action Council tried to make inroads with politicians as an evangelical lobbying organization, it was overlooked in favor of more well-known pro-life groups in Washington, D.C.²⁰ Brown became a popular contributor to the *Human Life Review* and was an associate editor for two years, writing five articles between 1975 and 1979. In his fourth article, a discussion of Protestantism and abortion, he warned against a strict

or narrow interpretation of “separation of church and state” and announced that the time had arrived when Christians must speak out and protest. However, Brown expressed concern that Christian response was weak or apathetic. “If evangelicals do not react in overwhelming numbers to this challenge, it is difficult to imagine another to which they might rise.”²¹

Brown’s most influential article appeared in January 1976 in *Christianity Today*.²² “The Passivity of American Christians” lamented that evangelicals remained disengaged from things political. Read by pastors and Christian leaders, it led some to reassess their hesitancy to address important moral issues of the day. “Many Christians are now strangely intimidated into silence,” he wrote. “Their contribution to public-affairs debates is being increasingly disqualified as sectarian.” Brown described American origins as containing a “broad consensus on fundamental values.” Unfortunately, the advance of secularism had diminished that consensus, especially in the past century as Christians abandoned their place in the public square. On abortion, Brown argued that, “the substantial weight of the Judaeo-Christian ethical tradition has been explicitly rejected in favor of a permissiveness derived from paganism.”²³ He observed that, from the “historical perspective,” Christianity since its earliest days had opposed abortion except in the case of the life of the mother. Yet, the voice of secularism had muffled or discouraged calls from conservative Christians arguing for biblical morality and a rejection of *Roe v. Wade*.

In 1977 Brown wrote *Death Before Birth*, restating his concern about Christian apathy regarding abortion. Brown reminded readers that the Supreme Court’s *Planned Parenthood v. Danforth* decision (1976) “increased the provocation”—the ideological war between those advocating for abortion or opposing it. He noted that in 1970 when New York’s very liberal abortion law was enacted, “sentiment nationwide began to turn against abortion on demand.”²⁴ He cited three examples: the 1972 repeal of New York’s abortion statute (vetoed by Governor Nelson Rockefeller) and pro-life victories in Michigan and North Dakota in 1972.²⁵ But *Roe* had “turned the whole nation around and established abortion as a ‘constitutional right.’”²⁶ Finally, Brown boldly challenged fellow Christians: “Apparently the Court and much of the government are confident that America’s Christians are what Mao Tse-tung called the United States—a paper tiger, hollow and without teeth.”²⁷ He called upon Christians to become both “witness” and “watchmen.” “It is our responsibility to warn our fellow Christians and our fellow Americans of the danger of death that comes with transgression of God’s moral law.”²⁸

Despite Brown’s academic credentials, his passionate pleas for civic engagement, and his active role in founding the Christian Action Council, he

remained largely unknown to the majority of evangelicals in the United States, and his pro-life group was small and ineffective. The role of watchman that he envisioned for conservative Christians did not emerge under his watch. The voice that finally awakened evangelicals—and even more so fundamentalists—from their lethargy on social issues was not even associated with a particular pro-life group. The man was Jerry Falwell and the platforms for his activism were Thomas Road Baptist Church, his television program *The Old Time Gospel Hour*, and Liberty College in the hills of western Virginia.

But before Falwell entered the hardscrabble world of partisan politics, another evangelical watchman made the case for biblical morality concerning issues like abortion and infanticide. Francis Schaeffer, Philadelphia-born but resident in Switzerland since 1948, became a popular writer and defender of orthodoxy. His first books (1968-1970) cemented his reputation among American evangelicals, especially on college campuses and in academic circles. From L'Abri, his mountain retreat in Switzerland, he spent 25 years challenging skeptics and saints to reexamine historic Christianity and its influence over Western culture.

The Four Principal Indicators

In 1979, four events transpired that reshaped the way evangelicals and fundamentalists viewed direct involvement with partisan politics. While issues like pornography, school prayer, and Christian education placed high on the Religious Right's agenda, abortion was destined to become the centerpiece, the one pivotal issue that finally captured the emotions of millions of conservative Christians and led them to action.

1. Concerned Women for America

In January 1979, Beverly LaHaye, wife of San Diego Baptist pastor and popular author Tim LaHaye, founded Concerned Women for America (CWA). In many respects the group was the Christian alternative to the National Organization for Women (NOW). CWA would become the nation's largest women's organization, with some 500,000 members.²⁹

A year earlier Beverly had spoken at a pro-life rally in San Diego and observed that although her church was the largest in town, she could not recognize a single woman in the audience. Instead, she met many Catholics and Mormons. A few days later she watched reporter Barbara Walters interview NOW founder Betty Friedan on television. When Friedan stated that she and NOW spoke for the women of America, LaHaye was incensed. "She doesn't speak for me!"³⁰ LaHaye planned a rally at a local church to

demonstrate opposition to the feminist agenda. To her amazement, 1,200 women attended. “The majority of women out there don’t agree with Betty Friedan and the ERA,” LaHaye insisted, buoyed by the enthusiastic turnout.³¹

LaHaye formed CWA shortly afterward, basing it upon six principles: the sanctity of human life, the definition of the family, the fight against pornography, education, religious liberty, and national sovereignty.³² CWA established chapters in every state. It produced a monthly newsletter and engaged in political lobbying. Many evangelical and fundamentalist women joined CWA. A pro-life agenda became a large part of the group’s political program.

2. Moral Majority

Rev. Jerry Falwell incorporated the Moral Majority in June 1979, one month after it was birthed at a private meeting of key conservative leaders in Lynchburg, Virginia. During its 10-year existence, the Moral Majority championed conservative candidates, mailed out hundreds of thousands of newsletters (*Moral Majority Report*), alerted readers to various social issues like abortion and homosexuality, conducted voter registration drives in hundreds of churches across America, and in general pushed an agenda that espoused conservative or traditional values: opposition to communism, homosexuality, abortion, pornography, feminism, the Equal Rights Amendment, and support for traditional marriage, the pro-life movement, private or home-school education, and school prayer.³³

Falwell, like many fellow Baptist ministers, avoided politics during the 1960s when the Civil Rights Movement demanded participation from Southern Christians. By the mid-1970s a new perspective toward social issues had awakened a cadre of conservative ministers, Falwell becoming chief apologist and speaker. He used his popular television show *The Old Time Gospel Hour* to promote Christian evangelism and Baptist theology and display his political metamorphosis from occasional critic of America’s ills to firebrand opponent of abortion and other lightning-rod social issues. The time was ripe for a national representative to emerge who could articulate Christian or traditional values. Falwell filled the void. He clearly had his detractors—the Moral Majority was lampooned by the secular world—but he was not deterred from exercising his rights either as an American or as a Christian in declaring the truths of the Bible as they related to moral issues of the day.

Falwell opposed the *Roe* decision shortly after it was announced. Yet he did not initially join a pro-life group or preach against abortion from the pulpit. Writes widow Macel Falwell in a 2008 biography of her husband,

“He didn’t rush out and join the activists threatening the judges, nor did he stick his head in the sand and hope the problem corrected itself. His thought was, why harp about a problem when you could offer a solution?”³⁴ That summer Falwell and his Liberty Baptist College chorale traveled throughout the country encouraging Christians to repent.

In 1976 he expanded his efforts, conducting 141 “I Love America” rallies, a patriotic tribute to the nation. Falwell recalled, “[It] was the first offensive we launched to mobilize Christians across America for political action against abortion and other social trends that menaced the nation’s future.”³⁵ A few years later he sent out musical teams from the college in a 150-city tour called “America, You’re Too Young To Die!”³⁶ Abortion, homosexuality, drugs, and pornography were listed as reasons for the nation’s spiritual and cultural decline.

In May 1978 Falwell revisited three key issues (abortion, homosexuality, pornography) on *The Old Time Gospel Hour* in a campaign titled “Clean Up America.”³⁷ It included an audience survey and contact with state and federal legislators. He expanded these themes in his 1980 book *Listen, America!*³⁸

Falwell’s foray into public policy via rallies and musical presentations reveals that he had become politicized well before the founding of the Moral Majority and had already established a base of support that would eventually link arms under the banner of that organization. Falwell had established his core issues before 1979 as well, the centerpiece being abortion and the sanctity of human life.

This may be a good place to address the issue of whether abortion was the wedge issue that motivated fundamentalists and evangelicals to become politically active. The evidence seems to indicate that abortion was not that issue. Rather, the controversy surrounding Bob Jones University (BJU), its policy of not admitting black students, and the Internal Revenue Service’s decision in 1970 to deny the school tax-exempt status while its segregated policy remained in force, was the prime factor getting conservative Christians (at least in the South) to become involved in policy issues. Many Southern ministers rallied behind the school, citing the First Amendment. In his 2006 book *Thy Kingdom Come*, Randall Balmer addresses the issue, claiming that there was an evangelical “subculture” that resisted governmental intrusion. A reoccurring theme was: “We don’t accept federal money, so the government can’t tell us how to run our shop—whom to hire or fire or what kind of rules to live by.”³⁹ The government disagreed. In *Green v. Connally* (1971) a federal court ruled that racially discriminatory private schools were not entitled to a tax exemption, and that persons making donations to such schools could not claim charitable deductions.⁴⁰ In 1975 the IRS revoked

Bob Jones's tax-exempt status, and made the revocation retroactive to December 1970. In *Bob Jones University v. United States* (1983), the Supreme Court ruled 8-1 that the IRS had the authority to revoke the school's tax exemption.⁴¹

Balmer credits Paul Weyrich as the chief architect who marshaled evangelicals and fundamentalists to support Bob Jones University.⁴² Deal Hudson, a far more sympathetic scholar, agrees, citing a September 1977 meeting that Weyrich considered a pivotal start of the Religious Right. Three hundred pastors filled a caucus room in the U.S. Capitol to hear Weyrich address the issue of the IRS attack on Christian school tax exemptions.⁴³

Balmer is correct in highlighting the Religious Right's complicity in creating an "abortion is central" myth when in fact other issues had already infused Southern fundamentalists. His thesis, however, fails to distinguish between Northern or Midwestern evangelicals and their Southern brothers or, rather, between fundamentalists and evangelicals in general. Northern evangelicals opposed segregation and supported many elements of the Civil Rights Movement. They did not endorse BJU's policy of excluding black students. Far more influential for them were the works of Francis Schaeffer.⁴⁴

The reality of the fundamentalist-evangelical divide is backed up by research. The Moral Majority was a distinctly Southern organization and drew its greatest support from Baptist or fundamentalist churches.⁴⁵ Matthew Moen lists several studies to support this. One 1983 study revealed that 60 percent of fundamentalists had positive views of the Moral Majority, while only 11 percent of evangelicals had positive views of it.⁴⁶

3. Schaeffer-Koop: *Whatever Happened to the Human Race?*

Francis Schaeffer discussed the topics of abortion and euthanasia in his popular 1976 book *How Should We Then Live?* He argued that American law had abandoned moral absolutes and now made decisions based on arbitrary or sociological considerations.

By an arbitrary absolute . . . millions of unborn babies of every color of skin are equally by law declared nonpersons. The door is open. In regard to the fetus, the courts have arbitrarily separated "aliveness" from "personhood," and if this is so, why not arbitrarily do the same with the aged? So the steps move along, and euthanasia may well become increasingly acceptable.⁴⁷

In 1979 Schaeffer and Koop expanded on the theme of the sacredness of human life when they published their highly influential book *Whatever Happened to the Human Race?*, a thoughtful and reflective defense of life and an indictment of the triad of abortion, infanticide, and euthanasia. As society drifted away from what had previously been acknowledged as

acceptable, people no longer held fixed standards of behavior; rather, these were “replaced by what seems necessary, expedient, or even fashionable.”⁴⁸ Later the co-authors added, “If man is not made in the image of God, nothing stands in the way of inhumanity. There is no good reason why mankind should be perceived as special. Human life is cheapened.”⁴⁹

Koop wrote an impassioned plea for social action. He warned of a “slippery slope” by which the judiciary might expand the right to abort and permit the killing of handicapped infants or the elderly, using physicians as facilitators and instruments of death. The following quote is vintage Koop:

Let it never be said by historians in the latter days of this century—after the Supreme Court decided on abortion in 1973 and the practice of infanticide began—there was no outcry from the medical profession . . . Let it never be said that the extermination program for various categories of our citizens could never have come about if the physicians of this country had stood for the moral integrity that recognizes the worth of every human life. And above everything else, let it never be said that there was no outcry from the Christians! All Christians know why people are different and have value as unique individuals—sick or well, young or old. People are unique because they are made in the image of God.⁵⁰

Schaeffer and Koop recognized *Roe* as the singular act that stamped a governmental imprimatur on a fundamental right to kill a defenseless unborn infant. *Roe* (and subsequent decisions) had activated Christians to respond. If evangelicals had been content to let state legislators decide for or against abortion liberalization during the reform era, and content to let Catholics lead the movement during the early years, they were jolted into reality by *Roe*. The Court had extracted the issue from politics and established an entirely new abortion narrative by judicial fiat. The legislative process had been thwarted by unelected judges.

4. Southern Baptist Convention, 1979

The largest Protestant denomination in the United States is the Southern Baptist Convention (SBC), its fundamentalist churches reaching from the Piedmont and the Carolinas to Texas and Oklahoma. During the abortion reform era, the SBC supported liberalization for the rare “hard cases.” Its 1971 resolution affirmed a “high view of the sanctity of human life,” but still called upon members “to work for legislation that will allow the possibility of abortion under such conditions as rape, incest, clear evidence of severe fetal deformity, and . . . the likelihood of damage to the emotional, mental, and physical health of the mother.”⁵¹ That position was reaffirmed at its 1974 convention. The 1976 statement decried abortion for “selfish, non-therapeutic reasons,” and supported “biblical sacredness and dignity of all human life, including fetal life.” But it also included the pro-choice caveat: “We also

affirm our conviction about the limited role of government in dealing with . . . abortion.”⁵² The Southern Baptist conventions of 1977-1979 concurred with previous resolutions.

From 1960, Foy Valentine directed the denomination’s Christian Life Commission, the church office that set policy on a variety of societal or political issues. He influenced the original 1971 statement on abortion. When in 1977 the Religious Coalition for Abortion Rights drafted its “A Call to Concern,” which warned against an “absolutist” position on abortion, Valentine and a few Baptist professors signed the document.⁵³ The following spring the Religious Coalition invited Valentine to become a national sponsor for the group. “The battle has been joined by the Roman Catholic Bishops,” he wrote back in April 1978 accepting the offer, “and I think it is imperative that we not sit still to let American public policy be changed in favor of their particular interpretation of this matter.”⁵⁴

Between 1977 and 1979 a few influential Baptist leaders became concerned by the general liberal to moderate drift the denomination had taken, from liberal department heads or college professors to issues like biblical inerrancy. They encouraged conservatives to attend the SBC’s 1979 meeting in June to elect a conservative to head the denomination. In a remarkable shift in power, fundamentalists elected Adrian Rogers, pastor of a large church in Memphis, with 51 percent of the delegate [messengers] vote.⁵⁵ Called the “Conservative Resurgence,” the election of Rogers set in motion gradual changes from moderate to conservative in departments and seminaries. Those changes did not come overnight. Many took almost a decade to implement. Not until the late 1980s did the multi-layered Southern Baptist organizational structure finally achieve its conservative hegemony.

In the area of abortion, a pro-life resolution passed in 1980. Two years later, messengers muscled through a resolution (much to Valentine’s displeasure) that endorsed a constitutional amendment banning abortion. In 1987 Valentine retired. Sixteen months later and under fire from conservatives, a new director resigned, replaced by Richard Land, a committed prolifer with a Ph.D from Oxford. Land led the Commission until 2013.⁵⁶

Other Factors

Several other items contributed to conservative Christian interest in politics and pro-life activity but can be listed only in summary fashion.

Two abortion-related trials were played out before the nation in the mid-1970s. In 1974-75, Boston physician Dr. Kenneth Edelin was tried and convicted (a conviction that was later overturned) of manslaughter for suffocating a baby who had survived the abortion he had performed.⁵⁷ In

1978, Los Angeles Dr. William Waddill was tried for a 1977 failed saline abortion on a teenager carrying a 29-31 week fetus and for his alleged subsequent successful strangulation of the baby. The case was declared a mistrial when the jury became deadlocked over the legal definition of “death.”⁵⁸

Jimmy Carter’s presidential campaign in 1976 attracted a great following among Southern fundamentalists. Carter’s avowed Christian faith, especially his Southern Baptist affiliation, led many fellow believers to vote (many for the first time). *Time* magazine even declared 1976 to be the “Year of the Evangelical,” and used polling numbers to indicate that a high percentage of Americans claimed to be both evangelical and “born again.”⁵⁹

In 1976 the Supreme Court decided *Planned Parenthood v. Danforth*, striking down spousal and parental consent. The state could not “delegate to a spouse a veto power” over a woman’s right to terminate a pregnancy.⁶⁰ Likewise, the Court stated that the State did not have the authority to “give a third party an absolute . . . veto” over a minor’s wish to abort. “Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors . . . possess constitutional rights.”⁶¹ Evangelicals and fundamentalists were outraged that the Court would usurp parental authority over minor children.

Clinical child psychologist Dr. James Dobson launched his radio program *Focus on the Family* in 1977 and expanded it two years later. It became his platform to discuss child rearing, marriage, home-schooling, and social issues like pornography and abortion. Dobson became one of evangelicalism’s most effective communicators in condemning both pornography and abortion. His influence cannot be underestimated in helping move Christians into public policy.

In 1977 President Carter strongly supported the first National Women’s Conference, which was held in Houston in November. Feminist pro-choice delegates outnumbered conservative pro-life delegates five to one. A strong pro-choice abortion plank was adopted.⁶² The Conference revealed three things: The Carter Administration was committed to advancing the feminist agenda; the women’s movement was diametrically opposed to the goals and aspirations of the pro-life movement and would not compromise an inch on reproductive issues; conservative Christians, conservative Americans, traditionalists, and pro-family advocates needed to band together and speak with one voice, if only to counter the vitriol coming from pro-choice zealots.

The results of the midterm elections of 1978 proved that New Right organizations had gained considerable strength in just a few years. Their mailings and fundraising helped to defeat a few incumbent liberal senators.

Several issues dominated the landscape, primarily positions on abortion and the decision on whether the United States should enter into a treaty with Panama to hand over control of the Panama Canal.

Christian Voice, another Religious Right group, formed in 1979 with Robert Grant as Director and Gary Jarmin as chief lobbyist. It would spend millions of dollars getting Christians involved in politics and supporting right-wing candidates.⁶³

In 1979 two influential books on abortion were published: *Who Broke the Baby?* by Lutheran pro-life leader Jean Garton,⁶⁴ and *Aborting America*, by former abortionist Dr. Bernard Nathanson.⁶⁵ Dr. Nathanson was Jewish (and at the time he wrote the book an atheist, although some years later he converted to Catholicism). Again, the clear conclusion was that one did not have to be Catholic to be pro-life. In fact, one did not have to have any religious faith at all. Nathanson discovered the truth about the status of the unborn through the lens of science and the expanding field of fetology.

An argument can be made that the rapid increase in the number of abortions during the 1970s is a statistical indicator that evangelicals and fundamentalists joined the pro-life movement because of *Roe*'s growing popularity with the public, aggressively promoted by the abortion industry. In 1974, a total of 763,476 abortions had been performed in the United States, with an induced abortion ratio of 242 abortions per 1,000 live births. By 1979 the number of abortions increased to 1,251,921, with an induced abortion ratio of 358 procedures per 1,000 live births.⁶⁶ Abortion on demand had rendered the womb the most dangerous and vulnerable place in America. Christians concluded that the rise in the number of abortions proved that they were losing the battle to restore America's moral goodness. Rather than remain complacent or apathetic, it was time to commit to the cause, join the pro-life movement with like-minded Catholics, and fight for the unborn.

Events turned political in the election year of 1980. "Washington for Jesus," a huge rally that drew some 200,000 Christians to the nation's capital, was held in April 1980. The Moral Majority set about registering voters. By June two million had been registered, presumably the large majority intending to cast their lot with the Republican Party.

Conclusion

Ronald Reagan was elected in 1980, the recipient of support from new conservative voters. Many Southern Christians had abandoned Carter for several reasons, primarily because of the deep recession of 1979-80 and his handling of the Iranian Hostage Crisis.⁶⁷ Meanwhile, Reagan appealed to Christian voters. His "I know you can't endorse me . . . but I . . . want you to

know that I endorse you and what you are doing” comment at the National Affairs Briefing in August 1980 electrified the fifteen thousand people in attendance.⁶⁸ For the next 30 years, evangelicals and fundamentalists would be tied to the hip of the Republican Party.

The chasm between pro-choice liberals and pro-life conservatives had widened during the period. The breach could not or would not be mended. *Roe v. Wade* was either a giant step in the advance of women’s rights or a complete abandonment of Judeo-Christian morals that protected the sanctity of human life. Indeed, to the pro-life movement, *Roe* became a judicial earthquake, an incendiary explosion that reverberated throughout the cities and heartlands of America and shocked conservative or traditional families into action. An enlarged pro-life movement spread to all 50 states and thousands of communities across America. And finally, if slowly, *Roe* brought evangelicals and fundamentalists out of their decades-long political slumber. Other issues (Bob Jones University, the Panama Canal Treaty, the ERA, communism) were important as well and many conservative Christians rallied to their causes with enthusiasm. But other issues faded. Voter intensity subsided on the ERA, and the transfer of the Canal to Panama did not disrupt international shipping. Abortion remained the issue that did not disappear. The few influential Protestant leaders who used abortion as a rallying issue for evangelicals and fundamentalists believed that above all issues *Roe* had created a new paradigm in American law, a new ethic that jettisoned old values and morals.

Roe finally turned the evangelical apathy of 1970 into an energetic and committed pro-life movement a decade later. The four indicators of 1979, in combination with New Right groups and emerging pro-life Protestant leaders, helped to lead socially conservative Christians into the public square. Their involvement as a large and cohesive voting bloc carried throughout the 1980s. That pro-life evangelicals and fundamentalists continue to flourish in the movement over 30 years later attests to what happened during the late 1970s.

NOTES

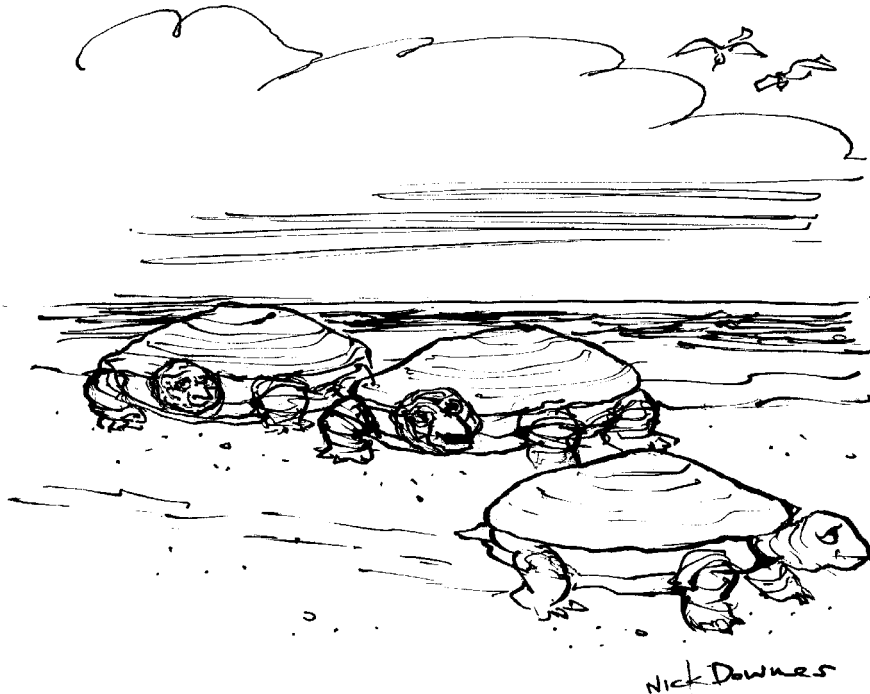
1. An early representative in this category was Rabbi Joshua Sperka from Detroit. See his testimony in Michigan Catholic Conference: Public Hearing on Abortion before Michigan Senate Judiciary Committee (Lansing: Michigan Catholic Conference, 1967), Joseph E. Kincaid Papers, Box 1, Bentley Historical Library, Ann Arbor.
2. The *New York Times* was an early reform advocate; see its editorial of February 13, 1965. The *Times* also printed a lengthy article by abortion rights zealot Lawrence Lader; see his “The Scandal of Abortion Laws,” *New York Times Magazine*, April 25, 1965, 32, 64.
3. NOW, formed in 1966, did not include abortion rights in its founding document. The following year, at the insistence of younger, more radical feminists, the right to abort was added to NOW’s platform. As early as the mid-1960s certain professors and lawyers believed that repeal of anti-

- abortion laws was the only solution to the carnage of illegal abortion and maternal deaths. Rather than seeing sweeping legislative changes, they preferred judicial intervention. "A court test is really the only hope," wrote professor Cyril Means in 1965 (see his letter to Lawrence Lader, May 6, 1965, Lawrence Lader Papers, Box 2, New York Public Library). Planned Parenthood attorney Harriet Pilpel stated in 1964 that while she supported ALI resolutions "in substance," they "clearly [do] not go nearly far enough" (see her "Civil Liberties and the War on Crime," a paper presented at the ACLU Biennial Conference, Boulder, CO, June 21-24, 1964, ACLUA [Archives], box 409, folder 15, Seeley G. Mudd Manuscript Library, Princeton University, Princeton, NJ.). Also in 1964, California biology professor Garrett Hardin said, "Any woman, at any time, should be able to procure one legal abortion without giving a reason" (Garrett Hardin to Lawrence Lader, April 17, 1964, Lawrence Lader Papers, Box 2). Attorney Roy Lucas likewise believed that abortion rights could be achieved through the courts rather than the legislature. See Roy Lucas, "Federal Constitutional Limitations on the Enforcement and Administration of State Abortion Statutes," *North Carolina Law Review* 46, no. 4 (June, 1968): 730-778.
4. Robert N. Karrer, "The National Right to Life Committee: Its Founding, Its History, and the Emergence of the Pro-Life Movement Prior to *Roe v. Wade*," *Catholic Historical Review*, 97, no. 3 (July, 2011): 527.
 5. *Ibid.*, 551-52.
 6. Lawrence Lader, a co-founder of the National Association for the Repeal of Abortion Laws in 1969 (later renamed the National Abortion Rights Action League), identified the Catholic Church as the chief obstacle to reform. See Bernard N. Nathanson, *Aborting America* (Garden City, NY: Doubleday, 1979), 33.
 7. Gordon C. Zahn, "A Religious Pacifist Looks at Abortion," *Commonweal*, May 28, 1971, 279.
 8. Mary Meehan, "Antiwar, Pro-Life: The March Goes On," *Washington Post*, February 8, 1979.
 9. National Association of Evangelicals, Statement on Abortion, 1971, in Linda Greenhouse and Reva Siegel, eds. *Before Roe v. Wade: Voices that Shaped the Abortion Debate before the Supreme Court's Ruling* (New York: Kaplan, 2010), 72-3.
 10. Southern Baptist Convention, Statement on Abortion adopted at SBC Convention, June, 1971. Southern Baptists should "work for legislation that will allow the possibility of abortion under such conditions as rape, incest, clear evidence of severe fetal deformity, and carefully ascertained evidence of the likelihood of damage to the emotional, mental, and physical health of the mother." See www.johnstonarchive.net/baptist/sbcacres.html
 11. Criswell quote in "Abortion Decision," *Christianity Today*, February 16, 1973, 48.
 12. *Roe v. Wade*, U.S. 410, 113.
 13. Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of California Press, 1984), 137.
 14. Paul Andreini and Ruth Powers to MCCL Chapter Chairman, January 25, 1973, Joseph E. Kincaid Papers, Box 2, Bentley Historical Library, Ann Arbor.
 15. For list of new MCCL groups, see MCCL Newsletter, March-April, 1973, Joseph E. Kincaid Papers, Box 2, Bentley Historical Library, Ann Arbor.
 16. "Abortion and the Court," *Christianity Today*, February 16, 1973, 32-3.
 17. "Abortion Decision: A Death Blow?" *Christianity Today*, February 16, 1973, 48.
 18. C. Everett Koop, Commencement Address at Wheaton College, June, 1973, C. Everett Koop Papers (SC-58), Wheaton College Special Collections, Wheaton, IL, Series 3: manuscript material, Box 1, folder 10. Koop was one of only a handful of evangelicals writing on pro-life issues during the 1970s.
 19. C. Everett Koop, *The Right to Live: The Right to Die* (Wheaton, IL: Tyndale House, 1976).
 20. Robert Case, "Harold O.J. Brown, and the Christian Action Council and Me," May 15, 2011, see www.theaquilareport.com. The Christian Action Council changed its name to Care Net, gradually withdrawing from lobbying in favor of establishing crisis pregnancy centers. Recalling the help from the Ad Hoc Committee, Case states, "Without Roman Catholics there may not have been Care Net organization today."
 21. Harold O.J. Brown, "Protestants and the Abortion issue: A Socio-Religious Prognostication," *Human Life Review* 1, no. 4 (Fall, 1976): 137-38.
 22. Harold O.J. Brown, "The Passivity of American Christians," *Christianity Today*, January 16, 1976, 7-10.
 23. *Ibid.*, 7.

24. Harold O.J. Brown, *Death Before Birth* (Nashville: Thomas Nelson, 1977), 74.
25. For more on the Michigan and North Dakota referendums, see Robert N. Karrer, "The Formation of Michigan's Anti-Abortion Movement, 1967-1974," *Michigan Historical Review* 22, no. 1 (Spring, 1996): 85-97; for personal recollections see Paula Ervin, ed. *Twenty Years A-Growing* (Detroit: Right to Life-Lifespan of Metro Detroit, 1991), 5, 11; pamphlet: *The North Dakota Experience in Anti-Abortion Campaign: A Summary Prepared by North Dakota Right to Life Association* (n.d.), Joseph E. Kincaid Papers, Box 2, Bentley Historical Library, Ann Arbor.
26. Brown, 74.
27. *Ibid.*, 157.
28. *Ibid.*, 162-63.
29. That number may be inflated. CWA had state chapters but was, like the Moral Majority, a loosely-organized group that drew from evangelical and fundamentalist churches. For an overview of CWA, see Matthew C. Moen, *The Transformation of the Christian Right* (Tuscaloosa, AL: University of Alabama Press, 1992), 52-61.
30. Tim LaHaye, *The Battle for the Mind* (Old Tappan, NJ: Revell, 1980), 203-04.
31. Beverly LaHaye, *Who But a Woman?* (Nashville: Thomas Nelson, 1984). Susan Faludi writes that the successful rally was due more to LaHaye's name as an author and not opposition to the ERA or feminism. See Susan Faludi, *Backlash: The Undeclared War Against American Women* (New York: Crown, 1991), 247-48.
32. Tim and Beverly LaHaye moved to Washington, D.C., where the national office was located, in 1983. She expanded the staff to 26 people, hired five lawyers to work on Capitol Hill, and had a \$6 million dollar budget. Critics claimed that CWA functioned as a "ladies auxiliary" to better-known groups like the Moral Majority. Writes Faludi, "The characterization wasn't entirely unjust; the CWA women were certainly treated like auxiliaries by the New Right and the Reagan Administration" (see Faludi, 252). Nonetheless, CWA became a large and successful conservative Christian organization and its president, Beverly LaHaye, its most visible leader and champion.
33. Garry Griffith, "The Moral Majority, 1979-1989," *Journal of Mass Communication at Francis Marion University*, 2, no. 2 (Fall, 2008).
34. Macel Falwell, *Jerry Falwell: His Life and Legacy* (New York: Howard Books, 2008), 113-14.
35. Jerry Falwell, *Strength for the Journey: An Autobiography* (New York: Pocket Books, 1987), 330.
36. *Ibid.*
37. Falwell's ministry mailed out one million ballots asking his audience to answer three simple questions: Should there be laws permitting abortion on demand; should homosexuality be taught in schools; and should laws protect public displays of pornography. Hundreds of thousands of ballots were returned with responses running 16 to 1 against all three positions. In July, Falwell reported the results. He then sent the results to every senator and congressman and legislators in all 50 states, explaining that Americans wanted changes to "clean up the country." He encouraged local churches to host rallies that would promote morality, patriotism, family, and love of God and country. While nothing substantive came from the halls of Congress, Falwell succeeded in gaining a wider audience among fundamentalists and evangelicals from his call for Christian activism. Jerry Falwell, *How You Can Help Clean Up America!* (Lynchburg, VA: Liberty Pub., 1978), 9-50.
38. Jerry Falwell, *Listen, America!* (New York: Doubleday, 1980).
39. Randall Balmer, *Thy Kingdom Come: How the Religious Right Distorts the Faith and Threatens America* (New York: Basic Books, 2006), 13-17. His point had been addressed earlier; see Helen A. Moore and Hugh P. Whitt, "Multiple Dimensions of the Moral Majority Platform: Shifting Interest Group Coalitions," *Sociological Quarterly*, 27, no. 3 (1986): 425-26. See also Linda Greenhouse and Reva B. Siegel, footnote #141, in "Before (and After) Roe v. Wade: New Questions About Backlash," *Yale Law Journal*, 120, no. 8 (June, 2011): 2028-87 at 2066.
40. *Green v. Connolly*, 330 F. Supp. 1150 (D.D.C. 1971).
41. *Bob Jones University v. United States*, 461, U.S. 574. For a recent discussion see Olati Johnson, "The Story of Bob Jones University v. United States: Race, Religion, and Congress' Extraordinary Acquiescence," *Columbia Public Law & Legal Theory Working Papers*, paper 9184 (2010).
42. Balmer, 13-14. Weyrich, one of the key leaders of an emerging New Right movement and multi-issue politics that employed PACs and direct-mail fundraising to promote conservative politics, joined Howard Phillips, Terry Dolan, Edward McAteer, and Richard Viguerie. Weyrich, a jour-

- nalist, founded the Heritage Foundation in 1973 and the following year organized the Committee for the Survival of a Free Congress. He and a few others met with Falwell in May 1979 to launch the Moral Majority. Weyrich is credited with coining the name of the group.
43. Deal W. Hudson, *Onward Christian Soldiers: The Growing Political Power of Catholics and Evangelicals in the United States* (New York: Threshold Editions, 2008), 71-72.
 44. Interestingly and perhaps intentionally, Balmer fails to mention Schaeffer, next to Falwell the most influential conservative Christian connected with the Religious Right and the growing issue of abortion. Note the absence of Francis Schaeffer's name in the book's index, 223-242, especially at 238.
 45. Daniel K. Williams, *God's Own Party: The Making of the Christian Right* (New York: Oxford, 2010); "The GOP's Abortion Strategy: Why Pro-Choice Republicans Became Pro-Life in the 1970s," *Journal of Policy History* 23, no. 4 (2011): 513-39; "Jerry Falwell's Sunbelt Politics: The Regional Origins of the Moral Majority," *Journal of Policy History*, 22, no. 2 (2010): 125-47.
 46. Moen, 122.
 47. Francis A. Schaeffer, *How Should We Then Live? The Rise and Decline of Western Thought and Culture* (Old Tappan, NJ: Revell, 1976), 223.
 48. Francis A. Schaeffer and C. Everett Koop, *Whatever Happened to the Human Race?* (Old Tappan, NJ: Revell, 1979), 16-17.
 49. *Ibid.*, 31.
 50. *Ibid.*, 111. Schaeffer's son Franky (Frank) produced a five-part film series based on the book and shown to churches and religious and pro-life groups all across America. The book became a best-seller and motivated many future evangelical leaders to join the pro-life movement. Frank Schaeffer continued to be popular within conservative circles during the 1980s. He gradually drifted away from his strident conservative principles. He converted to the Orthodox Church in 1990 and distanced himself from most of the Religious Right. His 2007 book, *Crazy for God: How I Grew Up as One of the Elect, Helped Found the Religious Right, and Lived to Take All (or Almost All) of It Back* (New York: Carroll & Graf, 2007) finds fault with much of evangelicalism, especially of leaders like James Dobson and the late Jerry Falwell and of their close ties to the Republican Party. Though still anti-abortion, Frank no longer maintains the zeal he once had in condemning the evil of abortion.
 51. For SBC abortion resolutions from 1971 to 2009, see www.johnstonarchive.net/baptist/sbcabres.html
 52. *Ibid.*
 53. Jerry Sutton, *The Baptist Reformation: The Conservative Resurgence in the Southern Baptist Convention* (Nashville: Broadman & Holman, 2000), 309. Valentine had been instrumental in encouraging Baptists to improve race relations during the 1950s. This laudable position must be taken into account when criticizing his later pro-choice convictions.
 54. *Ibid.*, 310.
 55. Rogers's victory was achieved on the issue of biblical inerrancy, not social issues. See E. Glenn Hinson, "SBC Fundamentalists: Stirring Up a Storm," *Christian Century*, July 18-25, 1979, 725-27; see also Kenneth L. Woodward and Lea Donosky, "Southern Baptists: Turning Right?" *Newsweek*, June 25, 1979, 61-62.
 56. For the politics involved during the Valentine-Baker years and Land's appointment, see Sutton, 312-19. For another commentary of the period see Richard Land, "The Southern Baptist Convention, 1979-1993: What Happened and Why?" *Baptist History and Heritage*, 28, no. 4 (October, 1993), 5, 6. In 1997 the SBC reorganized the Christian Life Commission and renamed it the Ethics and Religious Liberty Commission, with Land at the helm.
 57. William A. Nolen, *The Baby in the Bottle* (New York: Coward, McCann & Geoghegan, 1978). For new studies of the Edelin case see Mary Ziegler, "Edelin: The Remaking of the Headline Abortion Trial," *St. Louis University Law Journal*, 55, no. 4 (Summer, 2011): 1379-1403; Jennifer M. Donnally, *Abortion on Trial: The Pro-Life Movement and the Edelin Manslaughter Case, 1973-1975* (MA Thesis, University of North Carolina, 2008).
 58. For a synopsis of both the Edelin and Waddill cases from a pro-life perspective, see Marvin Olasky, *The Press and Abortion, 1838-1988* (Hillsdale, NJ: Lawrence Erlbaum, 1988), 124-31.
 59. *Time*, October 4, 1976. The pollster George Gallup, Jr., made the original statement, repeated by *Time's* editors and gracing the cover, one month before the presidential election.
 60. *Planned Parenthood v. Danforth*, 428 U.S. 52, at 68.

61. *Ibid.*, at 74.
62. For abortion rights section embodied in Plank 21, see *The Spirit of Houston: The First National Women's Conference* (National Commission on the Observation of International Women's Year), An official report to the President, the Congress, and the American People of the United States. Washington, D.C. (March, 1978), 83-86.
63. A quote from the *Christian Century* is illuminating. "The frightening thing about Christian Voice is not that it has several million dollars to spend, nor that it seeks to mobilize Christians to take a more active role in bringing their faith to bear on political issues, nor even that people involved claim to have conservative political philosophies. The frightening thing is that they have baptized a particular ideological perspective and identified it with the Christian proclamation." See Robert E. McKeown, "Christian Voice: The Gospel of Right Wing Politics," *Christian Century*, August 15-22, 1979, 782.
64. Jean Staker Garton, *Who Broke the Baby?* (Minneapolis: Bethany House, 1979).
65. Nathanson, *Aborting America* (NY: Life Cycle Books, 1979).
66. Abortion Surveillance—United States, 2005, *Morbidity and Mortality Weekly Report*, Centers for Disease Control and Prevention, November 28, 2008/57 (SS13), see table 2: Abortion Statistics 1970-2005.
67. Carter's rhetoric on abortion was lukewarm at best. He was pro-choice, a fact that greatly disappointed many Christians. Most of those he appointed were abortion rights supporters. His lone pro-life appointment was to Joseph Califano, Secretary of Health, Education and Welfare from 1977 to 1979.
68. Hudson, 14-15. Paul Weyrich recalled, "We gave him a ten-minute ovation. I've never seen anything like it"



"By God, if I was a hundred and fifty years younger."

FILMNOTES

BREEDERS: A SUBCLASS OF WOMEN?

*John Grondelski interviews Jennifer Lahl
on her new documentary*

Jennifer Lahl, Director and Executive Producer of the new documentary film *Breeders: A Subclass of Women?* about the experience of women and surrogacy, is president and founder of the Center for Bioethics and Culture in Pleasant Hill, California.¹ The Center, which campaigns “for a *human* future,” seeks to educate the public about issues connected with “taking, making, and faking life,” such as euthanasia, assisted suicide, fetal genetic testing, gamete donation, surrogacy, and cloning. The Center confers its annual Paul Ramsey Award, named after the distinguished Princeton ethicist, on individuals “who have demonstrated exemplary achievement in the field of bioethics by equipping our society to face the challenges of the twenty-first century, defending the dignity of humankind, and embracing ethical biotechnology for the human good.” Previous recipients have included Leon Kass, Gilbert Meilaender, and Edmund Pellegrino. The 2014 recipient was Dr. Daniel Sulmasy.

Ms. Lahl, whose *Breeders* completes a trilogy of documentary films on artificial reproductive technologies, has been a pediatric nurse and hospital administrator for 25 years. She is also a member of the editorial board of *Ethics & Medicine*. Her previous films, *Eggsploitation* (2010) and *Anonymous Father’s Day* (2012), considered ethical problems for donors and resultant children of sperm and egg donation. *Breeders* examines the moral issues posed by surrogacy, a growing phenomenon with the rise in infertility and the emergent same-sex marriage movement’s quest for parenthood. Ms. Lahl discussed her film and surrogacy with John Grondelski.

The last time surrogacy was in the mainstream media, Bill and Elizabeth Stern were fighting with Mary Beth Whitehead in a New Jersey court over “Baby M.” But “Baby M” is now 28 years old. Why your interest in surrogacy now? What led you to make the film Breeders?

I’ve been writing, speaking, and making documentary films on third-party reproduction for a decade, so my interest in surrogacy is not a matter of *now*. *Breeders* is our third film in a series on assisted reproductive technologies (ART). Our first film, *Eggsploitation*, looks at the phenomenon of egg

“donation” and the risks to young women who decide to sell their eggs. Then we produced *Anonymous Father’s Day* to tell the stories of people born via anonymous sperm donation who are challenging the belief that the kids are all right. Now *Breeders* shows the side of surrogacy the industry doesn’t want shown.

Some critics have attacked you for drawing one-sided conclusions: For the few cases where surrogacy hits the rocks, there are other cases of happy families with babies, for the few cases where ova donation encounters some side effects, there are many more where donors enable infertile women to have children. How would you respond to critics who claim you are engaged in biased scare tactics?

Two responses. First, the genre of documentary filmmaking, by definition, involves documenting *a* story, unlike journalism, which has as a goal reporting all sides of a story. So we choose to document the stories of those who have been harmed and who regret their decision, and who want to inform others in order to prevent others from being harmed. Second, no one seems to question why the fertility industry doesn’t highlight the risks and the failures of what they do instead of showcasing only the successes. If you visit any fertility website, surrogacy broker’s website, or egg donor recruiting page, all you will see are happy, smiling people with cute healthy babies. Our work is focused on promoting fully informed conversation, which requires us to look squarely at the risk and harms to all the parties involved: donors, sellers, industry stakeholders, and, of course, the children.

Some might ask why you chose to address surrogate motherhood. Abortion, after all, occurs more than a million times a year. Surrogacy hardly attains that scale. Surrogacy perhaps raises some challenging ethical issues but—honestly—how many people does it really affect?

I resist the idea that the scope of a harm should be a primary criterion for involvement in addressing a harm. Having said that, a solid case can be made that this is a much larger issue than many realize. In the U.S. alone, the infertility industry is a multi-billion-dollar business that affects many, many people. But it’s not just the U.S. alone; surrogacy is truly global. A woman in Thailand may carry an embryo created with sperm from Northern Europe and an egg from Eastern Europe so that a couple in the United States can build their family. Surrogacy is also a growing issue, particularly as more same-sex male couples are marrying and wanting to raise children. Perhaps the better question is: How can we *not* address surrogacy?

Your film calls the United States the “Wild West” of surrogacy. Perhaps, but isn’t it really a question that, since Roe. v. Wade and its progeny, American

public policy has recognized that decisions about reproduction and childbearing are private and personal, matters the government should stay out of? Why are you challenging that consensus?

You're really raising two issues here. First, the United States is often referred to as the "Wild West" when it comes to modern reproductive technologies because there is so little regulation. This field takes a very literal "learning as we go" approach, using human beings as research subjects, often without their consent or knowledge. For example, we have *no* long-term understanding of the impact of freezing a human embryo, and yet we engage in this practice almost daily without wondering whether this child will suffer any negative consequences as a result of being frozen a year, five years, ten years. A recent article in the *British Medical Journal* entitled "Are we overusing IVF?" states, "As a society we face a choice. We can continue to offer early, non-evidence based access to IVF to couples with fertility problems or follow a more challenging path to prove interventions are effective and safe and to optimise [sic] the IVF procedure." It seems pretty rogue of medicine to use human beings with interventions that have yet to be proven safe. Second, I strongly challenge the premise that there is in any way a consensus regarding reproduction and childbearing being private and personal matters that the government should stay out of. In fact, reams of polling data show that in the 41 years since *Roe* this has remained one of the most divisive and contentious issues in American society.

What is the legal status of surrogacy? Is there any state in which surrogacy, in any form (genetic or gestational) is legally enforceable?

The U.S. has a patchwork of legislation, so one state can vastly differ from another. While one state may as a matter of policy explicitly not recognize surrogate contracts at all, another state may be silent altogether on the matter. Some states recognize paid surrogacy contracts and others permit only altruistic surrogacy contracts. Some states go so far as to criminalize these contracts by fines and/or imprisonment. We have a state-by-state guide on our website, but of course the laws are always changing.²

There are two kinds of surrogacy: one in which the surrogate mother has a genetic relationship to the child, one in which she does not. In terms of the overall surrogacy phenomenon, how do these two kinds of surrogacy compare? Do you see any major ethical differences between them?

I don't find an ethical distinction in either case: Both require the woman's body for nine months, both demand she surrender that child at birth, both require the risks of maternal health of a pregnancy. The shift is indeed toward what is euphemistically called "gestational" surrogacy, largely so that if the

woman has a change of heart and is unable to surrender the child at birth because of attachment, she will have less of a legal claim on the child because she is not genetically linked to the child by her egg and thus will not be seen as the “real” mother.

As in the case of abortion, changing the meaning of words is a necessary first step to overcoming initial hesitations about what one is doing. We use the term “surrogate” to speak of the woman carrying the child. But—at least in the case of genetic surrogacy—she is the mother, not a surrogate. Can you comment further on the language games people play?

Yes, we always seem to want to redefine things to make them more palatable. The surrogate indeed is the mother: She’s the *birth* mother. Whether she contributes her genetic material or not, without her the child would not be here. Her womb, her body, her blood sustained the pregnancy and allowed the child to be born. If we agree that she isn’t the mother, where does that leave us? It leaves us simply using women as vessels, rented wombs, breeders.

In Breeders you speak about the reification of surrogates: They become “incubators” or “wombs for rent,” never persons, never really mothers. Expand a little on the phenomenon of how surrogacy depersonalizes women.

Surrogacy is driven by contracts and most often by money. Essentially a woman is hired to perform a service; in this case the service is a pregnancy, resulting in the delivery of a child, who is to be handed over to another person. The infertility industry and those who hire a woman and contract with a woman need to depersonalize her and her role in order to justify using, paying, hiring—whatever word you prefer—her for her services.

There is a moment in the film where the surrogate reports that the woman who would be receiving the child was “too sick” to be bothered to attend the baby’s delivery, and the child’s father found it “awkward” to be in attendance while the child came into the world from a surrogate. Can you relate more about these inhuman aspects of welcoming a person into the world?

When the focus is on what I want, what I need, what I can buy or pay for, we have little need to consider others. Much of what I see and read in the area of third-party reproduction highlights this sort of entitlement, a right-to-a-child mentality. That trickles down to a lack of care and concern for both the surrogate mother and the child. Or, at the other end of the spectrum, the surrogate is sometimes elevated as “an angel.” While this may assuage our guilt, it can mask the humanity of the surrogate in ways that deny the mother-child bond. Now this is not to say we just need to treat surrogates better, rather it is to say that when our focus is on getting our own needs met, it doesn’t bode well for our genuine concern and care for others.

Eugenics seems not to play as prominent a part in surrogacy as it does in egg donation: In Eggsplotation, you note that ova harvesters are looking for healthy, college-educated women, but Breeders observes that the industry is less focused on such high achievers, e.g., there is a greater interest in relatively very young military wives. What issues do you see here?

When the baby is a product and we are spending a lot of money in order to have this baby, we see a juxtaposition. First, we want an “elite” donor for the egg in order to pass on her good genes to the child, and we want her to look a particular way. For the pregnancy side of the equation, however, you won’t find many Ivy League university students willing to take on a nine-month pregnancy. This means we need to find young women who are willing to engage their entire bodies for a nine-month pregnancy. So this aims at a whole new demographic—low-income young women—of which the military wife is a good target. These women see this as a good opportunity to make much-needed income while staying at home with their own young children. Women in developing nations like India and Thailand are another target.

How much money does surrogacy annually represent in America? Egg donation? Sperm donation?

As these are largely under-regulated practices, it is very difficult to get accurate statistics on them. In addition, currently some of this is done under the radar through Craigslist, Facebook, and other social media forums where people meet up and share or sell their eggs, sperm, and wombs. It is definitely a growing industry, though, especially as third-party conception grows in popularity and with the liberalization of same-sex marriage laws. One report states that by 2020, the IVF industry will be a \$21.6-billion-dollar-a-year global enterprise!³

Anonymous Father’s Day, your film on sperm donation, interviewed children born of that technique, who called for bans on such anonymous fatherhood and the lucre associated with it. The children are not so prominent in either Eggsplotation or Breeders. Can you talk a little about surrogacy from a child’s point of view?

First, many children aren’t told how they were conceived. That is even truer when a woman uses an egg donor in order to conceive but carries the pregnancy for herself. Her child grows up hearing of when mommy was pregnant or when mommy went into labor, so it is much easier to hide all the facts from the child. Second, these are still relatively new technologies, and many of the children are only now becoming young adults who are openly discussing their conception stories. In *Breeders* we do interview a young woman born via surrogacy who blogs and speaks about her own personal

views on being “a product of surrogacy,” as she calls it.

We live in a world seemingly set on a search-and-destroy mission against handicapped or deformed children. Can you give us more information about what happens when a child is found to be “defective?” In your film, the surrogate was the one party defending the supposedly deformed child’s life. What does this often look like in surrogacy arrangements?

As a practice heavily driven by contracts, scenarios like this are generally accounted for within the language of the contract. For example, a contract may state that if the intended parents find out the child conceived has an illness, then the surrogate must terminate the pregnancy and abort the child. In one case, the intended parents split up and told the surrogate she had to terminate the pregnancy, not because there was anything wrong with the child, but because they just didn’t want the child anymore. Again, when it is all about the adults’ wants and desires, the contracts closely guard their interests and to a lesser degree the surrogates’ interests. The children often end up on the losing end.

While advocates of surrogacy believe that such arrangements can be dealt with in purely contractual/economic terms, the mother-child bonding experience almost inevitably enters into and complicates those arrangements. What did you learn about this aspect of surrogacy in making this film?

I was a pediatric nurse for nearly two decades, so I knew going in that the mother-child bond was real, important, and healthy for both the mother and the child. Science is teaching us more and more about the importance of the nine months in the womb to mother and child. We really wanted our audience watching the film to appreciate this bond. I feel we often aren’t thinking about the importance of this bonding and the negative impact it has on both women and children when we intentionally sever it. When we want something so badly, or think we are entitled to a baby and have a right to it, our human nature often doesn’t want to look at counterevidence or even at simple facts that might interfere with our ability to justify our behavior to ourselves as good and right. We call it a win-win for all, but the baby’s feelings aren’t truly considered, because we tell ourselves that as long as the baby is loved and wanted that’s all that matters.

Is it fair to say that surrogacy is another example of adult desires trumping the good of children?

Absolutely!

OK, but haven’t we learned—from the incredible staying power of Roe, from the Supreme Court’s dicta in Casey that women “have organized intimate

relationships and made choices . . . in reliance on the availability of abortion . . . ,” from the failed impeachment of Bill Clinton because “it was just sex”—that when it comes to what grown Americans want to do with their sex lives, they might brook a little moral agonizing but no legal prohibitions, that politicians won’t enact those bans, and that our elite courts won’t let them stand even if they do? Given the seeming “third rail” nature of public policy when it comes to matters moral and sexual, what do you think can practically be done about surrogacy? Aren’t we stuck with the status quo of the “Wild West?”

Our films are intended to be a practical approach to educating the general public on third-party reproduction. Yes, our lawmakers are slow to act here in the U.S., but we don’t need to wait on our lawmakers. For every young woman I meet who was about to sell her eggs, then watched *Eggsploitation* and decided against it, we’ve done our job. Similarly, with sperm donation and surrogacy. The more we inform the public, the more people will think about using these technologies, telling their friends not to use them, questioning their physician when he or she sends them off to the fertility doctor. There are similarities to our educational efforts on smoking. The minds of many in the general public were changed about smoking long before the government began taking formal steps. In short, just because we can use third-party reproduction in the U.S. doesn’t mean we have to or should.

Can you talk about the overseas surrogacy movement: what it looks like, how big it is, trends, what we might be able to do about it?

Much like the laws in the United States, the overseas situation is also a patchwork of legislation: Some countries ban it altogether, some prohibit only its commercial aspects, while others are “everything goes.” Thailand, for example, is a growing destination for surrogacy because of its lax laws. I work with colleagues all over the world who see surrogacy as exploitative for women and children, and who are working hard to oppose it. But surrogacy is big business with a growing demand. It is an uphill battle to be sure!

In a March 2014 Hastings Center Report article,⁴ Dr. Inmaculada de Melo-Martín contends that children have no “fundamental moral right to know their genetic origins,” that no studies conclusively establish that such information is vital to identity formation or healthy self-awareness, and that denying anonymity can actually represent “harms” by “encouraging problematic belief about the superiority of biological families” to the detriment of “donor-conceived individuals.” In light of your own work, do you have any response to her assertions?

Of course, kinship is important. People are fascinated by their genealogy.

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They want to probe their “roots.” The most cursory survey of the Internet shows the brisk interest of organizations like *ancestry.com* and many private DNA companies that help people find lost relatives. This isn’t about “genetic origins.” It’s about knowing who one’s father or mother really is. Should that idea really be open to dispute?”

What are your plans for Breeders?

The film was released in mid-January 2014. We are currently entering many film festivals to raise awareness of the film and get it before wider audiences. We are also organizing a number of screenings across the United States, and we are happy to see that the film is being purchased in several other countries as well. We have a full schedule of showings around the United States.* *Breeders* is also available on vimeo on-demand, which allows anyone with a computer and Internet connection to watch it anywhere/anytime! See <https://vimeo.com/ondemand/breeders/>

Breeders is coming to New York and Washington. Tell us more about its Big Apple debut.

We have rented the BowTie Theater (260 West 23 Street) in New York City on Wednesday, June 18, to screen the film at 7:00 pm. Several people from the film will be on hand for a discussion with the audience after the screening. The following night we will host a screening in Washington D.C., at the Landmark Theater on E Street.

**Complete information about screenings of Breeders: A Subclass of Women? around the country can be found at [www.cbc-network.org/under “Screenings.”](http://www.cbc-network.org/underScreenings)*

NOTES

1. 3380 Vincent Rd., Suite Hub, Pleasant Hill, CA 94523-4324; telephone 925-407-2660.
2. See http://www.cbc-network.org/wp-content/uploads/2012/08/State-by-State_Surrogacy_Sum_CBC.pdf
3. See <http://www.menafn.com/0117c237-018c-48e3-8bb6-33b90aa275f3/MarketResearchReportscom-Global-In-Vitro-Fertilization-Market-to-Reach-USD216-Billion-by-2020-Reveals-New-Report?src=main>
4. Inmaculada de Melo-Martín, “The Ethics of Anonymous Gamete Donation: Is There a Right to Know One’s Genetic Origins?” *Hastings Center Report*, 44 (2014), no. 2: 28-35.

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