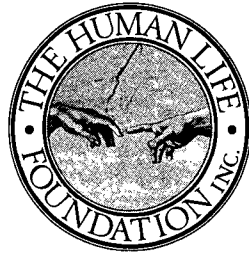


the HUMAN LIFE REVIEW



WINTER 1993

Featured in this issue:

Wm. B. Murchison on 'Guerilla War' Coming?
Nat Hentoff on The Pro-Choice Bigots
Joseph Sobran on Victims *à la Mode*
Maria McFadden on Katha Pollitt Strikes Out
Robert Byrn, Esq. on The Perversion of Privacy
John Conley, S.J., on The *Other* Convention
Faith Abbott on ... Hark! The *Harper's* Angles Zing
Mark Cunningham on The Abortion War

Also in this issue:

- William F. Buckley, Jr. • Margot Hentoff • George Weigel •
 - Rev. Jonathan M. Steingass, Esq. • Michael Lacey •
 - Dr. Michael R. Heaphy •
-

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... ABOUT THIS ISSUE

This issue begins our 19th year of publishing. It is hard to believe that we've been at it this long (some of us have grown up with the Review), but as I am sure you'll agree, a journal on life issues has never been more needed. As we go to press, Washington DC is gearing up for Bill Clinton's inauguration festivities—two days later, we'll be at the annual March for Life, reminding the new administration that the anti-abortion, anti-euthanasia forces will not go away, no matter who is in the White House.

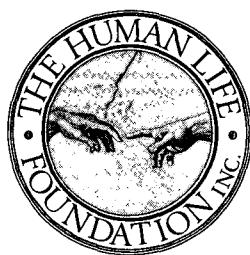
Speaking of Washington, we were surprised and pleased to see Nat Hentoff's piece in *The New Republic*, which is adamantly pro-abortion—we wonder if Hentoff himself wasn't surprised by being asked to write it? We also wonder what Katha Pollitt, frequent contributor to *TNR*, will think of my article. Mark Cunningham's article (as well as Appendix F by Dr. Michael Heaphy) are reprinted from *National Review*, *TNR*'s opposite of course, and the only first-rate anti-abortion magazine in America.

Mainstream magazine *Harper's* is featured in Faith Abbott's piece; we suggest you borrow a copy of that one. As the title implies, Abbott uses a little humor to lighten the dead-serious nature of her subject: the majority of the contributors to the *Harper's* article aren't on the side of the angels. And we have, as usual, more humor provided by *The Spectator's* cartoons.

Finally, George Weigel's column (Appendix C) is powerful stuff—as is his latest book, *The Final Revolution* (Oxford Press, New York). We would also like to thank Michael Lacey and the *New Times* of Phoenix Arizona for permitting us to reprint "In China, No Rights to Life" (Appendix E).

All our best wishes for the New Year.

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Vol. XIX, No. 1

<i>Introduction</i>	2
J. P. McFadden	
<i>'Guerilla War' Coming?</i>	7
William B. Murchison	
<i>Pro-Choice Bigots</i>	17
Nat Hentoff	
<i>Victims à la Mode</i>	23
Joseph Sobran	
<i>Katha Pollitt Strikes Out</i>	33
Maria McFadden	
<i>The Perversion of Privacy</i>	42
Robert M. Byrn	
<i>Another Convention: A Journal</i>	56
John Conley, S.J.	
<i>Hark! The Harper's Angles Zing</i>	69
Faith Abbott	
<i>The Abortion War</i>	82
Mark Cunningham	
<i>Appendices</i>	91
William F. Buckley, Jr.	
Margot Hentoff	
George Weigel	
Jonathan M. Steingass	
Michael Lacey	
Michael R. Heaphy	

INTRODUCTION

AS YOU WILL NOTE, Miss (for the nonce) Maria McFadden begins her article with “The Clinton Era is upon us: we are a ‘Pro-choice’ nation now, isn’t that wonderful?” The beleaguered troops of the anti-abortion armies must surely wonder along with her as to how abortion—once described even by its ardent advocates as a “tragic option”—could have become “something to cheer wildly for at political conventions.” But that is of course what happened when our new President was nominated by what is rightly called The Party of Abortion. And while Mr. Clinton missed out on military service, he *is* a veteran of the Abortion War, and can be expected to provide many a bonus to the “Choice” shock troops who fought so hard to elect him.

What about the “pro-lifers”? What will they do now? That is the question Mr. William Murchison examines in our lead article. It is his view that, while the balance of forces has shifted dramatically, the war is by no means over. The opposing armies—he distinguishes them as “the spiritual and secular parties”—remain irreconcilable. The Spirituals will not accept the proposition that votes can decide a moral question, while the Seculars *reject* the moral question outright—the Old Morality has been vanquished, it will not rise again. So “What impends in the cultural struggle is, so to speak, guerilla warfare: small but cohesive bands of traditionalists sallying forth to do what they can where they can, saving whom they can from the consequences of rampant secularism”—the Seculars may have seized the Big Cities, but they haven’t pacified the countryside.

How did the Choicers win that partial victory? Well, *sternly*: as Mr. Nat Hentoff puts it, “The lockstep liberal orthodoxy on abortion is pro-choice, as Bill Clinton’s election showed and his presidency will reinforce. Dissenters are not tolerated.” But “switchers” are welcomed. For instance, the Rev. Jesse Jackson who, as Hentoff reminds us, was once a “pro-lifer” himself—he used to say such things as “There are those who argue that the right to privacy is of a higher order than the right to life”—but “That was the premise of slavery.” That remains true: only the Reverend Jackson has changed—at least publicly. Hentoff tells us that he recently ran into Jackson on a train, and took the

opportunity to tell the Reverend that he often uses his old pro-life quotes, and to ask: Do you still believe what you said *then*? “I’ll get back to you on that,” answered Jackson. Hentoff is still waiting.

Next you get more from Joseph Sobran, our most faithful contributor, who sees more than mere bigotry in the public promotion of the abortion “choice”—he spies artifice as well. For instance, the New York *Times* recently ran an Op Ed piece by one “Paulette Mason”—not her real name, of course, but her *story* is supposed to be true and, if so, it’s hard to imagine a worse “hard-case” scenario—everything that *can* go wrong *does* for Ms. Mason, topped off by shameful indifference to her plight by that grand *bête noire* of all good Choicers, the Roman Catholic Church. It’s enough to make Sobran wonder if it isn’t all too bad to be true—which he does in great detail, with his customary wit—we trust you’ll be laughing along with him as he expertly dissects the fable. As always, Sobran also provides sharp insights, not a few of which fit neatly into Mr. Murchison’s thesis.

So do the questions raised by Maria McFadden, who is aghast at the spectacle of a once-favorite poet, Katha Pollitt, actually writing an article for *Glamour* titled “Why Do We Romanticize the Fetus?” What makes “an intelligent, sensitive writer and thinker throw away logic” when abortion is the issue? Can she really believe that sonograms of the actively-alive baby amount to “fetus-fetishism”—shifting “the drama of pregnancy” from a woman’s “private experience” to “something everyone can *see*”? Does a mother feel “diminished” by seeing her own child before birth? That is indeed Pollitt’s un-poetic argument. Worse, she insists on seeing “fetal rights” as a “new assault” on Feminism, much to the dismay of her erstwhile fan Maria.

It seems strange to describe pregnancy as a “private experience”—time was when proud parents missed no opportunity to advertise the coming Blessed Event. But then it’s also inaccurate to insist that abortion is a “private choice” when—even if we ignore the “fetus”—it’s rarely a solo performance. Why use such evasive language? Well, it *does* help to keep the would-have-been mother the sole focus of attention, but it *also* derives from the legal contortions used to justify abortion. Everybody knows that, in *Roe v. Wade*, the Supreme Court belatedly discovered a “right” to abortion in a Constitution that never mentions it; few note that there is likewise no mention of any “right to privacy”—yet it has become the basis for the “liberty” to abort. All this amounts to a *perversion* of the law, argues our old friend Professor Robert Byrn (of Fordham University)—and he argues his case very well too, as you will see. Truth to tell, our eyes normally glaze over when the mail brings us (as it *often* does) “law” articles—we don’t speak *Legalese*. But we read this one not only with ease but also appreciation: the Professor speaks common sense, and teaches lessons well worth learning—we certainly hope that the Justices will ponder this eloquent sample: “By excluding this whole class of [unborn] human beings

INTRODUCTION

from the protection of the Constitution, the Supreme Court procured the ultimate perversion of the right to privacy and the cruelest betrayal of the Declaration of Independence" (*amen*).

By coincidence, we next hear from another Fordham professor (of philosophy), Rev. John Conley, S.J.—he too writes the kind of thing we often pass over—but this piece held our attention. It's a "diary" of Conley's experiences at a little-noted event: while the Democrats were nominating Bill Clinton in New York City last July, Operation Rescue was also holding a "convention" there, and the good Father decided to join in, and write down his reflections as well. Put bluntly, "Op-R" poses some troubling questions, not least a fundamental one: Is Op-R helping or *hurting* the anti-abortion cause? For us—and we'd say for Father Conley too—the question remains open, but we think you will find this from-the-inside view illuminating. It's also a good piece of reportage: you get the *feel* of the action, i.e., what the media somehow manages to leave out of what is certainly a dramatic story.

As is our custom, we then give you a treat: Faith Abbott always provides a pleasant change of pace, even when she writes about serious questions, as she does here—her style gives you some good laughs anyway. Actually, she writes about just one question, as posed by *Harper's* magazine: What do you tell a woman who's come for an abortion? *Harper's* asked fourteen more or less well-known writers to answer, and Faith tells you not only what *they* said but also what *she* thinks of the answers. Be prepared for some startling stuff, for instance a professor who suggests that what we need is "a proper rite of sacrifice"—if you abort "for a good reason" then you're really "in accord with nature's own tradition of sacred sacrificial waste"—it becomes a *spiritual* act that "demands respect"! There is also a proposal for "An Abortion Ritual" from the group that insists on calling itself Catholics for a Free Choice (in truth, it has roughly the same right to use "Catholic" as, say, Madonna); it includes a "liturgy" that may strike you as deliberate sacrilege—the "prayers" are cloyingly pious—the whole thing is literally *beyond* belief, in every sense. But Abbott saves the best for last: William F. Buckley Jr. is one of the contributors, and as usual he brings this bizarre "forum" back to reality—*Harper's* stated intent was to get down to the "deeper truths buried beneath the partisan slogans"—Buckley *does*.

By another coincidence, we conclude with an article that first appeared in Buckley's *National Review*. We think it belongs in this journal as well: Mr. Mark Cunningham has done his homework, and provides you with a fine survey of the current scene in the "cultural war" over abortion. He wrote *before* the November elections, and it is fascinating to compare his conclusions with those of Mr. Murchison, who wrote shortly *after* the touted "Pro-choice" victory. Taken together, the two pieces fit into the same picture: despite the undeniable *tactical* losses suffered by the anti-abortion forces, the *strategic* realities remain

greatly encouraging, the Abortion War *can* be won. As Cunningham reminds us, “most Americans disapprove of most abortions”—the real “choice” is a *moral* choice—we must re-establish “the link between the moral life and the happy one.” A tall order, to be sure, but then, as Murchison’s Spirituals know, truth is never a lost cause, it *will* rise again.

* * * * *

As usual, we have added appendices—only a half dozen this time, but all of them interesting, beginning with a column by William F. Buckley Jr. (*Appendix A*) on the election results, which neatly complements Mr. Murchison’s lead piece; it also emphasizes the reason why the GOP would be rash indeed to abandon its “Reagan Era” anti-abortion stand (“Single-issue pro-life voters account for [up to 13%] of the electorate. That is a lot of people.”).

Appendix B even more neatly complements Mr. Hentoff’s article, having been written by his wife (and fellow writer) Margot back in 1975; we liked it so much then that we reprinted it in our second issue (*Spring*, 1975). In our judgment, it makes even better reading now, so we asked Mrs. Hentoff if we could run it again—she graciously agreed. As you will see, it recounts details of the then-famous but now-forgotten case of Dr. Kenneth Edelin, but the commentary remains as fresh and accurate as if written today—or *tomorrow*.

You might say that *Appendix C* complements Maria McFadden—except that what Mr. George Weigel has to say bears on just about everything *else* in this issue as well, all because The Strange Case of Senator Packwood cuts so deeply into the reality of what *Roe v. Wade* has “accomplished” for the nation in the historically-brief span of just 20 years. As Weigel bluntly puts it, *Roe* “not only changed our law, it changed the moral culture of America. And it did so to the great disadvantage of women.” *Amen* again.

Appendix D came to us from Mr. Jonathan Steingass, an Ohio attorney (he is also a Lutheran clergyman), just as we were proof-reading Prof. Byrn’s article—a happy coincidence which we capitalize on by giving you his . . . well, complementary views on that strange invention, “The Right to Privacy”—by the way, Prof. Byrn agrees with what Mr. Steingass has to say, which tells *us* that they are both untypical lawyers.

Without question Americans enjoy “rights”—justified or not—that go far beyond those available to most of the world’s peoples. For instance, a billion-plus Chinese still live under a Red *regime* that recognizes no privacy at all, much less a *right* to it. This journal has run a number of articles over the years on China’s barbarous “population control” policies, which mandate one-child-only families. Human nature being what it is, there are resisters: indeed, many parents seem willing to risk *anything*, including their own lives, to increase and multiply. In return, the government is just as willing to use terrorism to enforce its *diktat*.

INTRODUCTION

All this *ought* to be sensational news: Do we not stand four-square for “human rights”? In fact, our media report little about it—*forced* abortion and infanticide obviously embarrass the theologians of “Choice”—even the late Bush Administration kowtowed shamelessly to Chinese “non-interference” demands.

But as Mr. Murchison points out, the media may dominate the Big Cities, but not the hinterlands: a good story, however politically incorrect, is still news out in Phoenix, and good-reporter Michael Lacey turned the trials of some godforsaken Chinese refugees into a first-rate feature story (*Appendix E*), complete with painful details about just *how* shamelessly our own government can behave. As you will see, there’s a happy ending—provided vengeful “authorities” (not *ours*, we trust) don’t discover the identities of the escapees.

Our final piece (*Appendix F*) harks back to the late, unlamented election campaign, during which our new President proclaimed, early and often, that he was by no means pro-abortion, merely “pro-choice”—we should know soon what that means in *practice*. Dr. Michael Heaphy, who practices in Ohio, addresses the question logically, and concludes that it is *illogical* to contend that “choice” is an *unlimited* right: were that true, then anything goes, literally—Why not choose to drive while drunk, or whatever? To help us understand it all, he suggests that we take a good hard look at what an abortionist actually *does* in his day-to-day “practice”—for instance “crushing unborn babies’ skulls”—we’d prefer to leave you with another happy ending but, alas, abortion provides none.

By way of relief, we have tried to give you some good laughs *via* our cartoon selections: facing hard truths requires us to keep a sense of humor, that *sine qua non* of good arguments, which is what this journal has been all about, for almost two decades. Perhaps we’ll have lighter fare next time. Meanwhile, we hope that you will find this issue as good as we think it is.

J.P. McFADDEN
EDITOR

'Guerilla War' Coming?

William B. Murchison

The massive media were in shock. Brows were feverish, knees wobbly. Patrick Buchanan, addressing the Republican National Convention, had noted—noted, if you please, *not* called for—a state of cultural and religious warfare in this country. He might as well have said “gimp” at a convention of the physically challenged as “war” in the presence of the media, who knew well enough what to do once the shock had passed. With ravenous beaks and unsheathed talons they descended on their wayward brother. So far as they were concerned, Buchanan was preaching racism and fomenting civil strife, and it was terrible, just terrible, a disgrace to our society, etc., etc.

Well—war, struggle, conflict, tiff. What would the media have us call it? It goes on, name it what we will. The 1992 elections revealed its temperature (elevated) and dimensions (grand). As readers of this journal are keenly aware—would that the media were equally percipient—Americans are ranged against each other on social, cultural, and religious questions that touch the nature and duties of the human species. Life itself, the most basic of matters, is a point of division: Under what conditions are we for its preservation, and when do we hand off responsibility to the parties most immediately concerned?

I propose shortly to talk about the election of 1992, which was an election of major significance, but indulge me first in some stage-setting. Who is involved in all this? Who are the contending parties? We can call them, with some justification, the spiritual and secular parties.

In no sense does this mean that the participants on one side, with pure, gaunt, El Greco countenances, spend their time in celestial contemplation while their intellectual adversaries run around in red suits, pitchforking people. What it means is that one understanding of life is rooted in recognition of life as divinely wrought and bestowed; the other understanding proceeds from the notion of man (or, to use the modern jargon, “man and woman”) as fundamentally independent and autonomous. For the West, the spiritual side is the old culture, the secular the new culture.

The main point of reference, for the old spiritual-siders, is revelation;

William B. Murchison, a columnist for the Dallas Morning News, is syndicated nationally.

for the new secularists, the democratic ballot. The ballot has in fact engorged the secular understanding. We settle all urgent questions, it sometimes seems, by popular vote. To be sure, the suffrage in *Roe v. Wade* was narrower—just nine unelected judges voted on it to begin with—but the principle was the same: Call for a show of hands; see who wins. The victorious party in *Roe*, delighted with the result, thinks that's about all the democracy we need in this matter. It labors to prevent further adjudication by a wider public. *Roe*, a secular decision, has in the '90s achieved an almost sacred status.

The larger point is that the two understandings—new-secular and old-spiritual—are not readily reconciled. The two sides have different presuppositions: the spiritual-siders, not only that right and wrong are knowable but that the one is preferable to the other; the secularizers, that morality is largely a matter of individual insight and choice. This disparity of viewpoint gives politics a heat it has lacked at other times in U.S. history, save when the slavery question was being debated in secular vs. spiritual terms.

There exists today open warfare, broadsides coming from the press rather than the heavy artillery. The combatants are defending different principles, which, because they *are* principles, makes temporization and compromise difficult. Now and then some sweet ninny, or, more commonly, some desperately uncomfortable politician, rises up to wonder why we can't all just get together. A comparable question might have been put to Hector and Achilles, with comparable results.

So what of the election of 1992, its battles, skirmishes, and encounters? Any regiments obliterated, prisoners taken, territory lost or reclaimed? Yes. In any election this happens. It's not the same as winning the war, but wounds get inflicted, political field hospitals fill up. Old-culture wounded, here in early 1993, outnumber casualties on the new-culture side.

After 12 years the presidency falls into the hands of the abortion permissivists. President George Bush may not have fed the pro-life movement the same red-meat rhetoric as Ronald Reagan did, and Barbara Bush may have stated publicly her dislike of abortion's inclusion in the platform, but the President also blocked the use of federal funds for abortion and appointed federal judges of what we call, for lack of a pithier term, conservative outlook. True, one of these jurists was the cautious David Souter, who voted wrong

in *Planned Parenthood v. Casey*; another was Clarence Thomas, who voted right. The sad fact is, the court that decided *Casey* is overwhelmingly Republican; its sole Democratic member, Byron White, is an original dissenter from *Roe v. Wade*. Bush can't be assigned unique blame for the *Casey* cop-out.

Bill Clinton, a convert to the abortion-rights cause, will lend it the favor and prestige so long denied it by the White House. This means a number of dire things. The first likely to be noticed is the chiller atmosphere in Washington, D.C., when two days after the Clinton inauguration, pro-lifers assemble to mourn and protest *Roe*. The marchers have come to expect presidential greetings on these occasions. There will be no such greetings this year, nor for years to come.

The atmosphere will get frostier. The new president says he will support the use of federal funds to pay for abortions, and that his nominees to the federal judiciary will be pro-choicers. We can probably expect soon the first such nomination to the Supreme Court. Justice Harry Blackmun, 83, author of *Roe v. Wade* (a.k.a. the Blackmun Abortion-on-Demand Act), is believed ready to retire. He will be remembered for his pointed warning last June, in *Casey*, that "When I do step down, the confirmation process for my successor well may focus on the issue before us today." If we don't call that a pro-Clinton campaign speech, what do we call it? (The National Abortion Rights Action League picked up on the theme in a melodramatic *CNN* ad that featured Dustin Hoffman saying, "A single flickering flame—one Supreme Court justice—is all that stands between us and the darkness. America is one justice away from losing the right to choose.")

The "litmus test" Ronald Reagan was wrongly accused by the media of imposing on prospective judges—opposition to *Roe*—has been reversed completely and this time made binding. Now the question is: "Do you support abortion rights?" If the test is rigorously administered—and one can't imagine Planned Parenthood, NARAL & Co. not insisting that it be—the federal courts will become more protective of *Roe* than ever before. This, after the judicial gains of the '80s, which, if obviously incomplete, gave pro-lifers hope for the ultimate overthrow of *Roe*. It is as though Sisyphus, with his rock, had made it nearly to the top of the hill, only to lose his grip and find he had to begin once more his toilsome ascent. This

kind of thing can damage morale quite as thoroughly as it undermines constitutional law.

In the broader sense, we can expect the removal—at best the mere liberalization—of federal restrictions on abortion. Taxpayers will fund fetal-tissue research. Likewise federal dollars will flow to family planning clinics that promote abortion as a means of birth control. You can count on Bill Clinton's Pentagon to provide abortions in military hospitals. As for Congress, the election opens wide the door for passage of the Freedom of Choice Act (FOCA). Bush had promised to veto such a statute if it passed. Well, that's no problem now, from the pro-abortion standpoint. Nothing but good taste and good sense—neither one a notable commodity on the Washington scene—hinders Congress from clearing away at a stroke nearly all state-imposed obstacles to abortion. Anti-abortion groups say supporters of FOCA gained at least a dozen seats in the House, thanks mainly to redistricting and the creation of new ethnic seats under the Voting Rights Act. Kate Michelman, president of NARAL, predicts the act will now pass.

Maybe not—you never can tell. A knock-down, drag-out fight over abortion would hamper Clinton's effort to get control of the government and enact whatever economic program he finally devises. Foreign affairs, too, are bulking larger and larger. Clinton might ask FOCA supporters to wait. (Clinton himself claims to support certain restrictions that FOCA would disallow, such as the requirement that a minor contemplating abortion notify her parents.) Anyway, thanks to the Clinton litmus test, the abstract need to pass FOCA has passed; anti-*Roe* sentiment on the Supreme Court reached high tide this year, and it wasn't high enough.

A second encumbrance hangs, albatross-like, round the pro-life movement's neck: the perception of abortion as an issue that cost the Republican party, which is generally the pro-life party, substantial support among women. The *Wall Street Journal* headlined in October: "Women This Year Tend to Be Angry, Vocal, and Inclined to Back Clinton." "I'm your basic conservative Republican," one woman told the *Journal*, "but I'm very much in favor of choice." It wasn't just abortion of course. It was also what many perceived as Republican stridency on family issues (a stridency, if it was that, whose actual purpose was to cover up the Bush administration's economic failings).

But the media and the Democrats, egged on by some Republicans,

encouraged the view that the GOP had staked out reactionary positions insulting to single and married women alike. The controversy over Dan Quayle and “Murphy Brown’s” bastard baby was certainly silly, but it crystallized, in a popular culture setting, the message Democrats were trying to get out—that Republicans were mean, insensitive brutes. A post-election New York *Times* headline is instructive: “Chastened GOP Leaders, Wary of Intolerance, Call for a Party of Inclusion.” This means a party of the so-called big tent, under whose ample folds supposedly there is room for folk of divergent viewpoints—pro-choice as well as pro-life. How you write a platform plank to appease both sides we are not yet advised. The likelihood is for a plank that omits the rousing affirmation, dating from 1984, of the unborn child’s “fundamental individual right to life which cannot be infringed.”

The odd thing is that the GOP’s abortion stance—precisely the same as Ronald Reagan took in 1984 and Bush in 1988—helped the party as well as hurt it. The television networks’ joint exit poll showed that 12 percent of voters (you would have expected from pre-election commentary four or five times that figure) saw abortion as an issue that swayed their votes. Of these, 56 percent voted for Bush, just 36 percent for Clinton and eight percent for Ross Perot. The National Right to Life Committee says 76 percent of house seats captured by Republicans went to pro-life candidates. A grassroots revolt against pro-life? Where? Show me the smoke.

Still, it’s the pro-choicers, for political more than mathematical reasons, who are doing the bragging. Charles Krauthammer, the *Washington Post* columnist, concludes with barely disguised satisfaction that the abortion debate is over. “With the courts overturning a Guam law criminalizing abortion,” Krauthammer says, “and with the election of a down-the-line pro-choice president, November 1992 marks the end of the 20-year abortion wars. The principle has been settled, though some details remain. Never again will abortion be criminalized, though the question remains as to how far society can go to discourage abortion by creating such inconveniences as parental notification and 24-hour waiting periods.” Henceforth the Republicans will have to stress the big tent and “general commonality of values.”

As for the anti-abortion movement, its future, says Krauthammer, “must lie in the realm of culture and ideas.” The movement’s task from here on out “is changing minds, not laws.”

To what end, such a changing? One isn't sure how much this throwaway remark is meant to convey. But if, rather than throw it away, one holds the remark up to the light it has a kind of iridescence its author may not have intended. The political process is less responsible for 1.6 million abortions a year than are the mental processes of the political majority. Those processes haven't changed dramatically in 20 years. The systematic extinction of unborn life seems to many a necessary evil, to others a positive good.

We come back with a jolt to the cultural and religious wars, in which the advocates, the exponents, the defenders of life have for a dozen years been holding their own without greatly—far less irreversibly—enlarging their share of the terrain. It is the cultural and religious equivalent of the Western front, *circa* 1916.

The 1992 elections had much to do with economics. George Bush, the upholder of party orthodoxy on human life questions, was also the agent, as many saw it, of the country's economic decline: a weak, detached leader in all things but military policy. The media had helped raise spectres that Bush could not or would not dispel—American industrial decline, a ravaging deficit. As Boston's pro-Clinton (yet supposedly anti-abortion) Mayor Ray Flynn remarked before the election: "The abortion issue is still a big issue in this country. Don't kid yourself. But when people are unemployed, when they can't afford to put bread on the table or pay the tuition for their kids, these are critically important issues, too."

The Democrats could get by with promoting abortion rights and muzzling the pro-life governor of Pennsylvania, Robert Casey, because they were allegedly going to do something about all these critically important issues.

Yet the elections were about more than economics; they had to do, at a sometimes less visible level, with the new, secular culture's bid to quell and quiet the old, religiously-rooted one, with its precepts of right and wrong, its view of mankind as responsible to God for choices right and wrong. The new, secular culture—though its antecedents go back literally centuries—is rooted most immediately in the 1960s, the decade that produced Woodstock, Timothy Leary, Bob Dylan, Abbie Hoffman, and, not least, the young William Clinton, of Hope, Arkansas, and Oxford University. The '60s warred on norms and standards of every sort: cultural, religious, political, social. Private judgment and personal option became the decade's calling cards: every

man/woman the arbiter of his/her destiny; no outwardly-imposed restraints, everything and everybody on the same moral level.

The 1992 election marked the '60s generation's takeover of the political process from generations more careful of received norms, less hung-up on self-expression as a way of life. Bill Clinton is the new generation's spokesman. This is clear from, among other things, the general apathy toward Republican attempts to arraign the Democratic presidential candidate as a womanizer and wartime shirker. Neither accusation cut much ice with citizens bred up to believe in their near-absolute right to choose.

Does this mean the new, secular culture has swept, or nearly so, the field? Actually, no. Though it commands the political heights, the cultural and religious war goes on and, *pace* Mr. Krauthammer, is nowhere near finished. Krauthammer focuses too narrowly on abortion, where things went badly indeed from the spiritual-side viewpoint. Other things, from the same viewpoint, went well.

In California, old-culture spiritual-siders beat back an attempt to legalize mercy-killing. Proposition 161 would have let physicians lethally inject or overdose dying patients, supposedly at the patients' request. This was bad enough, given Western civilization's longstanding moral abhorrence of suicide, assisted or otherwise. ("Not only is suicide a sin," wrote Chesterton, "it is *the* sin. It is the ultimate and absolute evil, the refusal to take an interest in existence; the refusal to take the oath of loyalty to life.") Proposition 161 was more defective yet for its lack of safeguards against some doctor's muttering to himself, this old fossil's been with us long enough, where's the needle? "Criminal defendants receive more protection under existing law," the U.S. Catholic Conference's General Counsel observed, "than patients would receive under the initiative." This was despite the proponents' attempt to overcome just such objections. The Proposition lost by a margin of 54 percent to 46 percent. Yes, the vote ought by right to have been far more one-sided, but amid our present cultural confusion you take what you can get. Fifty-four percent against mercy-killing, in a state like California, is not at all bad. It demonstrates, if nothing else, the impossibility of ramming through such a measure in places more conventional than California.

The '60s secularizers have busied themselves in recent years enacting civil-rights protections for homosexuality. Received norms speak of homosexuality as aberrant conduct that society, for its own good, must

refuse, in a non-persecutorial way, to encourage. So how explain state and local ordinances that dignify and protect Gay “rights”? As instances of the Gay Lobby’s power and the establishment’s moral flaccidity.

But watch: Colorado voters—an independent breed—approved an initiative prohibiting state and local governments from passing and enforcing gay-rights ordinances. The measure automatically overturned ordinances already on the books in Denver, Boulder, and Aspen. A similar measure failed to fly in Portland, Maine, while in Oregon voters defeated a proposal even more strenuous. (The Oregon initiative would have barred the state from spending funds to “promote, encourage, or facilitate” homosexuality.) Yet the Colorado success, engineered by a grass-roots group known as Colorado for Family Values, was stunning. Gay-rights groups have moved to boycott the state, and Barbara Streisand—a “liberal, feminist American artist” as she puts it—encouraged fellow “artists” to boycott their own Aspen retreats.

The new culture hasn’t got its hooks into all of us. Not yet it hasn’t. To borrow the national-liberation jargon of the North Vietnamese, the Clinton generation has seized the cities without similarly securing the countryside. This is sometimes quite literally the case. In Colorado, the anti-gay-rights initiative failed in Denver and Boulder but passed handily in the smaller communities—without which indeed it wouldn’t have passed at all. Outside the teeming centers of cultural disaffection—where media propaganda enjoys maximum effectiveness—live scores of millions who regard the traditional human aspirations and obligations as binding, if not in fact divine.

What impends in the cultural struggle is, so to speak, guerrilla warfare: small but cohesive bands of traditionalists sallying forth to do what they can where they can, saving whom they can from the consequences of rampant secularism.

This kind of warfare can be waged at many different levels. For instance, after ’60s-generationists last summer rammed through the American Bar Association a measure opposing laws that restrict the right to an abortion, dissenters declined to bite their tongues and pretend, for collegiality’s sake, that nothing important had happened. More than 3,000 ABA members have resigned thus far in protest, out of which gesture there could come a kind of counter-ABA: a potential power center for lawyers of old-culture bent. Other dissenters hope to make the bar association change its stand. There wouldn’t

seem great hopes of this happening, but it keeps the liberals pinned down. And presents further opportunities. Early on, the Clinton administration should be warned—I said warned, not requested—not to invite ABA scrutiny of its nominees to the federal bench, on grounds that the ABA is busily grinding ideological axes.

If the administration enlists the ABA anyway, here is further cause for a stink over judicial nominations. We will spread our hands in wonderment: How can the administration call on a biased enterprise like the ABA to render supposedly objective advice? The litmus-test argument will be revived: Clinton makes all his judges vow to uphold *Roe v. Wade*. To the media's inevitable retort—so what?—we'll answer that prejudiced people, people with a definable political agenda, shouldn't be on the bench, that's what. We have to make the administration, in other words, work for what it gets: work harder, in particular instances, than it may find useful or desirable.

This is but one example of what can be done. The grass roots must be well soaked and cultivated. Here the media searchlight rarely plays. In time, with patience and prayer, the cities may be encircled, besieged, brought to terms.

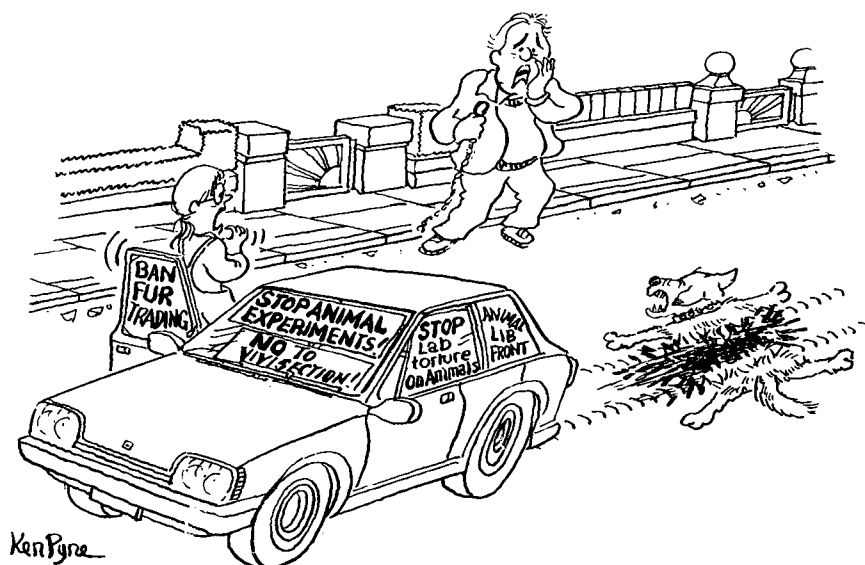
The target is what? The culture. For that is surely, as Pat Buchanan suggested, the kind of war we are in—the war of a kinder, gentler culture against a new and callous and alien kind. A million and a half unborn babies do not perish annually because of general concerns over population control; they perish because the secular culture's mind is gravely divided on the question of life: its origin, not to mention its value.

The culture whispers, sometimes shrieks, in our direction, "Mine is mine, thine is thine, chill out, go away." The individual becomes the touchstone in an age that approaches perilously near the conviction that the individual is a self-creation.

The laws, on fundamental questions like abortion, are generally bad because the culture, on these questions in particular, is bad. Not irredeemable (else why a journal like this one?) but in grave need of reproof and amendment. The culture no longer will enact those protections to which the weak and defenseless, in any Christian—yes, in any merciful—civilization have always been granted title. Nor can we expect matters to be otherwise, pending the reform of hearts and minds through witness, testimony, and persuasion; through exhausting, inexhaustible work not much different from what has

WILLIAM B. MURCHISON

gone on these 20 years past. The big victories we might have thought inspirational either have not inspired sufficiently, or have proved ephemeral. The smaller, incremental victories—an ordinance passed here, a judge converted there—are our present hope. That, and the reconciliation of the human spirit to that power it once found irresistible: the one known as God.



'I didn't see it!'

THE SPECTATOR 17 October 1992

16/WINTER 1993

Pro-Choice Bigots

Nat Hentoff

Not too long ago, he was a pro-lifer. He wrote and spoke about the right to life and attacked advocates of abortion rights. “There are those who argue that the right to privacy is of a higher order than the right to life,” he would say. “That was the premise to slavery. You could not protest the existence or treatment of slaves on the plantation, because that was private and therefore outside of your right to be concerned.” He told the story of how he himself had almost been aborted. A physician had advised his mother to let him go, but she wouldn’t. Don’t let the pro-choicers convince you that a fetus isn’t a human being, he warned: “That’s how the whites dehumanized us, by calling us niggers. The first step was to distort the image of us as human beings in order to justify that which they wanted to do—and not even feel like they’d done anything wrong.”

But as Jesse Jackson decided to run for president in 1984, his fiery pro-life rhetoric suddenly subsided. If being black was a political obstacle, being black and pro-life would raise the odds much too high. Jackson understood that it is hard to be a pro-lifer if you want the support of the left—or just have friends on the left. The lockstep liberal orthodoxy on abortion is pro-choice, as Bill Clinton’s election showed and his presidency will reinforce. Dissenters are not tolerated.

Nearly ten years ago I declared myself a pro-lifer. A Jewish, atheist, civil libertarian, left-wing pro-lifer. Immediately, three women editors at *The Village Voice*, my New York base, stopped speaking to me. Not long after, I was invited to speak on this startling heresy at Nazareth College in Rochester (long since a secular institution). Two weeks before the lecture, it was canceled. The women on the lecture committee, I was told by the embarrassed professor who had asked me to come, had decided that there was a limit to the kind of speech the students could safely hear, and I was outside that limit. I was told, however, that I could come the next year to give a different talk. Even the women would very much like me to speak about one of my specialties, censorship in America. I went and was delighted to talk about censorship at Nazareth.

Nat Hentoff is a well-known “civil libertarian” and a columnist for New York’s *Village Voice* and the *Washington Post*. This article first appeared in *The New Republic* (Nov. 30, 1992) and is reprinted here with the author’s permission (©1992 by The New Republic, Inc.).

At the *Voice*, some of my colleagues in the editorial department wondered, I was told, when I had converted to Catholicism—the only explanation they could think of for my apostasy. (Once I received a note from someone deep in the ranks of the classified department. She too was pro-life, but would I please keep her secret? Life would be unbearable if anyone knew.)

To others, I was a novelty. Interviews were arranged on National Public Radio and various television programs, and I spoke at one of Fred Friendly's constitutional confrontations on PBS. Afterward, men, women, and teenagers wrote from all over the country that they had thought themselves to be solitary pro-lifers in the office, at school, even at home. They were surprised to find that there was someone else who was against capital punishment, against Reagan and Bush, and dismayed at the annual killing of 1.6 million developing human beings. They felt, they told me, that it was absurd to talk blithely of disposing of potential life. These were lives—lives with potential to someday do *New York Times* crossword puzzles and dig Charlie Parker. That is, if they weren't thrown out with the garbage.

I felt less alone myself. In time, I found other heretics. For instance, the bold, witty, crisply intelligent members of Feminists for Life of America. There are some in every state, and chapters in thirty-five. Many of them came out of the civil rights and anti-war movements, and now they also focus on blocking attempts to enact death penalty laws. They have succeeded in Minnesota. You won't see much about Feminists for Life in the press. When reporters look for pro-lifers to interview, they tend to go after pinched elderly men who look like Jesse Helms and women who wear crucifixes.

On the other hand, not all stereotypes are without actual models. As an exotic pro-lifer, I was invited to address an annual Right to Life convention in Columbus, Ohio. The event was held in a large field. A rickety platform faced the predominantly Christian crowd.

I told them that as pro-lifers, they ought to oppose capital punishment and the life-diminishing poverty associated with the policies of their Republican president. Ronald Reagan, I emphasized, had just cut the budget for the WIC program (federally funded Special Supplemental Food Program for Women, Infants, and Children). He and those who support him, I said, give credence to Massachusetts Representative Barney Frank's line: "Those who oppose abortion are pro-life only up to the moment of birth."

From the back of the crowd, and then moving forward, there were growls, shouts, and table-thumping. Suddenly, a number of people began rushing toward the platform. I said to the man sitting next to me, a leader of the flock, that I had not quite decided that this cause was worth dying for.

As it happened, the souls on fire only wanted to say that I was in grievous error about these Christian presidents because I had not yet found God. Indeed, I often get letters from religious proliferers telling me that it is impossible for me to be simultaneously an atheist and a pro-lifer. Some of the pro-abortion-rights leaders whom I have debated are certain of the same correlation. No serious atheist, no Jewish atheist, no left-wing atheist could want to—as my fiercely pro-choice wife puts it—enslave women.

Yet being without theology isn't the slightest hindrance to being pro-life. As any obstetrics manual—*Williams Obstetrics*, for example—points out, there are two patients involved, and the one not yet born “should be given the same meticulous care by the physician that we long have given the pregnant woman.” Nor, biologically, does it make any sense to draw life-or-death lines at viability. Once implantation takes place, this being has all the genetic information within that makes each human being unique. And he or she embodies continually developing human life from that point on. It misses a crucial point to say that the extermination can take place because the brain has not yet functioned or because that thing is not yet a “person.” Whether the life is cut off in the fourth week or the fourteenth, the victim is one of our species, and has been from the start.

Yet rational arguments like these are met with undiluted hostility by otherwise clear-thinking liberals. Mary Meehan, a veteran of the anti-war movement, tried to pierce this pall of left orthodoxy in a 1980 article in *The Progressive*:

Some of us who went through the anti-war struggles of the 1960s and 1970s are now active in the right-to-life movement. We do not enjoy opposing our old friends on the abortion issue, but we feel that we have no choice. We are moved by what pro-life feminists call the “consistency thing”—the belief that respect for human life demands opposition to abortion, capital punishment, euthanasia, and war. . . . It is out of character for the left to neglect the weak and helpless. The traditional mark of the left has been its protection of the underdog, the weak, and the poor. . . . The unborn child is the

most helpless form of humanity, even more in need of protection than the poor tenant farmer or the mental patient.

Meehan's article provoked an extraordinary amount of mail. A few writers praised *The Progressive* for having enough respect for its readers to expose them to a perspective opposite to the magazine's. But the great percentage of letter writers were furious, indignant that a "left" magazine should print such vicious right-wing propaganda.

Because defending the killing of the fetus is inconsistent with the liberal/left world view in other matters, the abortion rights orthodoxy has relied on extraordinary hypothetical arguments to justify its position in the twenty years since the *Roe* decision. Take two examples. In 1971, when abortion was legalized in New York state, an editorial on WCBS radio in New York attempted to define abortion as an act of compassion: "It is one sensible method of dealing with such problems as overpopulation, illegitimacy, and possible birth defects," the announcer said. "It is one way of fighting the rising welfare rolls and the increasing number of child abuse cases."

In 1992 the defense has changed. No longer a means of compassion, abortion is now viewed as a form of preemptive law enforcement. As Nicholas von Hoffman writes in the *New York Observer*:

"Free, cheap abortion is a policy of social defense. To save ourselves from being murdered in our beds and raped on the streets, we should do everything possible to encourage pregnant women who don't want the baby and will not take care of it to get rid of the thing before it turns into a monster. . . .

"At their demonstrations, the anti-abortionists parade around with pictures of dead and dismembered fetuses. The pro-abortionists should meet these displays with some of their own: pictures of the victims of the unaborted—murder victims, rape victims, mutilation victims—pictures to remind us that the fight for abortion is but part of the larger struggle for safe homes and safe streets."

As a sometime admirer of von Hoffman, I take this to be—maybe—his assuming the role of Jonathan Swift in these hard times, but it doesn't matter particularly whether he's serious or not. Those who see abortion as a cost-effective, even humane, way to thin the ranks of the lower orders are not few in number.

Pro-choicers clearly are only interested in their version of the choice in this matter. But why are the liberals among them so immovably illiberal only when it comes to abortion? The male pro-choicers,

by and large, consider this to be entirely an issue for women to decide. And the only women they know are pro-choice. If a man has any doubts or subversive ambivalences, he keeps them to himself because should he speak of them, he will be banished from the company of all the progressive women he knows—and any whom he might hope to know.

Pro-choice women are so unyielding because they profoundly believe that without the power to abort at will, they will be enslaved. Once an abortion is wanted, the fetus, as one woman told me, is—to some women—"the enemy within." In the fight not to be enslaved, liberalism is an abstraction.

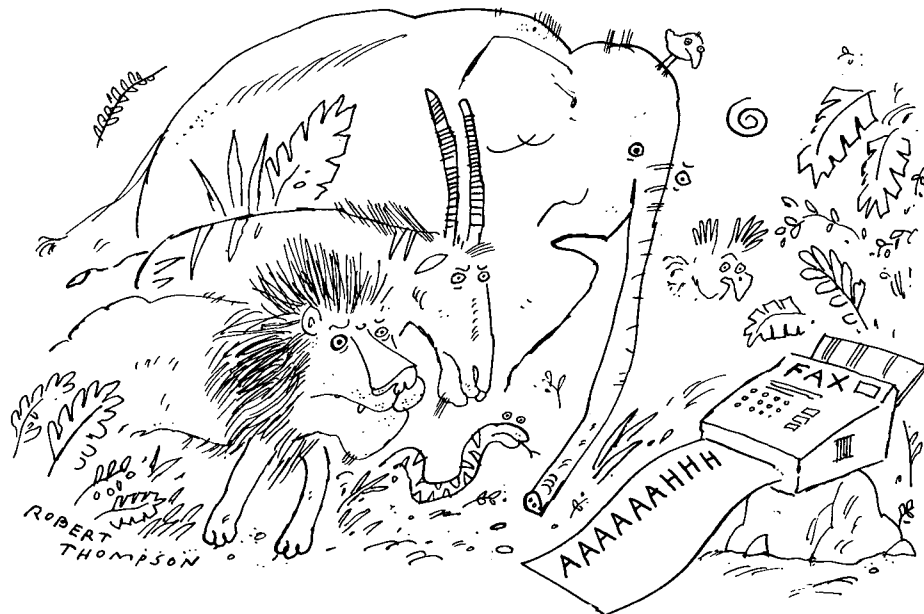
Accordingly, I am no longer surprised to find myself considered an external enemy. For years, American Civil Liberties Union affiliates around the country invited me to speak at their fund-raising Bill of Rights dinners. But once I declared myself a pro-lifer, all such invitations stopped. They know I agree with them on most ACLU policies, but that no longer matters. I am now no better than Jesse Helms. Free speech, after all, has its limits.

This disdain on the left for anything or anyone pro-life has clearly taken a toll on the political process. Liberal/left politicians who remain true to their philosophy and oppose abortion are virtually impossible to find. Like Jackson, most simply cave in to abortion rights pressure, fearing that no matter how left-leaning they are on other issues, if they come out against abortion they will be branded as right-wing fanatics. Governor Robert Casey of Pennsylvania, a liberal pro-life Democrat, was forbidden from speaking at this year's Democratic convention. And when *The Village Voice* later offered him a forum in New York to talk and answer questions about whether it is possible to be both liberal and pro-life, he (and I, the putative moderator) was shouted down by pro-choicers. Meanwhile, the president-elect, who has been on both sides of the abortion question during his career, has already pledged to satisfy his pro-choice backers by requiring that any nominee to the Supreme Court be an explicit and public supporter of abortion rights.

I saw Jesse Jackson recently on a train, and we talked for quite a while about George Bush's awful nomination of Ed Carnes to the federal bench. An assistant attorney general in Alabama, Carnes built his reputation on sending people to "Yellow Mama," the state's electric chair. He would replace Frank Johnson, whom Martin Luther

NAT HENTOFF

King once described as “the man who gave true meaning to the word justice.” (A few weeks later Jackson joined the campaign to defeat the nomination. To no avail. Carnes was eventually confirmed.) I then asked Jackson about another form of execution. I told him that in speeches I often quote what he wrote as a pro-lifer. He looked uncomfortable. I asked him if he still believed what he said then. “I’ll get back to you on that,” he said. He hasn’t yet.



'It's from Tarzan.'

THE SPECTATOR 7 March 1992

22/WINTER 1993

Victims à la Mode

Joseph Sobran

You thought America was a rich country, did you? A place where (unlike, say, Calcutta) everyone could eke out a more or less bearable material existence?

Well, give ear to the sad tale of "Paulette Mason." Not her real name, but we are asked to believe her story, which she wrote for the Op Ed page of the *New York Times* on October 3, 1992. A footnote tells us only that she "works in the television industry." The author herself adds that she works freelance.

The title of the piece, which I have before me on my desk, is "I'm 38, and Running Out of Time." Ms. Mason tells us at once that she's 15 weeks pregnant. She assures us that she believes in "family values" and is not "promiscuous." "It's just that I was lonely and I liked this man a lot." Well, that's not inhuman, is it? We can all understand her plight.

But it gets harder. "We used birth control but it failed." Well, you have to expect that sometimes. "I didn't know I was pregnant because I didn't have the usual symptoms." How odd. Why didn't she know? Because in her high school "we didn't have sex education." A deprived life, obviously.

Still, "I want to have the baby; I'm 38 and running out of time. . . . I agree with Marilyn Quayle; for a woman like me, it's an essential part of my nature to make a home with a man and raise a child." So why not just go ahead and have the baby? "The man I got pregnant by doesn't want to have anything to do with me or the child." My, my. *Everything* seems to go wrong for Ms. Mason.

"The father of my baby also believes in family values," she goes on. "That's why he wants me to get an abortion. He feels children should be raised in a two-parent home, and since he has no intention of being that other parent, it would be unfair to the child to raise it alone." Clearly the fair course is to abort the child. "He's an active Democrat, but he doesn't think Murphy Brown is a good role model." A *very* active Democrat, from the sound of it.

Any other hardships? "I don't have health insurance." How about

Joseph Sobran, our long-time contributing editor and the Critic at Large for *National Review*, is currently writing a book on the man we call "Shakespeare" (we can hardly wait!).

getting some? “I looked into getting insurance. It turned out that no one would insure me.” How about Medicaid and city health clinics? “The social worker said I made too much money to qualify.” How about going on welfare? “When I looked into welfare, it turned out that even with food stamps I wouldn’t be able to live on it.” Well, could her family help? “My parents live on Social Security and small pensions.” Any siblings? “My brother is unemployed. He says that since the recession, it’s been hard to find work.” Ah, yes. The recession. Nearly forgot. The very recession brought on by the anti-abortion Reagan and Bush Administrations.

How about having the baby’s father pay? “I looked into child support. The man I got pregnant by lives out of state. The lawyers and court officials I spoke to said that it could easily take two years for me to get a court order.” Oh dear.

But just when the sympathetic reader is about to suggest a jump off the Verrazano Bridge, Ms. Mason announces: “Then I got a brainstorm. I called the Catholic church. I figured it was against abortions and so was I.” Great! So then what happened? “I asked the woman who answered the phone, can you help me keep my baby?” And? “She told me that her agency primarily helped girls from the South Bronx and what they offered them was infant foster care.” Well, that’s better than nothing, right? “That was the very day the newspapers in New York were filled with stories about a foster family that had starved a child to death.” Jeepers!

“Things seemed so hopeless by then,” Ms. Mason explains, a little needlessly. “I went to a doctor who did second-trimester abortions, which are a good deal more complicated than first-trimester abortions. In the second trimester, the fetus is sufficiently large so that it has to be dismembered to be removed. When I heard the doctor use the word dismember, I started to cry for myself and my baby and what might have been my future.” The doctor warned her that the dismembering process is “traumatic to many women.” He added: “Nobody likes to get an abortion, especially a late abortion. I’ve performed thousands of operations and I’ve never met a woman who was happy about it.”

Then he posed the focal consideration: “Do you think you can take good care of a child? That’s really the question.” And by now the reader knows the answer to *that* one.

“This has been agonizing for me,” Ms. Mason attests—again, rather needlessly. Few contributors to the *Times’* Op Ed page have so

completely filled out the victimhood checklist. She concludes on a bitter note: "What would Dan Quayle want me to do?"

Ms. Mason's article provoked a quick reaction. The following day, Cardinal O'Connor offered—from the pulpit of St. Patrick's Cathedral—to pay all her medical, legal, and living expenses if she would carry the baby to term. And the next day, a member of a suburban parish who had read the article put up \$10,000, anonymously, for Ms. Mason, stipulating, furthermore, that if she chose not to accept it, the money should be used for the next woman who needed it.

But Ms. Mason chose not to accept the money. Mitchell Levitas, editor of the *Times'* Op Ed page, said he'd contacted the mystery contributor to inform her of the offers, but "she told me she's no longer pregnant."

As it happens, the Archdiocese of New York has a standing offer to provide full care for pregnant women who can't afford to bear and raise their children, which fact made Ms. Mason's account of her attempt to get help from the Catholic Church more than a little suspicious.

The whole *piece* is suspicious. Ms. "Mason" offers a litany of hardships that is just too too perfectly tailored to the *Times'* editorial line, complete with jabs at the Catholic Church and the Republican Party. (It's amusing to recall that the *Times* originated the Op Ed concept two decades ago, in response to Spiro Agnew's charge that the media were too lopsidedly liberal. The idea was to provide more variety of opinion; today, that page merely doubles the quantity of liberal opinion in the paper.) To readers who don't share the *Times'* ideology, the article was reminiscent of "Jimmie," the Washington *Post's* eight-year-old ghetto heroin addict of 1981, who turned out to be a figment of reporter Janet Cooke's Pulitzer Prize-winning imagination.

Victimhood claimants aren't always pressed to establish their credentials. The more closely they seem to fit the paradigm, the more readily they are believed. And victimhoodwise, Ms. Mason has it all: a pregnant single female in financial straits whom neither her own lover nor her family nor government nor religious agencies could or would help. And a good raconteur to boot. She showed wise restraint in not claiming to have AIDS too.

Now I like a good yarn as well as the next man, but this one set me thinking. Why did Ms. Mason need so *many* reasons for seeking an abortion? One reason would do. If the life of an unborn child—

she calls it a “baby”—isn’t precious, why, go ahead and kill it. But if it *is* precious, never mind ladling on the pathos: you can’t justify killing it because you need money and the father has fled and you’re uninsured and your brother is looking for work.

It’s especially contemptible when people argue that it would be “unfair” to let the child live. That’s rather like saying, “I couldn’t afford to send Eddie to a decent prep school, so I shot him.” Since when has the poverty line become an excuse for murder?

Life in these United States has apparently become so hard to bear that the kindest thing you can do for a child, in many cases, is to kill it. “Do you think you can take good care of a child?” asks the concerned abortionist. “That’s really the question.” And if the answer is no, he stands ready to dismember it, to spare it the misery of substandard living conditions.

Apparently nobody gets an abortion out of selfishness. Not long ago a young woman less than half my age told me I didn’t think about what pregnant women go through. No woman *wants* to get an abortion, she informed me; it’s never *easy*. She said that if she were to get pregnant, she didn’t think she could raise a child properly at this point in her life, and it wouldn’t be fair to raise a child in a living hell. And so on. All the usual things, the wisdom of thousands of liberal essays having trickled down from op-ed to co-ed, were imparted to me with the urgency of the breathless messenger bringing hot news from the battle of Marathon.

We’d just met; she had no way of knowing what I thought about, how much I cared, or whether I’d ever known a pregnant woman. But she instantly inferred all sorts of adverse things about me from my first demurrals from her views on “choice.” Clearly I was a candidate for Consciousness-Raising 101. It happens to the best of us, sooner or later.

I told her I found it hard to believe that a million-and-a-half abortions per year represented a million-and-a-half triumphs of compassion and maternal tenderness. Surely *some* women, at least, abort their children out of self-centeredness, weakness, ignorance, frivolousness, or other less-than-altruistic dispositions.

But it was hopeless. My young consciousness-raiser couldn’t even take in such a reflection. It would have complicated her obsessive scenario: women are victims, and pregnant women are particularly virtuous victims, and those who want to interfere with their “choice” are moral Scrooges.

If I make her sound utterly stupid, I do her an injustice. She was

a bright young woman, verbally and mentally agile. But she had recently had her own consciousness raised, and she was in that missionary mode in which, when the mouth opens, what you're hearing is not so much a mind as a milieu. She was delivering the product of the Attitude Factory—campus, media, intellectuals, activists, the whole complex of what Burke called “mutual quotation,” in which the mind becomes an echo chamber, temporarily incapable of quiet, individual reflection, or of suspecting that reflection might lead to different conclusions.

The times (and the *Times*) dictate mass convictions, which the Attitude Factory supplies. A great many people seem unable to achieve conviction except by participating in a mass and repeating its formulations. The more trite these formulations are, the more authoritative they seem. All incantations take their power from repetition. And ideas, of sorts, are now mass-produced, as attested by the speed with which slogans like “choice” and bogus words like “homophobia” get into circulation.

You find yourself on the defensive if you don't belong to the mass for whom such terms are morally compelling. What is daunting about the situation is the enormous complacency of the mass itself. Its members may espouse perversions like abortion and sodomy, but they do so with the insistence of righteousness, even when they profess a vague tolerance and relativism.

Congressman Barney Frank of Massachusetts, for example, is known for his witticism that pro-lifers care about children only from the moment of conception to the moment of birth. This line has been gleefully repeated by thousands of liberals and feminists, never mind that the pro-lifers maintain homes for pregnant women and adoption services for their children, thereby providing real “choice” in a way that very few liberals and feminists do. Frank himself made headlines a couple of years ago when it transpired that he'd taken into his apartment a young homosexual prostitute, who used the digs as his base of operations; Frank had also fixed a few parking tickets for him. So far as is known, this is his single personal charity. Still, he assumes his moral superiority to such reactionaries as pro-lifers, and he still enjoys the respect of his fellow progressives.

My point is not just that Frank is depraved, but that he and his ilk insist that their depraved views and practices make them both victims of those who disapprove of them and, what's more, moral

preceptors to society at large. It would be one thing if they merely pled for tolerance, or even if they espoused a consistent amorality. After all, certain frequencies of vice are ineradicable. But no, the avatars of vice want to be honored as our leaders. Their pet practices are asserted as “rights,” and their opponents condemned as bigots.

This stance can’t be maintained by rational argument, so it’s upheld by constant propaganda, very much including the sort of phony pathos exemplified by the tale of Ms. “Mason.” The sob stories of pregnant women and diseased and discriminated-against homosexuals are endlessly told, retold, dramatized, Movie-of-the-Weeked, filling out the curriculum of the Attitude Factory. They must be taught to schoolchildren and subsidized by taxpayers, with various National Endowments raising everyone’s consciousness.

Again, one good reason would be enough. Is homosexuality as healthy as marital love? If it were, most people would accept it readily enough. But it isn’t, and gay activists still don’t dare to claim otherwise. Is abortion as morally untroubling as having babies? Of course not, and not even its advocates dare to say so.

The only way such practices can achieve any legitimacy is by applying huge dollops of sentimentality, in the form of victimhood fables: the hard case (poor unwed mothers, deformed fetuses), the irrelevant outrage (the brutalized homosexual). The partisans of normality, on the other hand, are sharply discouraged from dramatizing *their* causes, as by showing pictures of mutilated babies or giving graphic accounts of homosexual practices. I myself was once accused of fomenting “hate” for quoting, verbatim, the personal ads in a gay magazine. (And all I thought I was fomenting was nausea.)

Some advocates of legal abortion are motivated by concern for women; it’s just that they can’t believe that an unborn child, particularly in its embryonic stages, has any real value. But I have no doubt that on the whole, the opponents of abortion are simply better people than its advocates—more moral, more generous, more prepared to suffer and sacrifice. It stands to reason that this should be so, even if they are wrong.

And they *may* be wrong. Virtue is no guarantee against error. Sometimes the better people are on the side that is mistaken. My only point here is that the anti-abortion side never argues from its own virtue. It’s remarkably free of the impulse to cite its own position as proof of its moral superiority. Why? For the simple reason that

it isn't *interested* in its moral superiority. It's entirely focussed on the issue of abortion itself. It lacks the self-regarding vanity that is so typical of its opponents. Its goal is simple and substantive: to save lives, not to appear better—let alone more fashionable—than its adversaries.

Opposing abortion isn't a fashionable posture, and it has none of the slight whiff of decadence common to such postures. If you sample the tony gossip magazine *Vanity Fair*, for example, you're struck by the contrast between its leftish politics and its utter preoccupation with the rich, the celebrity, the furred and chauffeured of this world. It's not a publication that worries overmuch about the underprivileged; it's a whopping illustration of capitalist taste. But part of that taste lies in assuming the prescribed attitudes on sexual matters, social-climbing fornication entailing tolerance of abortion and sodomy. These attitudes are held with a certain air of naughtiness, which corresponds perfectly with the sleek nudity of the Calvin Klein ads. The whole thing is pitched to people who wouldn't be caught *dead* disapproving of abortion. Getting ahead of the curve, the magazine's ads and articles are even taking on an enticing hint of pedophilia (though abortion advocates usually make a big show of concern about child abuse).

Socialism may be dead, but the socialites are still with us. In a curious way, progressive opinion is now fastening on sexual issues. The poor, the proletariat, the minorities have lost their old interest. Today's progressive is a snob. He (or she) adopts "positions" that enable the public display of moral vanity. Who *cares* what happens to those fetuses, anyway? Catholics, fundamentalists, Dan Quayle, and such-like moral frumps. Not *our* kind of people.

Today's liberalism is shifting its attentions from yesterday's oppressed classes to a more upscale sort of victim: the abortion-seeking yuppies, like Ms. "Mason," AIDS-infected ballet dancers, and assorted persecuted perverts. The important thing is not to build a new society, but to exhibit contempt for the old one and its mores. The exhibition is the thing. Somehow it all culminates not in the *Times*, but in *Vanity Fair*. The newsweeklies—yea, even the staid old *U.S. News & World Report*—offer less and less real news, and more and more fashionable attitudinizing, with ample coverage of Madonna, Warren Beatty, the House of Windsor, and other public figures best known for their sex lives. The election of Bill Clinton, in spite of his philandering, his pro-abortion,

pro-gay stance, and his feminist spouse, has been welcomed as a “generational” victory, with overtones of full sexual liberty for all.

There is something about the new progressives that is self-absorbed and preening, and leads quickly to the self-pity expressed by Ms. “Mason.” You could respect the old socialists for their virile concern for the “working classes”; they tried to better the lot of the miner, the farmer, the factory worker. You might reject their philosophy, but they were out in the real world, sometimes making sacrifices and taking risks.

But the new progressives are radically different in their subjectivity and relativism. The curious thing about them is their desire to claim the moral high ground, when on their own principles there can be no such *thing* as the moral high ground. You would expect them to be content to leave assertions of moral superiority to those who believe in moral absolutes.

Yet asserting their own moral supremacy, compassion, and sensitivity, while denouncing pro-lifers as unfeeling fanatics and bigots, is almost the essence of their stance. Their claims are irrelevant to the argument about abortion, since the central question is simply whether it is wrong to kill a human fetus, never mind which side has the nicer people. But abortion advocates don’t want to debate that question. Sensing that logic and the most basic human sentiments are against them, they prefer to make unprovable claims about the motives of both sides.

The result has been an image war in which the pro-lifers are at a huge disadvantage, for two reasons. First, of course, their opponents dominate the organs of news, education, opinion, and entertainment—all the *loci* of fashion masquerading as enlightenment. Second, pro-lifers don’t comprehend the public-relations aspect of the abortion war. In the media they are easily made to appear “square” because they attach objective value to fetal life, because they don’t subordinate duty to “choice,” and above all because they don’t seem to *care* how they appear. In a culture where it can be deadlier to be old-fashioned than wrong, these are grave drawbacks.

In a sense, they are too rational, too focussed on the truly pertinent. Their virtues are turned against them and made to look like vices, partly because, unlike their more cunning opponents, they aren’t interested in looking virtuous. Their sole concern is the welfare of the real victims of abortion—while the media have ruled out honest depictions of those victims, devoting their considerable dramaturgical powers instead to

the plight of the Paulette Masons—real or, if necessary, imagined.

Cynical suspicions that *this* Paulette Mason, or her creator, is fudging are bolstered by Sister Una McCormick, the nun who directs New York's Catholic Home Bureau. Sister Una was furious when she read the *Times*' op-ed piece. She too called the *Times* to relay an offer of assistance to "Paulette," including all her expenses. But "Paulette" never called back.

Most likely, she had never called in the first place. All switchboard operators for the Archdiocese of New York are trained to be especially sensitive to pregnant callers (and to callers who have had abortions) and to refer them to the Catholic Home Bureau. The Archdiocese even maintains a toll-free hotline for this purpose, which it advertises widely, and it keeps social workers on hand to receive calls, set up appointments, and offer comfort and assistance to women who need help. Its full-page ads answer the most common questions, assuring privacy, confidentiality, and the most convenient possible arrangements.

Is it just part of the pattern of Ms. Mason's abysmal luck that she somehow failed to learn of the aid that was easily available to her from New York's most notoriously anti-abortion institution, the Catholic Church? Or did her creator purposely avoid mentioning that aid?

Most likely the latter. Any woman who was desperately hoping to keep her unborn child would have a hard time missing the opportunity that the Archdiocese affords through its program for unwed mothers, run by its sixty-year-old agency, the Catholic Home Bureau. There are women far more unfortunate than Ms. Mason, but none has ever had such a freakishly unbroken string of lousy luck in seeking help. The odds against being turned away at so many consecutive doors nowadays are astronomical.

Which leads to the further suspicion of ideological histrionics. The piece subtly puts the Catholic Church on the side of the uncaring anti-abortion recession-and poverty-engendering reactionary forces, like the Quayles. The only compassionate voice Ms. Mason encounters is that of the wise abortionist, the first character in her curious story to express concern for both her and her unborn child.

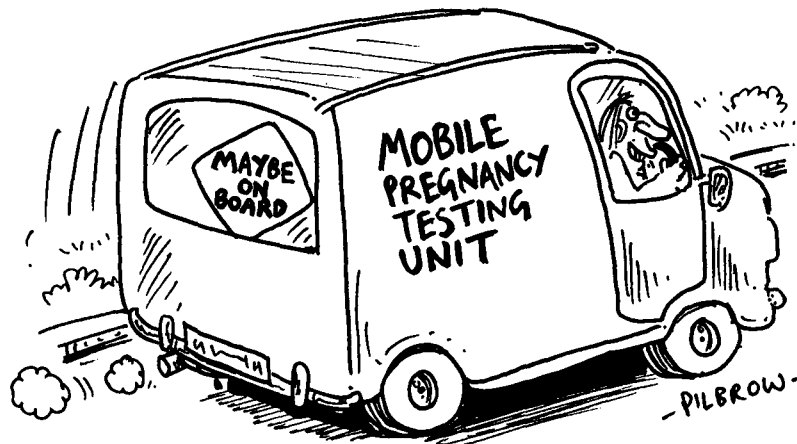
Journalistically, the story is a fake. But it can also be read as a liberal fable. The author has taken pains *not* to present the main character as a doctrinaire feminist, but as a would-be traditionalist who naively begins by agreeing with Marilyn Quayle about "family

JOSEPH SOBRAN

values” and abortion. The character, upon discovering her pregnancy, begins a bitter pilgrim’s progress to enlightenment, as she meets successive letdowns from her baby’s father, insurance companies, state welfare agencies, her own family, and—climactically—the Catholic Church.

It is meet and just indeed, from the standpoint of the *Times*’ ideology, that the Church should inflict on poor Paulette her supreme disappointment, exposing its heartless hypocrisy. Dragging the Catholic Home Bureau into the tale would have risked a ruinously happy ending, with a totally undesired moral. Our heroine would have been deprived of the raised consciousness and unrelieved victimhood liberalism demands. (Needless to say, the *Times* gives little or no coverage to charitable programs, Catholic and otherwise, for unwed pregnant women.)

In the real world, there’s another moral: You can’t lose ’em all, even if you get yourself pregnant out of wedlock. Love exists, even if you have to look for it sometimes. Heaven forbid that I should sound optimistic! But simple realism should complicate the pat pessimism of the *Times*, in which every unsought pregnancy leads inexorably to the abortion clinic. I’d write my own fable about this except that the *Times* would deem it unfit to print.



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Katha Pollitt Strikes Out

Maria McFadden

The Clinton Era is upon us: we are a “Pro-choice” nation now, isn’t that wonderful? The women at The National Abortion Rights Action League and The National Organization for Women think so, as do all the new Lady Senators and Congresspeople. But I still wonder what is in the minds and hearts of these outspoken advocates of “reproductive freedom.” How did abortion—which they themselves used to call “a tragic but necessary option”—become not only a right but a rite of womanhood, something to cheer wildly for at political conventions?

And what makes an intelligent, sensitive writer and thinker throw away logic when it comes to this issue? These questions hit hard when I came across an article in *Glamour* by Katha Pollitt, titled “Why Do We Romanticize the Fetus?” I immediately turned, with a sinking heart, to her article. Pollitt used to be a favorite writer of mine. In her early career she was primarily a poet, and a good one—I read her poetry in college and devoted a term paper to discussion of three of the poems from her book, *Antartic Traveller* (which won the National Book Critics Award in 1983). The poems I particularly liked were set in New York City: Pollitt’s words expressed the realities of this city’s life for a young single career woman—a combination of thrilling involvement and anxious loneliness. In one poem, “Turning Thirty,” the speaker describes the excitement of walking up the “dazzling” avenues of the city, and writing “feverishly” in her notebooks, “dazed with ambition”—yet in sharing a meal with married friends who “lock glances” over desert, she feels left out. Realizing that she is not as young as she would like to believe (the gay Indian skirts “flapping on the sidewalk rack” are marked “clearer than price tags” not for her), she asks poignantly:

Oh, what were you doing, weren’t you paying attention
that piercingly blue day, not a cloud in the sky,
when suddenly “choices”
ceased to mean “infinite possibilities”
and became instead “deciding what to do without”?

Perhaps Pollitt has learned to do without the sensitivity and wisdom

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that made her a fine poet. In recent years, she has published more essays than poetry (she is soon to publish a book of essays), and has been a most virulent proponent of abortion and other feminist issues. She is currently an Associate Editor at *The Nation*, a leftist opinion magazine. As a supporter of "choice," she doesn't always give the concept the gravity of her above poetry, but said in a New York *Times* column in 1988 that abortion is merely "a bloody, clumsy method of birth control." She wrote then that, of her friends who have had abortions because "a baby at that time of their lives would be a disaster . . . not one of them regrets her choice. Just as not one of them regrets her decision, five or three or two years ago, to become a mother." She does not say if she includes herself in this group, but she does have a wanted child, a little girl of five.

Pollitt's recent article for *Glamour*—a glossy women's magazine with articles on AIDS and abortion next to articles on the most seductive shade of lipstick—addresses what she calls America's "obsession" with the fetus. Fetuses are everywhere: intrauterine photography, such as *Life* magazine's breathtaking photo series by Lennart Nilsson; dolls illustrating pregnancy, like the Mommy-to-Be doll; "hip" child-care magazines advising expectant parents to talk to and play soothing music for their fetus; criminal charges brought against an expectant mother who uses drugs or a man who beats a pregnant woman and causes a miscarriage ("feticide"), and advances in fetal medicine such as fetal surgery. And then there are of course ultrasound pictures, which are now routine for pregnant women—usually at four months along a woman will see a sonogram, and she often continues to see a steadily-more-recognizable picture as the pregnancy progresses.

So Pollitt asks: "Why are we romancing the fetus? Throughout history, people have marveled at the mystery of conception, prenatal development, and birth. But they didn't obsess about fetuses." Her answers are first, and obviously, technology—for the first time we can *see* the fetus in the womb. Second, with women having fewer children, and later in life—and when they choose—the child in the womb creates tremendous excitement. But, she says, there is another reason: with all the tensions and fears of the modern world, we all feel personally at risk—from criminals, drunk drivers, AIDS. Violence and corruption have made even our children seem tainted and worldly. "What's left? The fetus, the only remaining repository of innocence and virtue. Only the fetus, who has not yet entered the world, is pure."

Is she right? Certainly objective science has a lot to do with it: technology has allowed the exploration of a mysterious place, the womb, and intrauterine photography is indeed amazing and fascinating. And, it's true, our mothers and grandmothers who had children every other year without questioning the "choice" might not have been as excited over each birth as is our modern mother, who is having her first and maybe only child later in life (though one wonders if our mothers and grandmothers had a greater appreciation of the inviolability of life). It *is* plausible that we want to identify with the fetus because he or she is pure and innocent; one cannot identify with the fetus anymore if one wishes to feel safe. The safety of the womb has turned into risk—our fetus-self might be born lovingly *or* painfully exterminated. Moreover, when a woman ooh's and aaah's over a sonogram picture, as do her husband and other relatives and friends, it is doubtful that she is reminiscing about her own youth—all the excitement and anticipation is over a new person, a source of joy and hope.

Whatever the causes, Pollitt finds all the fetus-"fetishism" negative, especially the sonogram. "Ultrasound . . . has subtly shifted the drama of pregnancy from the flutters and kicks and hormonal changes the pregnant woman feels to something everyone can *see*. By making the fetus 'public,' ultrasound diminishes the significance of the woman's private experience." I wonder if *Glamour* readers bought this. (Uh-oh, better cancel my sonogram appointment, respected feminist says I'll feel diminished.) If so, where is the logic? The pregnant women I know have reacted to ultrasound with awe and joy, as well as relief, as they can see for themselves that their baby is alive and well. They also have a *choice*—they can, for instance, choose *not* to see a sonogram, and choose *not* to know the sex of the baby before birth. But does a woman really feel "diminished" by seeing what's causing all the feelings, by seeing her own child before birth? Does actually seeing that her body is a nurturing home for a tiny human make her less appreciative of womanhood? As for privacy, no one else has to see her child's sonogram except the doctor.

For Pollitt, the real problem with these pictures is that the *woman* is not seen. "In order to see the fetus, the woman's body must be rendered invisible. She is no longer a human being—but in the language of anti-choice propaganda—a 'maternal environment.'" (Do x-rays make us merely a bone environment?) Focusing on the fetus is

ideologically harmful for women. Pollitt has felt this threat for a while—in 1990, she wrote in *The Nation* that “fetal rights” (always in quotes) were the “new assault” on feminism. She claims altruistic concerns: she finds it hypocritical that women could be arrested for abusing their fetus, through drug or alcohol use before birth, but that same child might be brought up in poverty with no help from the government. Pollitt says that it is no coincidence that “we are obsessed with pregnant women’s behavior at the same time that children’s health is declining”—thousands of children are homeless, childhood diseases are up, and millions of kids have no health insurance. “Although concern for the fetus may look like a way of helping children, it is actually, in a funny way, a substitute for it.”

Acknowledging the rights of the fetus should not mean the neglect of children any more than attention to AIDS should lessen our concern about cancer. But the plight of our children reflect societal problems much more complex than fetal attention. It is always convenient to deflect an argument by blaming your opponent for society’s woes; “anti-choicers” have long been accused of caring about a baby only until it is born. However, since abortion has been legalized, child abuse has gone up—some sources say as much as one thousand per cent. Pro-lifers claim this is due in part to abortion’s impact on women’s self-esteem and ability to deal with stress. I suppose Pollitt would answer that an unwanted child will be resented, and that resentment can turn into anger and abuse. But it is logical to assume the following: abortion sends the message that life is expendable, and if a baby can be killed before birth without punishment, what makes it so precious in a few months or a few years? We in New York often read about newborn babies left in dumpsters—maybe the mother waited too long to get a legal abortion, but why should she be afraid to kill the child that society encouraged her to kill a few months earlier? Furthermore, there are some two million couples in the U.S. hoping to adopt—no child in this country is “unwanted.”

Pollitt wrote in *The Nation* that the “truth” behind “fetal fetishism” is “controlling women. It’s a reaction to legalized abortion and contraception, which have given women, for the first time in history, real reproductive power.” She sees a conspiracy here, but fetal attention is in large part due to scientific knowledge, and it has been awfully difficult to slow down progress, whatever the ideological pressures. If something new *can* be done it usually is. If science could control itself, fetal photography might be a hidden development, because

it is very bad news for women's "reproductive power." This is simply because a picture says a thousand words, and what these pictures show is a separate human being, dependent upon and innocently trusting his or her mother. No, fetal information did not develop from a pro-life conspiracy, but it does put contemporary moralists in a bind. In the early days of legalized abortion, all that was being killed was "a blob of tissue." Now that has been scientifically proven false. Whether one chooses to protect the fetus or not, it is impossible to say that it doesn't look human and that it is merely a part of a woman's body. Blobs in our bodies do not swim, suck their thumbs, or have heartbeats. If we can perform fetal surgery to save a preborn's life, there is a life to be saved.

On the one hand, society has responded to this increased knowledge by worrying more about a mother's responsibility to this other person during pregnancy, and people can see that the state has an interest in that "other"—the mother may not be given free reign to abuse herself and her child. On the other, abortion is an ever more touted legal "right," so those involved in fetal matters are supposed to protect the fetus only if he or she is *wanted*, or if the mother is too much of a substance abuser to decide she doesn't want the child and have an abortion before the authorities decide she is being abusive. In Pollitt's view, a crack addict who aborts a child (so she can "take care of herself") gets a better grade in maternal care than a mother who bears a child while using cocaine. It is better to be dead than poor, better to be dead than ill, better to be dead than mentally or emotionally "challenged." This makes us no better than the Nazi eugenicists, but we're not supposed to point that out.

Faced with the mounting evidence of fetal humanity, pro-choicers have the choice to rethink their position; instead, Pollitt avoids the issue of the humanity of the fetus and looks for hidden evil in every sign of that life. "We turn the fetus into a symbol and then confuse the symbol with biological reality," she writes. But it is she herself who is confused—the biological reality is what is so obvious. Pollitt says in *Glamour* that pro-lifers distort fetal imagery on purpose by depicting the fetus as larger than it actually is, at later-term, or right side up instead of, naturally, upside down. She's missing the point. Who, looking at a fetal photograph with the head on the bottom, wouldn't turn that photo upside down anyway? It takes no great mind to see that the fetus-photo is enlarged, we can estimate

what size it is, but that is what makes the photos all the more amazing—though only the size of a “period on a typewriter,” as Pollitt says, this little creature has fingers and toes, eyes and ears and a little nose. We might as well outlaw the use of microscopes in labs for creating distortions rather than helping people look at the true nature of the materials they are seeing.

In 1989, Jason DeParle had an article about liberals and abortion in the *Washington Monthly*, where he was then an editor. He used many quotations from Katha Pollitt (he’d had a long conversation with her about abortion) and he wrote: “She cited the many ways in which women (and the children antiabortionists want them to raise) are injured by society: poor health care, poor housing, economic discrimination, male abuse. . . . But when I asked her which, of the many justifications for abortion, she felt most deeply—what, in her mind, was the real core of the issue—her answer surprised me. ‘Deep down,’ she said, ‘what I believe is that children should not be a punishment for having sex.’”

Children used to be the reward, or at least the expected outcome, for having sex. Once sex was separated from procreation, something had to be done about the “accidental products of conception,” and the answer was to dehumanize them. “Maybe I’m a cold and heartless person,” writes Pollitt, “but I find it hard to think of it as a moral question, the right to life of this thing the size of a fingernail.” But now that we have proof that that “fingernail” has 10 fingernails of its own, where is the argument? If “children” need to be killed because they punish us for having a good time sexually, maybe we need to re-think the act of sex. It is either A) a physical act that can express love, or mere physical gratification, good for intimacy and relaxation, with no consequences, or B) it is a physical act that can have emotional and spiritual components, but, unless the body is physically altered in some way, will often result in a new life. Since the answer is B, the only way to make it A is to pretend that a new life does not result; that it is merely “a blob of tissue.” The only way to keep asserting that in the face of all the evidence to the contrary—fetal photographs, expectant mothers’ experiences, pro-lifers who are convinced that abortion takes a human life—is to harden our hearts against the “children,” which Pollitt herself calls them, that might be born. The use of contraception can be a method of family planning, but there is always a chance of failure; there is no way to count on it as fool-proof unless you are willing

to adopt attitude A, which refuses to accept the life that has been brought about by accident. A responsible driver may take all the precautions necessary to drive carefully, but if a child darts out into the road he has a duty to try not to hit it, even if he swerves, puts his safety at risk, and smashes his car. The appearance of another human life changes the rules.

Pollitt may be cold-hearted; more likely she is unhappy, confused, and perhaps “in denial.” In the same DeParle interview, Pollitt, by that time a mother, said “It’s hard for me to imagine circumstances in which I’d have an abortion at this time in my life.” She also says “A woman in the fifth month of pregnancy is going to have strong feelings.” A year earlier, in her *Times* piece, she talked of her friends’ abortions as if they were as routine as traffic tickets. As an outspoken activist for abortion “rights,” whether or not she has actually had an abortion herself, how did she feel when she was pregnant with a wanted child? Why is she so angered by fetal rights now? Is it because she can’t bear to admit that she was wrong? And there are the other feminists who boast of past abortions: what is going on inside their minds? Think how awful it is to start becoming sensitized to fetal life after an abortion—nothing, nothing will ever bring your fetus back. He or she was a one-time offer. And no amount of wishing things had been different can bring the dead back to life. If humans will often do just about anything rather than facing the naked truth about themselves, then perhaps when professional writers are threatened with self-disclosure they will write just about anything to deny the truth. In the case of pro-abortionists, few of them demand logical consistency for their arguments, perhaps because they are all threatened by reality.

Many pro-choice activists are women who have had abortions. Our popular culture is so saturated with psychological terms that we all know about denial (“not a river in Egypt” quips the *Saturday Night Live* feel-good therapist), but denial is a very human response to situations or events that provoke disturbing emotions. Admitting any responsibility for a person’s death would be agony for most; refusal to admit fault turns would-be agony into anger at the accusers. That is why, with the refusal of pro-lifers to go away, and the increased knowledge about fetal life, the anger and illogic and unfairness of the pro-choice side has grown. “Liberals” who defend the underdog won’t defend the tiniest and most unprotected human. Liberals who

champion the right of free speech, even to the lengths of allowing as "Art" photographs of children which some critics consider pornography, will prevent pro-lifers from even speaking—this happened dramatically in New York, when Pennsylvania Governor Bob Casey, invited by the *Village Voice* to speak about being a Democrat *and* pro-life, was shouted down and silenced by protesters. In Berkeley, California, as the *Wall Street Journal* reported, a student newspaper rejected an advertising supplement from Berkeley Students for Life on the grounds that it would offend most of their readers and financial supporters, who are pro-choice. The incident was then compared by the student editor to another ad rejected, one which declared the Jewish Holocaust a hoax. And at the Ivy League Coalition for Life conference at Cornell (planned, financed and attended by pro-life student organizations), protesters bussed in from New York City greeted pro-life attendees with obscene chants, shouted down the first speaker, surrounded him at the podium and spat on him. As they became more violent they assaulted a police officer. These protestors said they were from the National Women's Rights Organizing Coalition and the Women's Health Action Mobilization.

Is there any hope for these angry women? Yes. Some of the most effective women in the right-to-life movement—Nancyjo Mann, Olivia Gans—are women who have had an abortion; others, like Frederica Mathewes-Green of Feminists for Life, were formerly abortion advocates. Women Exploited by Abortion, American Victims of Abortion, and Victims of Choice are three organizations whose pro-life activities are made possible by their membership—women who have had abortions. No one can say these women do not know what they are talking about. If women can be brave enough to face what they have done or what they have encouraged others to do, and then forgive themselves and believe themselves forgiven, they can go on with their lives and even use their hard-earned knowledge to help others. Real feminists—women who care about women—should face the truth. As author and *Review* reader Brad Stetson wrote to me, "having an abortion is not *controlling* one's own body, and . . . *Roe v. Wade* was a great boon to irresponsible and sexually predatory men. It objectified women in a profound way, turning them into devices that men—and unprincipled, aborting 'physicians'—use, then discard. This is a paradox that completely escapes the feminist lobbies."

The paradox of increased knowledge of fetal life and 1.6 million abortions per year is also escaping feminist lobbies, and that is why

they do not have the membership of the majority of women in America. The National Women's Coalition for Life actually has more members than NOW or NARAL.

There are no easy answers. Men can have uninterrupted careers and families; women cannot. However, men cannot have careers and families without a huge increase in responsibility—financial, spiritual and emotional; just because they don't bear the physical inconvenience does not mean they do not inconvenience themselves and their jobs for their family, if they are good fathers. If abortion didn't exist, women for whom career is everything might have to live without sex, or take a few months off to make a great and loving sacrifice to bring a life into the world for a childless couple to adopt. But one way to increase anger and hypocrisy, pain and tragedy is to lie—to ourselves and to others. And women who have sensitivities as Pollitt at least *once* had should stop raging against something as simple as a photograph, and ask themselves what is at the root of the anger. It may be directed within.

Abortion, before it became legal, was the subject of another woman poet, Anne Sexton, whose tragic life included child abuse (she was victim and perpetrator), mental illness, and eventually suicide. Guilt over her abortion was said to have affected her deeply. After describing her trip to procure an abortion, where a man "took the fullness that love began," she wrote:

Returning north, even the sky grew thin
like a high window looking nowhere.
The road was as flat as a sheet of tin.

*Somebody who should have been born
is gone.*

Yes, woman, such logic will lead
to loss without death. Or say what you meant,
you coward . . . this baby that I bleed.

The Perversion of Privacy

Robert M. Byrn

Louis Brandeis, the late Supreme Court Justice, once characterized the “right to be let alone by government” as “the most comprehensive of rights and the right most valued by civilized men.”¹

Hyperbole may be the one proclivity shared in common by all Supreme Court Justices. Still, overwrought as the Brandeis dictum may be, it attracts both the liberal, always fearful of oppressive government, and the conservative, always wary of big government. In one way or another, we all want government to let us alone.

We are particularly jealous of our privacy. There are parts of our lives we want to keep to ourselves. Not surprisingly, these privacies of life fit well under the broad umbrella of the right to be let alone by government. As Justice Brandeis put it, “every unjustified intrusion by the Government upon the privacy of the individual” runs afoul of the right. When we speak of a “right of privacy” we are really speaking of a piece of the right to be let alone.

But notice: the privacies of life are not invulnerable. The right of privacy protects us only from “unjustified intrusion by the Government.” It follows that some government intrusions are justifiable.

One way in which government may intrude is to incriminate or otherwise regulate specified conduct, even though the conduct occurs in private and even though the participants be consenting adults. Are such intrusions ever justifiable? The answer to that question will take up a good part of what appears below. But before we come to that, let me set out the thesis of this article and a case in point. First, the thesis:

Until relatively recently, the right of privacy has protected from government dominance certain relationships and has excluded from its protection certain conduct (even within those relationships) on the basis of fundamental principles that incorporate traditional Christian values; the right of privacy has had a high moral content. In recent years, courts have callously redefined the right in order to remake society, and in so doing, they have moralized perversions and demoralized the law. Nevertheless, the right of privacy could again be what it once was.

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Now, the case in point.

In 1980, in *People v. Onofre*,² a case involving homosexual sodomy, the highest Court of New York State declared unconstitutional the New York statutes incriminating consensual sodomy. The decision deserves a close look; it moralized homosexual sodomy and demoralized the criminal law. Said the Court: "Because the statutes are broad enough to reach noncommercial, cloistered personal sexual conduct and because it permits the same conduct between persons married to each other without sanctions, we agree with defendants' contentions that it violates their right of privacy and the right to equal protection of the laws guaranteed them by the United States Constitution."

As to the right of privacy, the Court reasoned that if, as the Supreme Court of the United States has held, the Constitution protects the decision to use contraceptives, to have an abortion, and to possess pornography in one's own home, then the Constitution—specifically the right of privacy—protects "the voluntary engagement by adults in private, discreet, sodomous conduct." The Court could find no basis for a penal intrusion upon the right because there had been no showing that the proscribed conduct threatened the participants or the public in general, "and even disapproval by a majority of the populace, if that disapproval were to be assumed, may not substitute for the required demonstration of a valid basis for intrusion by the State in an area of important personal decision protected under the right of privacy drawn from the United States Constitution—areas, the number and definition of which have steadily grown but, as the Supreme Court has observed, the outer limits of which it has not yet marked."

The majority rejected the arguments of the dissenters that "Scholars from Aquinas to Blackstone considered even consensual sodomy to be as heinous as the crime of rape," and that "the so-called 'police powers' of the State must include the right of the state to regulate the moral conduct of its citizens and 'to maintain a decent society.'"³ In response to the dissenters, the majority would "express no view as to any theological, moral or psychological evaluation of consensual sodomy," but asserted rather that "it is not the function of the Penal Law in our governmental policy to provide either a medium for the articulation or the apparatus for the intended enforcement of moral or theological values [although] the community and its members are entirely free to employ theological teaching, moral suasion, parental

advice, psychological and psychiatric counseling and other noncoercive means to condemn the practice of consensual sodomy.”

As to the right to equal protection of the laws, the court could find no ground of difference that “rationally explains” the different treatment accorded married and unmarried persons because “no showing has been made as to how, or even that, the statute banning consensual sodomy between persons not married to each other preserves or fosters marriage.”

Note the foundation stones of the decision: the “fundamental” constitutional right of privacy is without guiding principle or moral constraint. The Supreme Court alone may “mark the outer limits” of the right (raw judicial power in place of the rule of law?), which the Supreme Court has yet to do. In the meanwhile, the right of privacy will be deemed broad enough to include a “fundamental” constitutional right of consenting adults to commit homosexual sodomy in private. The perceived immorality of consensual homosexual sodomy is not a sufficient basis for incriminating it; the criminal law is an inappropriate vehicle for the articulation and enforcement of morality. The scholarly tradition from Aquinas to Blackstone (encompassing the values upon which our nation was founded: *vide* the next section of this article) is irrelevant to the right of privacy; the traditional power of the state to regulate the moral conduct of its citizens and maintain a decent society is no more relevant.

Quite apart from the right of privacy, a law that incriminates sexual conduct between unmarried consenting adults runs afoul of the constitutional right to the equal protection of the laws unless it also incriminates the same conduct between people married to each other; in sexual matters, the married state is irrelevant.

Of course, the Court tells us, the community and its members are free to use noncoercive means to condemn homosexual sodomy. Or are they? Or has not the Court been naive, at best? The simple fact is that in raising homosexual sodomy to the status of heterosexual marital relations—the Court has moralized the practice.

Professor Paul Freund of Harvard has written, “The Court does inevitably serve as a public conscience. The great fundamental guarantees of the Constitution are, after all, moral standards wrapped in legal commands: due process of law, equal protection of the laws, cruel and unusual punishment, free exercise of religion. When claims are raised in lawsuits that invoke these ethical-legal standards, the opinions of the Court are bound to contribute to our more general thinking

about social justice and ethical conduct.”⁴

To Professor Freund’s catalog of fundamental guarantees of the Constitution that, *qua* fundamental, are moral standards wrapped in legal commands, the New York Court has now added the fundamental right to commit homosexual sodomy. As a result of the New York Court’s decision and like decisions in some other states, a militant homosexual community, which never thought that it was doing anything wrong, now marches under a banner of social justice and ethical conduct.

And march they would. The consenting adults who once only sought to engage with impunity in “private, discreet, sodomous conduct” now want to array themselves, as practicing homosexuals, in Saint Patrick’s Day parades—as *a matter of right*.⁵ Add to this new militancy a generous dollop of what G. K. Chesterton called the slavery of positive morality—“It is not now enough that I do not do what my neighbor dislikes; I must like what my neighbor likes”⁶—and the result is: It is not enough that the community lets homosexuals alone to their own private devices; the enemies of moralized sodomy must become the enemies of the community. The Association of American Law Schools now prohibits its member schools from cooperating in the recruitment efforts of the military because the military discriminates, albeit lawfully, on the basis of sexual preference.⁷ In a tight job market, graduating law students are deprived of work, while at the other end of the educational spectrum, a proposed curriculum for New York City first graders instructs teachers to foster positive attitudes toward gays and lesbians.⁸

“Private, discreet, sodomous conduct,” once buried on the fringes of the right of privacy, sprouted into sodom-on-parade and grew into a zealous homosexual hegemony. Sodomy has become a civil right; condemnation of sodomy is anti-American.

How outrageous! Isn’t it time to mount a campaign against this insidious “right of privacy”? No, not yet! Remember, the first part of the thesis of this article: until recently the right of privacy incorporated traditional Christian values; it had a high moral content. It has been a valuable right. We ought not scrap it without first carefully considering its sources and proper uses.

The Sources of The Right of Privacy

The Constitution of the United States nowhere mentions a right to be let alone or a right of privacy. It is true that many of the rights in the Bill Of Rights are commands to government to let us

alone. The injunction in the First Amendment that "Congress shall make no law" prohibiting the free exercise of religion or abridging the freedom of speech or of the press is a clear example. And some notion of sacrosanct privacy underpins the Fourth Amendment dictate that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . ." However, though a let-alone/privacy philosophy is manifest in certain specific constitutional guarantees, there is no *in haec verba* declaration of the philosophy as a generalized right or rights. Yet the constitutional right of privacy has lurked in our law under one rubric or another for a long time. Whence comes it?

It is said that the right of privacy is implicit in the Fourteenth Amendment guarantee that no person shall be deprived of life, liberty, or property without due process of law. The "Due Process Clause" is not merely an assurance of fairness in criminal procedure; it incorporates substantive rights. Some would dig deeper to discover a residual right of privacy in the Ninth Amendment admonition: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

This concept of undefined Constitutional rights—"substantive due process," as it is called—has its detractors. They see it as a roving commission to judges to impose their own philosophy on society under the guise of protecting individual rights, and, to an extent, the detractors have a point. Judicial imperialism is a dangerous thing. *People v. Onofre* proves that. But the right of privacy is not as unprincipled as the majority of judges in *Onofre* would have us believe; there are restraints.

The primary restraints are the values upon which our nation was founded. The Virginia Declaration of Rights, adopted six months before the Declaration of Independence, proclaimed "That all men are by nature equally free and independent, and have certain inherent rights, . . . namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety."

The Virginia Declaration is frequently identified with the sometimes extreme, *laissez-faire* individualism characteristic of the political theories of the seventeenth century political philosopher, John Locke—particularly in the emphasis on property rights and the absence of any mention of God.⁹ But the influence of Locke is overrated. The liberty, which "by nature" belongs to all men, is "by nature" not unrestrained.

The Virginia Declaration warned "That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles." These "fundamental principles," which were too familiar to the framers of the Declaration to need cataloging, actually informed the "liberty" that the Declaration embraced. What is more, in guaranteeing religious freedom, the Declaration spoke of "the mutual duty of all to practise Christian forbearance, love, and charity, towards each other." It is evident the "fundamental principles" were rooted in the Christian tradition which predicated the natural rights of man, not on any moated individualism, but on man's essentially social nature and the mutual moral obligations that flow from it.¹⁰ Indeed, in arguing a case before the Virginia General Court in 1772, George Mason, who later authored the Virginia Declaration, urged, "Now all acts of legislation apparently contrary to natural rights and justice are in our laws and must be in the nature of things considered as void. The laws of nature are the laws of God, Whose authority can be superseded by no power on earth."¹¹ God's natural law is one of mutual moral obligations as well as personal rights. The words come from the Christian tradition, not from John Locke. Mason meant to say nothing different in the Virginia Declaration four years later.

The Declaration of Independence, coming as it did hard on the heels of the Virginia Declaration, found in "the Laws of Nature and of Nature's God" the self-evident truths "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Here too, it is clear that liberty is not unrestrained, that it is circumscribed by certain constraints apparent in the Christian tradition and inherent in the social nature of man. After all the same Creator—Nature's God—who endowed us with liberty also gave us the Ten Commandments. The notions of sin and immorality that pervaded the criminal law of the several colonies,¹² co-existed with the self-evident truth that the Creator endowed man with an unalienable right to liberty.

All this is not to say that the two Declarations are theological documents. It is to say that their common conception of the inherent dignity of man is predicated on a Christian view of the nature of man and the society in which he lives. This view leads both to an unalienable right to liberty and to moral restraints upon the exercise

of that liberty which together comprise the “natural law” values that are the warp and woof of our basic law.

It is true, on the other hand, that not all of these moral restraints need be made into crimes. Not everything that is immoral need be criminal. Prudential judgment may lead to legislative decriminalization of certain immoral conduct, but assuming that we are correct in finding the sources of the right of privacy in the values upon which the nation was founded, it can hardly be said that the right of privacy encompasses a fundamental right to be immoral.

Parenthetically, let us note that not all modern courts and judges have raised immorality to the status of a fundamental right. The Supreme Court of the United States, in the case of *Bowers v. Hardwick*,¹³ decided six years after the decision of the New York Court in *People v. Onofre*, rebuffed a claim that the Georgia sodomy statute violated the right of privacy of consenting adults who committed homosexual sodomy in the home of one of them. Applying one definition of the fundamental liberties that comprise substantive due process, Justice Byron White, writing for the Court, found that the alleged right to commit sodomy was not “among those liberties that are deeply rooted in this nation’s history and tradition.” Moreover, the sodomy law could not be said to be without a rational basis even if the only basis for it were the presumed belief of a majority of the electorate in Georgia that homosexual sodomy is immoral and unacceptable. “The law, however, is constantly based on notions of immorality and if all laws representing essentially moral choices are to be invalidated under the Due Process Clause, the courts will be very busy indeed.” Chief Justice Burger wrote separately to underscore, among other things, that “Condemnation of [homosexual] practices is firmly rooted in Judaeo-Christian moral and ethical standards.” (The dissenters in *People v. Onofre* were right on target when they found the limits of the right of privacy in the jurisprudence of Aquinas and Blackstone.)

At least in this one recent opinion, Justices of the Supreme Court invoked principles “deeply rooted in this nation’s history and tradition,” and “firmly rooted in Judaeo-Christian moral and ethical standards”—the “natural law” principles of the Virginian Declaration and the Declaration of Independence—to sketch the moral perimeters of privacy.

The idea that the Declaration of Independence informs the Constitution is not new. Even before the Civil War and the Fourteenth Amendment, Abraham Lincoln could invoke the Declaration to support a constitutional critique of the *Dred Scott* decision.¹⁴ A number of

modern scholars have advocated the need of something of value to give substance to substantive due process and the Ninth Amendment—and they have appreciated that the most valuable things we have in our national treasury are the values espoused in the Declaration of Independence.¹⁵

It was for Clarence Thomas to put the ultimate imprimatur of principled pragmatism on the incorporation of the Declaration into the Constitution. In arguing that the Constitution is a logical extension of the Declaration, the then Chairman of the United States Equal Employment Opportunity Commission (and now Supreme Court Justice) urged that “natural rights and higher law arguments are the best defense of limited government. Moreover, without recourse to higher law, we abandon our best defense of judicial review—a judiciary active in defending the Constitution, but judicious in its restraint and moderation. Rather than being a justification of the worst type of judicial activism, higher law is the only alternative to the willfulness of both run-amok majorities and run-amok judges.”¹⁶

If you take the Declaration of Independence out of the Constitution, what of value do you put in its place?

The Proper Uses of Privacy

It's all well and good to talk of “higher law,” but when you come right down to it, the citadel of privacy appears more than a little porous; all sorts of moral principles, some made into crimes, are free to intrude. Does it really protect our right to be let alone?

Consider this very real case: You have placed your young children in a religiously sponsored private school where, in addition to the religious training which you, as parents, have determined to be in their best interest, they are receiving what everyone agrees is an excellent secular education. The state in which you live has now enacted legislation which requires parents, under pain of a criminal conviction, to enroll their children in public schools. What recourse have you?

You might, as in the case of *Pierce v. Society of Sisters*,¹⁷ institute a constitutional challenge to the statute. You would allege that a “run-amok majority” (to borrow Judge Thomas' phrase) has unjustifiably infringed your familial right to be let alone in making decisions on your children's education. And the court, as did the Supreme Court in *Pierce*, would (or should) agree. The paramount natural right of parents, coupled with their “high duty,” to prepare their

children for life excludes any general power of the state to "standardize" children by arbitrarily forcing them to accept instruction only in public schools; but the state can require parents, under pain of criminal conviction, to send their children to a school that has passed reasonable state scrutiny, which, of course, you have done.

In its traditional usage, the constitutional right to be let alone is nicely balanced. Without it, a run-amok majority might have removed your children from the religious school for "standardization" in the public school. On the other hand, the familial right of privacy carries with it "high duties"—e.g., the obligation to educate children—which the legislature may enforce by reasonable regulation, without interference from run-amok judges.

Pierce v. Society of Sisters was preceded by *Meyer v. Nebraska*,¹⁸ the seminal Supreme Court decision on familial privacy. *Meyer*, like *Pierce*, affirmed the paramount liberty of parents to direct the education of their children in the face of arbitrary state regulation. In the course of the *Meyer* opinion, the Court, in words worth repeating here, explained the meaning of "liberty" in the Fourteenth Amendment: "Without doubt [liberty] denotes not merely freedom from bodily restraint but also the right of the individual to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men."

Note that the liberty is not libertine; it is not unprincipled or amoral. It is directly related to those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. (Homosexual sodomy was not one of them.) It harkens back to the values upon which our nation was founded.

In this traditional view of the right to be let alone by government, not even the private acts of consenting adults are always constitutionally protected from incrimination. For instance, though it be true, as *Meyer v. Nebraska* tells us, that there is a fundamental right to marry and establish a home, that right does not extend to consensual adult polygamy. Less than fifty years ago, the Supreme Court, in upholding a criminal conviction, condemned polygamy as "contrary to the spirit of Christianity and of the civilization which Christianity has produced in the Western world. . . . These polygamous practices have long been branded as immoral in the law."¹⁹

As the polygamy case demonstrates, until recently, the Christian view of the nature of man and the society in which he lives—the values incorporated in the Declaration of Independence—informed the right of privacy. The right of privacy protected certain relationships from government dominance, but excluded from its protection certain conduct (even within those relationships) on the basis of fundamental principles that incorporate traditional Christian values. That some run-amok judges have perverted the right is reason to rehabilitate it, not scrap it.

The Sources of the Perversion

The perversion of privacy did not begin with *People v. Onofre*. In fact, it began most seductively with a decision by the Supreme Court in a case called *Griswold v. Connecticut*,²⁰ in which the Court declared unconstitutional the Connecticut statutes that incriminated both the use and abetting the use of contraceptives within the marital relationship. The Court found that the marital relationship lay within a constitutionally protected zone of privacy “older than the Bill of Rights,” and therefore the statutes were unconstitutional. An eloquent peroration, extolling the institution of marriage, masked the vice of the Court’s reasoning: Seizing upon the obvious—that marriage is within the aegis of the constitutional right of privacy—the Court leapt recklessly to the conclusion that the *conduct* (contraception) within marriage was necessarily insulated from state regulation. The Court neglected to find (nor could it²¹) that contraception was among those natural law liberties deeply rooted in the nation’s history and traditions, that it was among those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. The Court ran quietly amok.

The point here is not that intramarital contraception is the equivalent of polygamy or sodomy. The dissenters in *Griswold*, who might well have praised statutes condemning both those indulgences, thought that the Connecticut law was “offensive”²² and “uncommonly silly.”²³ As legislators, they might have voted to repeal the Connecticut statute (as the Connecticut legislature might ultimately have done). Yet the *Griswold* dissenters also could find no warrant for declaring the contraception statutes unconstitutional. The issues of morality and social policy, raised by the majority justices, were, they thought, best resolved by legislative debate, not judicial fiat.

As with *People v. Onofre*, the *Griswold* judicial fiat became a

slippery slope. Marriage, the sole connection between *Griswold* and the traditional morality of the right of privacy, disappeared in *Eisenstadt v. Baird*,²⁴ wherein the Supreme Court decided: "If under *Griswold* the distribution of contraceptives to married persons cannot be prohibited, a ban on distribution to unmarried persons would be equally impermissible." It was but a short step thereafter to a declaration of the unconstitutionality of a statute that forbade the distribution of contraceptive devices to children under the age of sixteen.²⁵ And, of course, the final degradation was the institution of a condoms-for-kids-parents-be-damned program by the New York City Board of Education²⁶—the standardization of children at the lowest denominator of municipal immorality. So much for the familial privacy of *Meyer* and *Pierce*!²⁷

The perversion of privacy proceeded apace in *Stanley v. Georgia*,²⁸ wherein the Supreme Court held that the right of privacy included the right of an individual "to satisfy his intellectual and emotional needs in the privacy of his own home" by possessing and viewing obscene films. That the films were in fact obscene, that the state might lawfully incriminate their distribution, that they might otherwise be treated as contraband—all this was of no consequence in the invocation of a right that had been completely stripped of moral restraint and historical content.

Like other perversions of privacy, *Stanley* was a beginning not an end. The New York Court in *People v. Onofre* reasoned that if the Constitution protected private sexual gratification achieved by viewing pornography, then *a fortiori* the Constitution must protect private sexual gratification achieved by committing sodomy. Thus do we come full circle in our journey through perversion and demoralization.

Except that we have omitted the greatest perversion of them all.²⁹ The omission was deliberate because ironically abortion may be the salvation of the right of privacy.

The Rehabilitation of Privacy

Abortion is of a species different from sodomy, obscenity, and polygamy. As much as the Constitution, properly construed, does not protect those three practices, neither does it require their incrimination. But, properly construed, the Constitution does require the protection of unborn children. Traditionally the law sought to protect the unborn child, *qua* live human being, from the moment that science was able to detect his existence.³⁰ By excluding this

whole class of human beings from the protection of the Constitution, the Supreme Court procured the ultimate perversion of the right of privacy and the cruellest betrayal of the Declaration of Independence.

Yet the Court remains intransigent. In its most recent decision,³¹ the Court again endorsed the “fundamental right” of privacy to abort. Even the four dissenters, who would have overruled the “right,” were unwilling to advocate the Constitutional right of the unborn child to the law’s protection of life.

Consider the anomalous result: seventy-seven percent of Americans polled in 1990 regarded abortion as “killing” (forty-nine percent saw it as outright murder); at the same time, seventy-three percent favored “abortion rights.”³² The anomaly reflects what has happened in the law. Courts have excised morality from the criminal law in order to create a fundamental right to be immoral and, by so doing they have moralized what was previously immoral. In the abortion context, this means that the immorality of killing an unborn human being is a Constitutionally deficient ground for incriminating abortion; because the grounds for incriminating abortion are Constitutionally deficient, there must exist a fundamental right to abort; because the right to abort is fundamental, then it must be, to use professor Freund’s characterization of fundamental rights,³³ “a moral standard wrapped in a legal command.”

A good portion of the Americans, who know that abortion is killing, if not outright murder, are intimidated into becoming “pro-choice” because the right to abortion is an All-American moral right. And, of course, one should not impose one’s own moral right. And, of course, one should not impose one’s own personal (dare one say it—Christian) morality on those who are exercising an All-American moral right. And, of course, to be pro-choice is not really to be pro-abortion, *etc., etc.*

But as the Supreme Court pointed out in *Bowers v. Hardwick*, the Georgia sodomy case,³⁴ the criminal law is constantly based on notions of immorality, representing essentially moral choices. *What if* that good portion of Americans who know that abortion is killing made the moral choice that they have the right—indeed the obligation—to make: *What if* they said to a run-amok judiciary, “We know abortion is killing; we know the killing is immoral; we know that it is contrary to the Christian values that inform the Constitution; we remind you of your admonition to us: ‘We are a religious people

whose institutions presuppose a Supreme Being.’³⁵ We demand that the values of the Declaration of Independence be restored to the Constitution.”

Of course, it will not be easy. Consider the linguistic barriers between the people and the Court:

The language of perversion: The perverters of privacy have constructed a facade that would put the whitened sepulchre to shame. “Alternate life styles” [homosexual sodomy]; “freedom from censorship” [pornography], “recreational drugs” [self-explanatory]; “pro-choice” [permissive abortion] all seem so *democratic*. But it is just a facade—and behind it are the bones of dead babies.

The language of casuistry: Opportunistic politicians and status-seeking clerics speak facetiously of a “pluralistic” society in which “one may be personally opposed to abortion, but still be publicly pro-choice,” which translates into, “I have washed my hands of the blood of these innocent babies.”

The language of the kulturkampf: The defenders of demoralization have at their command an impressive vocabulary of vilification: “homophobic,” “right wing,” “Fundamentalist,” and the most scathing of them all, “Catholic.” Alas, to some of these pejoratives, some of us will have no response, except, perhaps, to say, “If this be [insert pejorative], make the most of it!”

Despite these obstacles, it is an uneven battle. Arrayed against the languages of perversion, casuistry, and the *kulturkampf*, the people have the language of the Declaration of Independence—the language of the Laws of Nature and Nature’s God—the language of the unalienable Right to Life, a Right which the Creator, not the Court, has endowed. The language of the people is far more eloquent.

Professor Freund thinks that the opinions of the Court on matters relating to fundamental rights “are bound to contribute to our more general thinking about social justice and ethical conduct.” In the same opinion in which he expounded the right to be let alone, Justice Brandeis asserted: “Our Government is the potent, the omnipresent teacher.”³⁶

What if the people reversed the process, and, speaking with the voice of conscience, in the language of the Declaration of Independence, taught Court and Government about that archetype of social injustice and unethical conduct—Constitutionalized abortion. Judges are not deaf to the voices of reason, history and public outrage. “They do not stand aloof on chill and distant heights,” wrote Supreme Court

THE HUMAN LIFE REVIEW

Justice Benjamin Cardozo of his brethren on the Bench. "The great tides and currents which engulf the rest of men, do not turn aside in their course, and pass judges by."³⁷

The people might salvage both the unborn and the right of privacy.

NOTES

1. *Olmstead v. United States*, 277 U.S. 438 (1928) (Brandeis, J. dissenting).
2. 51 N.Y.2d 476 (1980).
3. *Ibid.*, (Gabielli and Cooke dissenting).
4. *Freund, on Law & Justice* 35 (1968).
5. *Boston Globe*, 3/12/92, Metro/Region Section, p. 1; *N.Y. Times*, 3/7/92, p. 29.
6. *Illustrated London News* (American Edition), 10/22/10.
7. *American Bar Association Journal*, Dec. 1991, p. 32.
8. *Kerrison*, *N.Y. Post*, 8/28/92, p. 2.
9. See, e.g., Hartnett, "The Declaration of Independence," in I *The Great Books* 1-7 (Gardiner, Ed. 1949).
10. For a contrast between the Lockean (individualism) and Christian (intrinsic sociality) view of man's nature, see Harnett, *Locke: Of Civil Government*, in *ibid.*, 78-84; Rommen, "Natural Law: Man and Society," 24 *Fordham Law Review* 128 (1955). The Christian values obviously owe a great deal to their Jewish forebears.
11. Manion, *The Founding Fathers and The Natural Law* 18-19 (1950).
12. See Flaherty, "Law and the Enforcement of Morals in Early America," in V *Perspectives in American History* 201 (1971).
13. 478 U.S. 186 (1986).
14. "Speech on the Dred Scott Decision at Springfield, Illinois," June 26, 1857, in *Speeches and Writing of Abraham Lincoln* 1832-1858, 390-403 (The Library of America 1989).
15. See Thomas, "Toward a 'Plain Reading' of the Constitution—The Declaration of Independence in Constitutional Interpretation," 30 *Howard Law Journal* 983 (1987); Black, "Further Reflections on the Constitutional Justice of Livelihood," 86 *Columbia Law Review* 1103 (1986); Mahoney, Declaration of Independence, in 2 *Encyclopedia of The American Constitution*, 545-549 (L. Levy ed. 1986).
16. Thomas, "The Higher Law Background of the Privileges or Immunities Clause of the Fourteenth Amendment," 12 *Harvard Journal of Law & Public Policy* 63-64 (1989).
17. 268 U.S. 510 (1925).
18. 292 U.S. 390 (1922).
19. *Cleveland v. the United States*, 329 U.S. 14 (1946).
20. 381 U.S. 479 (1965).
21. See, "Constitutional Law, Police Power, Birth Control and Contraceptives," 7 *George Washington Law Review* 255 (1938) (reviewing the law).
22. 381 U.S., at 507 (Black, dissenting).
23. 381 U.S., at 527 (Stewart, dissenting).
24. 405 U.S. 438 (1972).
25. *Carey v. Population Services International*, 431 U.S. 678 (1977).
26. See *In the Matter of Alfonso v. Fernandez*, 584 N.Y.S.2d 406 (1992) (upholding the validity of the program on the basis of *Carey v. Population Services International*).
27. See notes 17-18, *supra*.
28. 394 U.S. 597 (1969).
29. *Roe v. Wade*, 410 U.S. 113 (1973).
30. See Byrn, "An American Tragedy: The Supreme Court on Abortion," 41 *Fordham Law Review* 807 (1973).
31. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 112 S.Ct. 2791 (1992).
32. See Rosenblatt, "How to End the Abortion War," *The New York Times Magazine*, 1/19/92, pp. 26, 41.
33. *Supra*, note 4.
34. *Supra*, notes 13.
35. *Zorach v. Clauson*, 343 U.S. 306, 313 (1952).
36. *Supra*, note 1.
37. Cardozo, *The Nature Of The Judicial Process*, 168 (1921).

Another Convention: A Journal

John J. Conley, S.J.

The Democratic Party held its 1992 convention in New York City's Madison Square Garden in mid July. During that steamy-hot week (the one heatwave in an otherwise unnaturally cool summer), I attended another convention in New York—that of the pro-life group Operation Rescue. Rescue's campaign, from July 11th to the 16th, featured only one successful blockade of an abortion clinic, the movement's signature gesture; the week's activities assembled at least two hundred people for prayer vigils, teach-ins, rallies, demonstrations and confrontations with Democratic pro-abortion candidates.

I did not attend Operation Rescue's week as a simple observer. I participated out of the frustration which has touched the pro-life movement in the past month. Despite its window-dressing, the Supreme Court's *Casey* decision has declared a "liberty of abortion" which exists nowhere in the Constitution. The figleaf decision, explicitly designed to save the Court's "legitimacy," doesn't even try to defend the legal scaffolding of *Roe v. Wade*, the 1973 decision which concocted the most brutal pro-abortion policies of the West out of the daydreams of Justice Blackmun.

There is another frustration: the Democratic Party's complete betrayal of the child in the womb. This was once my party. In 1972, I crammed with other undergrads in a Volkswagen beetle to do battle for St. George (McGovern) in the California primary. The issue then was the war in Vietnam. On the eve of this convention, in 1992, the Democrats embrace a *de facto* policy of abortion on demand throughout the nine months of pregnancy. Despite the veils of "choice," they will force citizens to pay millions to fund abortions. And Clinton announces his one litmus test for judicial and Cabinet appointees: obedience to the complete pro-abortion agenda. "Freedom" itself is redefined as the unconditional power to kill one's nascent child with the cash and smile of Uncle Sam.

I heard about Operation Rescue's convention campaign on the radio. When I walked through Greenwich Village on Friday night, I saw posters warning residents to "kick Operation Rescue out of New York." I saw that training for "clinic defenders" was being

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offered at a Quaker Meeting House. What happened to Quaker pacifism? I have never agreed with Op-R's tactic of blocking the doors of abortion clinics. It retards the pro-life cause politically. I don't think that many lives are saved. And I have counseled too many women touched by abortion to believe that the problem will be resolved by my body in the doorway. But perhaps my pro-life witness so far has been too safe: articles, lectures, letters to editors and politicians, the occasional march to a city square. Operation Rescue is the only pro-life assembly for the convention's duration. I plan to pray, march, and speak within legal limits to vote "no" at the cheery convention of "choice."

The week with Op-R will not change my mind about some of its tactics. On the contrary. But I will witness the courage of people who have sacrificed their freedom, fortune and reputations to stop the abortionist's knife. And I will witness an unexpected fact. I will observe the systematic violation of pro-lifers' rights to free speech, free assembly, free exercise of religion and equal protection by New York's political establishment. And each day I will watch the distortion and omission of these human rights violations by the regional media.

Saturday, July 11

A legal shadow falls over the opening of Operation Rescue's campaign. The New York State Attorney General Robert Abrams has successfully received a federal injunction against Op-R's activities. Federal Judge Robert Ward has issued a sweeping order: bans on blockades at abortion mills or at the Democratic convention; a "free space" of fifteen feet in front of abortion clinics; a required 24-hour notification before demonstrations. Fines for violations start at \$25,000, then double for each subsequent offense. This is a blatantly political gesture by Abrams, desperately appealing to pro-choicers in his campaign for the Democratic senatorial nomination. Pro-lifers are singled out for political punishment. A publicly announced blockade of Holland Tunnel by pro-choice activists received no such injunctions, although some of the sponsoring groups, like ACT-UP, have repeatedly conspired to violate the rights to worship, speech and assembly of their opponents.

I approach the rally at St. John's Church, near Madison Square Garden. The side of the church where I usually enter is locked shut. Police barricades block the sidewalk. I ask police officers if this is the right place. They tell me to enter the other door around the block. Suddenly, the conflict takes flesh.

The pro-choice contingent is on one side of the street chanting and whistling; they try to drown out the vigil inside the church. New chant: "I f_____d a cop and she's pro-choice." On the church steps, a phalanx of police in blue surrounding a round monk in sack brown. I try to pass through the iron gate. A young man with beard and staff stops me. He asks: "Who do you know?" I say I don't know anyone. I had heard about the vigil on WMCA. He looks at my plastic ID. "Well, we'll take a chance on you. But sit in the back where we can keep an eye on you."

In the church. Police everywhere, at least thirty in side aisles and in the back. I sit next to an elderly woman taking notes. Short-cropped hair, purple shirt, turquoise skirt, furiously taking notes. Could be the other side—which is why she sits with the "suspicious" at the back. But she applauds the speakers. Sister?

As I enter, the speaker is Father George Rutler from St. Agnes. I can only see his cuffs from behind the marble pillar where I sit. A sculptured sermon on the abortion culture. Too sculptured. "God is really pro-choice, but pro *right* choice." The cuffs are too bleached, but the talk drives home the choice of death at the heart of American society.

Bishop Austin Vaughan speaks next. Rather rambling, but a moving tale of his departure from the Democratic party. He was born in Greenwich Village. The party was the protector of "the little guy" against the rich. But the party has betrayed him. A call for hope on the disappointment over the *Casey* decision—perhaps we are not ready for an overturn of *Roe v. Wade*.

Consuela sings a modern *Ava Maria*. Beautifully sung at the piano, first musical interlude in a rather starchy series of talks.

Randall Terry, the guiding light of Op-R, speaks. The cameras flash, the journalists rush the pulpit. He admits to a sadness as he speaks. He argues that the struggle against abortion takes place in the death of Western civilization, the death of our Judaeo-Christian roots. He denounces the federal injunction. Abortion is only one symptom. He criticizes homosexuality. He denounces the NEA's funding of obscene art. He recalls the 1950's as a decade in which our current state was unimaginable. "Imagine yourself in 1959. Would you think it possible to have abortion on demand or gays marching in the streets?"

This seems to me the weakest part: a nostalgia for a pious America of the small town, where even Franklin and Jefferson turn into Christians.

Terry's "seamless garment" attaches abortion to sexual issues. It is different from the Catholic garment. The speech has no mention of the Gulf War. No mention of Clinton's execution of a mentally disabled man in Arkansas.

The strongest part is scriptural. Terry reads from the prophets. He stresses that the churches, above all, need conversion. The abandonment of the church by God is possible, if we fail to witness for righteousness. Clearly, Op-R sees the rescues as part of a broader witness of God's Kingdom before a brutal world and a compromised church.

Break for prayer. We gather in small knots. Murmurs of *Memorare*, Our Father, tongues from other circles. We backbenchers pray uneasily. The lady in turquoise prays for "discernment." A Catholic? Prim couple in front—New Jersey Methodists?—pray for compassion. I pray for courage.

During prayer, people are asked to raise their hands if they feel called to placing their bodies between the abortionists and their victims. I don't raise my hand. I wonder a bit at the paradox. The police are protecting us here as we speak, worship, assemble in security from a mob outside the church. Tomorrow we will defy *them* at the clinics. But how do you come to the point where the right to speak and the "right" to kill a child on the eve of birth are one?

Collection. TV crews carefully follow each basket as the congregation hands over loose change. Basket in my row is heavy with quarters and single dollar bills.

Cops behind me. Cop A: "These pro-life people just aren't real. I don't like abortion. But there's just no way you can stop it." Cop B: "I guess so. But did you see these people outside with the wire hangers? Which side would you want babysitting your kid?"

I catch the evening news. The report has two images: Terry defying court order, and collection baskets raking in bills. No lectures. No prayers. No music. No interviews on questions of conscience. The media spin is set: grasping criminals have come to town.

Sunday, July 12

Afternoon. After prayer at St. John's, we head to Madison Square Garden. Our plan is to pray behind the police barricades in space designated for onlookers. But federal marshal and police warn us that we cannot assemble or pray as a group. That would violate federal injunction against "blockading" the Democratic convention.

Op-R leaders protest. The group is across the street from the Garden. No one is being blocked. Anyway, how can one block a convention which has not even begun? A group of barebreasted women (freed from halter constraints by a recent New York state court ruling) on a truck wander through a side street as they invite early delegates to “hospitality” on Eighth Avenue (center of New York’s prostitution trade). The federal agent insists: if we pray as a group, we risk a \$25,000 fine. Negotiation. We are permitted to approach the curb, one at a time, and offer brief prayer. Our Father. Hail Mary, Psalm 32. “And God bless Robert Abrams.”

Evening vigil at St. John’s. Pro-choice contingent seems smaller. Tired chants: “Racist, sexist, anti-gay, born again bigots, go away!”

Minister from New Jersey. Dramatic sermon. Most moving on cost of opposing abortion. Because of his pro-life activism, he lost job with his denomination. Reports frustration at having pro-life leaflets refused at all churches, except St. Patrick’s Cathedral. Churches fear retribution. “Do you want to bring ACT-UP around here?” He speaks of our hidden wish: the desire of a persecutionless Christianity, the pleasant betrayal of the cross.

Odd couple in front of me. They have press credentials, but seem to work for the opposition. He has long grey ponytail. She has blood red fingernails. Too long. Lee’s clip-on nails? She only jots down proper names of members of Rescue as they are mentioned by speakers (Attorney General’s office?) and furiously writes when specific places for upcoming blockades are mentioned.

Disruption. Young man with blond hair stands at back of church and shouts: “You will not block the clinics to *quote* save the children *unquote*. We will beat you.” Leader immediately asks police to arrest man. Murmurs of “God bless you.”

Rev. Joseph Forman speaks. He makes a clear point—we don’t take seriously the fact: abortion kills children. We don’t live our everyday life as if this were true. Plea to not build a wall between abortion and ourselves. We want a good night’s sleep, to think about something else, to put our energies in a safer cause. We may have different vocations in pro-life struggle, but we dare not place the wall between ourselves and the truth about abortion. Points to crucifix, where Christ refused the wall. Unto loss of freedom, wealth, reputation, life.

Midnight. I hear radio wrap-up of Op-R’s day. Report focuses on low turnout at church. Low, compared to what? No mention

of confrontation with marshal. No report on Op-R's allegations of violations of right to speech, assembly and equal protection with other protest groups. . . . No protest from ACLU yet.

Monday, July 13

Afternoon. A quiet prayer vigil is planned outside three clinics in Manhattan. A police permit is given to a group not associated with Op-R. We have no intention to block or enter clinics. We gather outside the Margaret Sanger Clinic on Second Avenue. I expected a crowd. We are only seven in the blazing sun. Henry, our leader, tells us that the clinic has closed for the day out of fear of protests. But where are the police? The pro-choice shadow group nests like crows in front of the church across the street.

We form a prayer circle at the curb: an elderly couple, a nun, a tiny woman from a Salvation Army home, an unemployed secretary, Henry and myself. Small talk about skin cancer hitting those of us with Irish skin. The secretary scolds me for not wearing clerical garb.

We start to pray. Our Father. The pro-choicers cross the street. They surround us. They wave their blue pro-abortion signs. They chant: "Hitler loves you." "Pray, you need it. Your cause has been defeated." Our circle prays petitions. "For the clinic staff, that their hearts be touched." "For women thinking of abortion." The pro-choice cohort chants louder. "Don't let anyone hear the anti-choice hate." With our double encirclement, we must look like the June Taylor dancers from the old Jackie Gleason show. Where *are* the police? My neck feels wet. A pro-choicer in designer sunglasses has started to spit.

We move to a second clinic. The sun beats down. The pro-choicers fade away. Again, we pray. The *Memorare*. We turn to Mary in desperate cause. The tiny lady chats with the security guard. He agrees with our position, but he needs the job.

We end the pilgrimage at Eastern Women's Center. Not to be outchoiced by Bob Abrams, senatorial candidates Gerry Ferraro and Liz Holtzman had preened outside the clinic earlier in the day. A final prayer in the heat. We break for an Orangina.

Rally this evening at St. Agnes Church, next to Grand Central Station. No police present. Chaotic mix of pro-choicers and pro-lifers at church door. Thrilling speech by Father Richard Neuhaus. Cerebral dissection of the recent *Casey* decision. Let's not hide the disaster. Analytic, but legal analysis at the service of moral outrage.

He makes parallel between Court and Lincoln-Douglas debates. Douglas had insisted that *Dred Scott* had settled the slavery issue. Douglas argued that the Supreme Court determines "the law of the land." Lincoln argued that the Constitution itself was the law of the land. Erroneous judicial opinions simply had to be reversed. Rule by the Court contradicts constitutional ideal of self-government. In *Casey*, an arrogant judiciary once again deprives us of our constitutional freedom to decide the issue in the democratic forum. Our duty is to insist that the question is not settled, to insist that it be settled in democratic debate, and to insist that it is not settled unless we provide legal protection for the nascent child.

Report on today's rescue. No arrests. Thousands of clinic defenders ("deathscorts") made rescue impractical. But the fear of rescuers, the phalanx of police, the overflow of pro-choicers, effectively slowed or closed the main abortuaries for the day. God's instruments, *malgré eux*.

Midnight. TV version. "Triumph" for pro-choice forces. "Failure" of Op-R. Gerry and Liz vie to condemn "terrorists." No mention of clinics closed or slowed, the whole point of Op-R. Reporter claims that there were no anti-abortion protests later in day. And just what were the seven sacraments doing on Second Avenue?

Rally at St. Agnes again. Trouble. Seventeen pro-choicers block the entrance to the church. The usual chants. No police. No barricades. Police finally arrive and haul protestors away.

Capuchin Father Benedict Groeschel explains the need to love one's enemies in the midst of the abortion dispute. He stresses how the pro-life movement, unlike previous rights movements, does not demand rights for itself. It defends the rights of the most vulnerable, who literally cannot speak for themselves. Beautiful citation from Augustine: before his conversion, he feared the loss of his wealth, his position, his lovers; after conversion, he only feared to miss Christ as he passes by. The call to defend the nascent child as the call of Christ passing.

A Texan, Harley, reports on the incident of the day. Harley had shown Governor Clinton the remains of "Nathan," a 19-week fetus killed by saline abortion. The fetus was in a plastic box that Harley slipped out from a bag as the governor signed his autograph. Harley asked "What about the babies, Governor, what about the babies?" Later, secret service men arrest Harley and several other ministers who had rooms at the Intercontinental Hotel where Bill and Hillary are staying.

The crowd applauds the confrontation. I don't.

Harley then explains the summons he has received concerning the confrontation. One indicts him for "removal of human remains from place of burial." The crowd applauds. So do I. This charge could oddly set the stage for a federal judge to declare the fetus as a human being complete with burial rights.

Consuela sings about spiritual blindness. Striking metaphor of Christ as "seeing eye" for the blind.

Midnight. Media highlights story of confrontation between Harley and Clinton, but the tale is stretched. Suddenly, the fetus is "thrust" and "thrown" at Clinton. *Newsday* heightens the terrorist slant on Operation Rescue. "What If It Had Been A Gun?" screams the front-page headline over a full-page color photo of Harley during the confrontation. No reportage on the violation of our right to worship by the priests of choice in the doorway of St. Agnes.

Wednesday, July 15

Noon. Lunch at Jesuit community, Fordham. Father X remarks: "Well, it looks like the Democrats have a moderate platform now." (Since the *New York Times* says it is moderate, Father X thinks it must be moderate.) I remark that their stand on abortion is not moderate. Father X: "But Clinton's not pro-abortion. He's pro-choice. He's really against abortion." I give my speech. "Clinton was once a moderate on abortion. But his position now is fanatical. He supports abortion on demand through all nine months of pregnancy. He wants to use federal money to fund abortion and pro-abortion family planning agencies. He has said that support of legal abortion is the key litmus test for judicial appointments. How more pro-abortion can you get?" Father X: "You don't understand. There's a big difference between being pro-choice and pro-abortion." Father Y: "But no one's talking about abortion on demand." I launch into my second speech: "That's precisely what we're talking about. *Roe v. Wade* argued that the state could provide no legal protection whatsoever for the unborn child before the third trimester. But even during the third trimester, the state may not protect the child if a doctor believes a woman's life or health is threatened. And the Court explicitly defined health to include her overall well-being, including her psychological and even 'economic' well-being. *De facto*, it's abortion on demand until the moment of birth." Father Y: "Oh, no. Clinton couldn't be that

bad.” Father Z: “It’s such a complicated issue. There’s no solution to it. You shouldn’t get too upset about it. Think about something else.” Like what? Hillary Clinton’s cookies?

Evening rally at St. Agnes. Confusion again. I talk with lawyer on the failure to obtain federal injunction against blockade of church by pro-choice brigade. Mike, a Protestant leader of group, reports the grim judicial news. Judge Ward, the same federal judge who had imposed numerous injunctions on Op-R, refused Op-R’s request for injunction against the group who had prevented exercise of worship last night at St. Agnes. Judge doubts that such issues even come under federal jurisdiction. He fails to understand how the “free exercise of religion” clause of the Constitution entails a right to worship within one’s own church. The painful paradox. The court hands down fierce injunctions against those who block or even “disturb” the exercise of the “right to abortion” which is found nowhere in the Constitution. But on the first right of the Bill of Rights, the right to free exercise of religion—and what could that right possibly mean if it does not include the right to worship according to one’s conscience?—the court is stumped. The abortion mills will be protected by federal marshals, police nightsticks and ruinous fines against a pro-life placard within fifteen feet of the front door. But the right of Catholics to pray and speak within their own church has disappeared. Apparently we all boarded the Mayflower under an illusion.

Report of mini-rescue. Op-R leader describes mini-rescue at abortion clinic in Manhattan. Small group of rescuers tried to block doors at entrance, but were rebuffed by chain of pro-choicers. No police protection. After scuffle, police arrive. They use nightsticks against small group of rescuers. Blows to head, back reported. Police chief later apologizes for overreaction of officers. Apparently, rookies had used force too quickly, in violation of standard guidelines on force. Inside clinic, four women who had scheduled appointments with clinic manage to shut operation by locking themselves in office and “disarming” suction machine used for early abortions.

More legal problems. Federal court issues orders for arrest of several rescue leaders. Contempt charges concern Nathan.

Growing despair this evening regarding Democratic Party. Governor Casey of Pennsylvania, a well-known foe of abortion, has been refused any time to address the convention. Clinton, once a supporter of parental consent and ban on use of tax money for abortions, flips to complete pro-abortion stance. Gore, until yesterday a staunch

foe of government funding of abortions, has suddenly converted to the pro-abortion cause. Kate Michelman: "I'm happy at their evolution." Pro-life Democrats—and there are millions of them—are airbrushed out of the party's portrait of cheery suburbanites waving wire hangers.

Louis Wein, a former Right-to-Life candidate for governor, gives a jeremiad. He condemns Fordham, his "former alma mater," as a school which has renounced its Catholic tradition. He had spoken in protest outside the ceremony where Gerry Ferraro "had been given an honorary degree." (Actually, she was the commencement speaker at the Law School but had received no degree.) He condemns the university's support of a pro-choice and gay group on campus. (Another alumnus in the congregation points out, accurately, that the pro-choice group has since disappeared from campus.) Wein claims that condoms are demonstrated and distributed to the freshmen. News to me. But I can't deny the pain of the soulless schools we seem to have spawned recently. When I objected to the university's impending funding of the pro-choice group, I was informed that we have "a more sophisticated Catholicism" now, so sophisticated that the Fifth Commandment has apparently been suspended for the duration.

Wein finishes his testimony: "No exceptions! No exceptions!"

The assembly applauds. I do not.

The "no exceptions" position argues that under no circumstances can we support legislation which tolerates some abortions and bans others. I remain a moderate ("a compromiser") on this issue. I think of the recent German law, strangely celebrated as an "abortion rights victory" by the *Times*. The law banned abortions after the twelfth week of pregnancy, tolerated abortion in the first trimester in cases of "distress" and mandated an obligatory counseling session for a woman seeking abortion so that risks of and alternatives to abortion could be presented. Adopting such a position in the States would mark a sensible advance toward legal protection of the nascent child. The language of apocalypse leaves little room for political mediation or the virtue of prudence.

Seamless garment, at last. A Pentecostal preacher from Staten Island reminds us that he is pro-life, but also against racism and homelessness. He calls us to defend all the poor under assault in the city. Opposition to abortion rooted in a broader love of the

poor. Gentle, in a grey suit from Sears' basement.

11:30 PM. Radio report on Op-R today. "Clinic successfully defended." No mention of clinic's closure. No mention of police tactics.

Thursday, July 16

10 AM. Federal Courthouse in Manhattan. Long wait to hear decision on arraignment of Randall Terry et al. for their part in the Nathan affair. Pro-life contingent cordoned off on steps of courthouse. Pro-choicers to right. Sea of police in blue shirts separate the two. I try to get through to the pro-lifers. A police officer stops me. "You're not pro-life. You must be a pro-choice plant." I insist: "But I am pro-life." The officer: "I doubt it." Do I need a haircut?

I stand with the neutral crowd standing across from the courthouse steps. The chants begin, but both sides are exhausted, wilted by the heat and the week's hide-and-seek campaign. One pro-chooser in purple leads the chants. But even her cohort cringes at the lyrics. "Hail Mary, full of grace, keep it legal, keep it safe." She then launches into song: "Jesus loves the little fetus, all the fetus of the world. We will keep it in a jar, which the law will never bar. Jesus loves the little fetus of the world." They end with "Pro-life/Pro-wife!" Baffling. Has loving your wife become politically incorrect?

In the crowd, I stand next to a tanned man in a lavender ACT-UP tee-shirt. Is purple the official pro-choice color? He speaks into a small microphone attached to a walkie-talkie. "Where's fat George? We haven't seen him today . . . Fat George is always here at these things . . . No, it's not the man with the white sign . . . I think the national people have left. . . . It's just the local freaks left out there."

Randall Terry descends the steps. The judge has thrown the book at them. But Terry has an original spin on the case. Their defense will be based on First Amendment freedom of expression. If it's constitutional to burn flags, burn crosses and flaunt female breasts, how can federal court single out the display of fetal remains as somehow illegal?

Terry is whisked away in a yellow cab next to a parked limousine. The crowd chants: "Where did you get the limo? Who paid for the limo?" As they spot the yellow cab with Terry in the back seat, they scream: "Go back and beat your wife/Go back and beat your wife!"

A journalist next to me remarks to her companion: "Oh, it wasn't a limousine. It was a cab." She starts to cross out the last sentence on her steno pad. But her friend remarks: "Don't you think that it

sounds better if you keep the limo in?" The journalist: "I guess so."

The crowd fades. A few faithful jockey for the camera with their posters of aborted fetuses and bloody wire hangers. The stairs empty. On the left, the frontispiece of the New York State Supreme Court: "The True Administration of Justice is the Finest Pillar of Good Government." On the right, the inscription on St. Andrew's church: "Beati Qui Ambulent in Lege Domini." "Blessed are those who walk in the law of the Lord."

3 PM at Jesuit community. I find a note in my box. It must have been written last night:

"Dear John,

Clinton gave a great speech. He said he was against abortion, but is pro-choice. See, he really *is* against abortion.

Yours, X."

I write my own note.

"Dear X,

Thank you for your note on Mr. Clinton. But I'm not convinced. If Clinton is against abortion, then why:

1. Does he support abortion on demand (*Roe v. Wade*)?
2. Does he oppose any regulation of abortion: parental consent, informed consent, waiting period (Freedom of Choice Act)?
3. Does he want to use government funds, facilities and family planning programs to promote abortion?
4. Does he insist that he will only appoint judges who support 1, 2, 3?

I would find it very odd to hear a candidate say he opposes pollution but that he:

1. Supports pollution without restriction.
2. Targets federal funds and programs to help polluters.
3. Appoints only judges who share his own enthusiasm for pollution rights.

Have I missed something?

Yours, John"

Midnight. Radio wrap-up on Op-R's week. The radio reports that the Op-R campaign was a failure. No clinics closed. No support in the community. There is no mention of police brutality; of Op-R's attempt to defend the right of worship; of the violations of the

JOHN J. CONLEY

right to free assembly and free speech. I also learn that Terry did indeed leave in a limousine, to the taunts of the crowd.

Postscript

"Truly you have formed my inmost being. You knit me in my mother's womb. I give you thanks that I am fearfully, wonderfully made. Wonderful are your works." *Psalms 139*

"Woe to those who enact unjust statutes and who write oppressive decrees, Depriving the needy of judgment and robbing my people's poor of their rights, Making widows their plunder and orphans their prey." *Isaiah 10:1-2*



'Oh 'no! We're wearing the same frock!'

THE SPECTATOR 21 November 1992

Hark! The *Harper's* Angles Zing

Faith Abbott

⁶⁶She's come for an abortion. What do you say?" That's what the editors of *Harper's* magazine asked fourteen writers, whose answers were published in the November issue's *Forum* feature. It's quite a mixed bag.

By way of introduction, *Harper's* notes: "Few arguments in America inspire as much passion as the one about abortion. In the twenty years since *Roe v. Wade*, the debate has degenerated into the vocabulary of rage—shouted insults, angry chants, bloody pictures. Politics requires starkly drawn lines: we must be either pro-life or pro-choice; an abortion is either murder or an insignificant procedure." But, the editors go on, "in our personal conversations about abortion, a more subtle dialogue is taking place—discussions of life and death, rights and responsibilities, hope and regret." Noting further that, last June, the Supreme Court upheld most of Pennsylvania's Abortion Control Act—which requires a woman seeking an abortion to listen to a doctor's speech about "the operation" a day before it can take place—the editors ask: "But what if this moment were used not for the exchange of dry, clinical information but to help us see the deeper truths buried beneath the partisan slogans?"

Kristin Luker's contribution is placed first. She is a law professor at the University of California at Berkeley and the author of *Abortion and the Politics of Motherhood*. The "scene" is "a doctor's office somewhere in America, tastefully decorated in medical-modern, a box of tissues thoughtfully positioned near the armchair, where weepy women sit as they absorb the fact that they are pregnant when they hadn't planned to be." Luker pretends to be the doctor: "Ah, Ms. Jones. Come in; have a seat. As you know, state law and the U.S. Supreme Court say that I have to counsel you about abortion, since you are reluctant to continue this pregnancy." So she dutifully explains the abortion procedure, but it's after that, she says, that things get hard to explain: "The Supreme Court in 1973 said that theologians and philosophers couldn't agree on what a human life is, and I'm not going to be much help to you either." Next, she's supposed

Faith Abbott, our long-time contributing editor, is our resident expert on what's going on in *other* publications, both well-known and obscure.

to talk about the risks of abortion. Well, "As far as we know abortion has fewer medical risks than does continuing the pregnancy. But the real risks, it seems to me, are the ones we can't count." For openers, she says, she won't do the abortion herself because "ever since the abortion clinic up the road was burned down, my insurance company won't let me. So you'll have to drive several hours to a clinic and cross picket lines when you get there. How will that make you feel? Are you committed enough to the idea of ending the pregnancy that you're willing to do that?"

Finally, she's supposed to tell Ms. Jones about the alternatives to abortion. They are "pretty grim" (she goes into examples) and ends with "So damned if you do, damned if you don't. I hope you make a choice you feel comfortable with. I only wish that you had some real options to choose from."

The second respondent is William F. Buckley Jr., but I'll save him for last.

Then we have Lynda Barry, creator of *Ernie Pook's Comeek*, which appears in sixty newspapers (her most recent collection is *My Perfect Life*). She begins by commiserating with her client: "I'm sorry about all those people shouting 'murderer' at you when you came in today. I was pregnant when I was eighteen, too, and I know the last thing you need right now is people shouting at you." She says those protesters are hard workers, absolutely committed to saving the lives of the "pre-born"—"That's what they call the embryo that's inside you. Post-born life doesn't seem to interest them as much—which is a shame." Lynda says it would be great to see them hollering and handcuffing themselves to the White House gates every time funding for Head Start is cut, or letting themselves be dragged off to jail to save public schools, or waving graphic photographs of run-down buildings in front of news cameras to get more money for public housing. "Nice-looking, well-dressed white people can get a lot done in this country when they get mad enough." But you can't tell people where to put their passions: "I had a great-aunt once who didn't give a damn about her children but would have killed anyone who laid a finger on her collection of little ceramic skunks. She had a right to make that choice."

Barry confides that she got pregnant the summer before she was to start college; her financial aid had come through and everything was set, and it was a really big deal because people from her street almost never made it to college; in fact "People from my street

barely even made it off the street. . . . You know the street I'm talking about, don't you? I thought so. I can always recognize a sister."

She remembers the night she told her boyfriend she was pregnant: she'll never forget standing on her front porch watching the red taillights of his car disappear down her street. She couldn't believe how easy it was for him. "I knew I had to make a choice that night, and I knew that I had to choose life. *But the life I chose was my own*" [*italics mine*].

As for "those people out there," she tells her client, "they come from another world. They'll never know what it means to come from our street. And they want me to tell you that no matter what your situation, it's *always* better to continue a pregnancy. I can't do that. No one can tell you when it's the right time for you to have a child. That's your choice."

Juli Loesch Wiley, a member of Feminists for Life, begins by telling her client "You are a complex, easily damaged, and sensitive individual, and so is this newly conceived life." Then, instead of delivering a speech, she asks a series of questions. Does the young woman know that some research has found emotional or physical trauma in more than 90 percent of women who abort? Is she aware that her son or daughter is developing beautifully, responds to a variety of stimuli, is already sensitive to pain? After the woman is shown some video interviews with couples eager to adopt, Wiley asks: "Do you feel drawn to any of these people? Could you place your little one in their arms? Are you aware that you're carrying a wanted child?" Question #8 is "Would you abort: if you knew this were the only baby you would ever conceive? If you knew this child were uniquely gifted in some way? If you knew this child were destined to make one other human being supremely happy?"

Question #12: "If your circumstances were different and you didn't have the problems you have now, would you want this baby? If so, can we start there and work backward together, *attacking the problems rather than the baby*?" [*Emphasis mine.*]

Next comes Susan Faludi, author of the long-running bestseller *Backlash: The Undeclared War Against American Women*. Faludi says she's going to do her level best to deliver this lecture as mandated by the state, "But it's not easy, what with these Supreme Court justices contradicting themselves left and right. First they tell federally funded family-planning clinics that they can't give patients information about

abortion. Now they're telling abortion clinics that they *have* to tell patients about abortion." In this Let's Pretend scenario, Faludi says "Maybe I'm just a dumb country doctor, but aren't these judges confused?"

She is supposed to tell her client that abortion is terribly risky: "I'll show you gross pictures of mushed-up fetuses and tell you that you're a shameless, baby-murdering hussy. You have to listen up—or no abortion." The thing is, she continues, "I know abortion isn't really risky, and I have no idea whether you're shameless, much less a hussy. So maybe the other rule to remember is this: No information unless it's disinformation. Today I'm a doctor of propaganda; if you want me to be a physician, you'll have to come back in twenty-four hours."

Christopher Durang's short piece is too silly and flippant ("Oh, you're crying, a good sign . . .") to comment on; he is a playwright whose works include *Sister Mary Ignatius Explains It All For You* and *Laughing Wild*. He does *not* explain it all for his client.

Novelist Jonathan Franzen is pretty flippant too: "So you're making a choice. How does it feel? Does it feel like one of those million other choices that Americans are so proud of? Like between Coke and Pepsi? McNuggets and McRibbs?" Then, trying for some *gravitas*, he looks at the word *choice* which appears in our advertising almost as often as the word "new." It is, he says, "as effective at moving products as skin or Old Glory. It strokes the country the way it likes to be stroked—with the notion that a free market means free people." But the truth is harder: "The truth is that freedom lies not in the number of choices available to you but in the self-knowledge that comes once you have chosen." (So *that's* what abortion is all about—self-knowledge!) "The harder the choices are, the better they define you." (Perhaps he's also a psychologist?) "Decide," he goes on, "to carry a child to term despite the professional inconvenience; decide to terminate your pregnancy despite your longing for a child; decide to tell your mother; decide to defy your father; decide anything for real, and you will never forget who you are." (That sounds ominous: is it meant to be a blessing or a *curse*? And "Decide anything for real"—you can decide that the baby isn't "for real"?)

Franzen notes that the state's anxiety increases as one's choices grow more personal: the government happily grants you the choice between television channels, but if one is thinking of having an abortion, the government insists you think some *more*, "Which may be all for the best—as long as you make good use of the time. Don't change

your mind, just get to know it. Deepen your decision into a choice, if you haven't already. Let it define you."

What he does not mention is that your baby will resemble *you*, and may help you to define yourself. Such has been my experience; I know of no better method of "self-definition."

Next comes Jessica Mitford, the well-known British writer who has sharp insights into American foibles. Thirty years ago her exposé of commercialism in the funeral "industry" became the bestselling book *The American Way of Death*. Now she's 75 and has a new book out: *The American Way of Birth*, a polemic aimed to expose American obstetricians who take pecuniary advantage of the vulnerable. She begins by putting her client at ease: "You are twenty-one—exactly the same age I was when I had my one and only abortion in London in 1938, way before anyone talked about the 'right' to an abortion." She wants to tell the young woman her *own* story so as "to convey how precious a right it is." (So it's the "right," not the baby, that's "precious.") She tells the grisly story of her illegal abortion, which she almost didn't survive, and ends with: "Thanks to years of effort by the pro-choice movement, you won't have to endure these horrors. But, as we have seen, the right to a legal abortion is by no means secure. So get your safe, legal abortion and don't feel guilty about it. But don't forget that there are those who want to turn the clock back to the barbaric days of illegal abortions."

Mitford is, says the London *Sunday Times*, "a born investigative journalist." Too bad she's fallen for the "safe-and-legal" line: she'd be just the one to write another bestseller about *The American Way of Legal and Unsafe Abortions*.

Norma McCorvey is not exactly a "well-known writer" but it's no surprise that the editors of *Harper's* asked her to contribute. You'll remember that she was the plaintiff in *Roe v. Wade*. McCorvey speaks not as "a doctor" but as what, presumably, she *is*—a counselor at an abortion clinic in Dallas. She has talked to a lot of people "the way I am talking to you now," and in all the conversations she's had, never once has a woman asked about such things as "strict scrutiny" or "undue burden" or complained about any of the "anti-choice court cases, like the one that requires I give you this speech . . . it's just not on their minds." What *is* on their minds, she says, is that they're pregnant and unmarried or alone or out of a job and have

been driving long distances to find an abortionist. Sometimes they cry: she tells them she knows how they feel—she knows what it is to be desperate for an abortion and to be afraid you won't get one. She tries to be professional, but "sometimes I cry, too." McCorvey gives them an appointment and directions to the clinic, and warns that there might be pickets outside (recently one of her "regulars" started carrying a sign saying "Abortion Kills America's Future Soldiers"). But if they call her from the pay phone across the street, "we'll come and escort them through." A lot of them, especially the poorer women, tell her what they are *most* afraid of: they ask "Does your clinic use a real doctor?" "Yes, ma'am, I say and 'I'll be here to help, too,' I tell them, just like I'll be here to help you."

"A human fetus is a human being, a child; I know of no other kind of being that it could be. And I accept the law that it is wrong to kill a human being." That's Point #1 of the speech by Wendell Berry, a Kentucky farmer and the author of twenty-six books, the most recent of which is *Fidelity: Five Stories*. Like Juli Loesch Wiley, he has numbered his points: unlike Juli, his are statements rather than questions. His Point #2 has to do with the "viability" issue. He notes that one argument for abortion holds that there's nothing wrong with this killing so long as it's done before the unborn child is viable. "But if a child in the womb is 'unviable' and therefore eligible for killing because of its absolute dependence on the mother, then what of the born children of humans, who remain for a long time absolutely dependent on adults?" And "What of the old, the invalid, the severely handicapped, who are absolutely dependent on younger or more able humans? . . . That a human fetus is unable to live outside the womb does not place it in a special category but means only that it has come into its birthright of dependency, which it shares with all other creatures."

Point #5: "A pregnancy is not an isolated event. Pregnancy is connected to sexuality, sexuality is connected to fertility, fertility is connected to nature. In choosing to take part in sexuality, one chooses . . . to take part in an enterprise far greater than oneself. If one is to be human, one must manage to be generous toward the results."

But (#9) "To say that abortion is wrong is not to say that it is beyond sympathy or forgiveness." He can imagine circumstances in which he, if he were a woman, might have an abortion—just as he can imagine circumstances in which he might commit murder.

"A woman's desire to have an abortion is hardly an occasion for me, or anyone else, to be self-righteous."

Next we get a woman who is *very* self-righteous: Rebecca Walker, who is—among other things—a recent Yale graduate and a contributing editor to *Ms. Magazine*. "Because you have come to this office for an abortion," she begins. "I trust that you have already thought about what you are doing." She hopes that the speech she's going to give does not sound condescending, but "will encourage you to see that your abortion can be a rebellious and empowering act"—an act "through which you can assert yourself; one which can enable you to feel more connected to women around the world. Indeed, it is a surgical operation with a mission."

She then tells the client *her* story, hoping it doesn't shock her that she views abortion *positively*. In the months and years following the abortion she had when she was fourteen, she has (she *says*) not once felt remorse, guilt, or even the slightest sense of longing for the child she would have had. She has not been depressed, nor has she thought of herself as a murderer. Instead, she's been *grateful*. Grateful to her mother for paying for, and seeing her through, the "procedure" and grateful to all the women who fought so hard to make abortion "safe, legal, and a woman's right."

"Tomorrow," she tells her client, "you will claim that right. My hope is that after your abortion, you will commit some part of your life to making sure that others are able to claim their own rights. By doing this, you will use your abortion to connect you with women everywhere. You will connect your very special personal with the very important political, and you will begin to know your own power."

Is this a general sending her troops out to battle? If the client decides *not* to have "a surgical operation with a mission" will she feel forever guilty about deserting the Cause? What will happen to her self-esteem—will it plummet? Will she be forever disconnected from "women everywhere"?

It is almost as though Ms. Walker thinks women should get pregnant so they can abort and thus become Empowered. She remembers that when she went for her abortion, she worried that the white doctor was racist "and might try to sterilize me." She did not worry about dis-empowering the baby: "The child I would have had" doesn't figure in this "speech" at all, except as a springboard to Power. Yes indeed, Ms. Walker is positive about abortion: it's a call to arms. What right have you got to dodge your duty?

Harper's puts Peggy Noonan next: perhaps the editors thought Ms. Walker came on a bit too strong. As most people know, Noonan is a former White House speechwriter and the author of *What I Saw at the Revolution*. She sheds several points of light on the issue. Yes, she's against abortion, but wasn't always. When she was in college in the Seventies, she viewed abortion as just a surgical procedure and thought its availability would liberate women from unwanted pregnancies, which in turn would free women "from so many things." Her own personal hero was "the spirited, terrible Lillian Hellman" and her only regret was that "I couldn't be in one of those magazine ads the Seventies feminists were in—there were individual pictures of each of them looking beautiful and thoughtful, and underneath it said things like, 'I'm Gloria Steinem, and I've had an abortion.' The pro-abortion people had all the courage and so all the style."

Several things changed her mind. One was a "beautiful, serious boy" her friends had not aborted ("Sometimes I wonder if someday, long from now, I'll tell him the story and at the end say, 'You taught me to be against abortion'") and another was an essay she read by a doctor who had witnessed an abortion. "It was about how an abortion is the killing of something that is really alive, and he knows, because he saw it." But her mind was also changed because "I think most people have a natural or intuitive sense of what abortion is, and they have it from the start. They can ignore what they know, but it's still there. . . . When you conceive a child, it's a child. It is a person, a human, a life. It has a soul. God is there. And you can't feel completely comfortable about not letting the child live, because you have a soul, too."

I wonder what Rebecca Walker thinks of *that*.

Harold Brodkey is the author of a number of books, and he really doesn't have much to say to his client—less than half a column, in fact. He begins: "When I was first asked to speak to you, and women in your circumstances, I thought that there might be occasions—a distraught young woman, a woman deeply unhappy—when I might be useful. I mean I imagined situations that would make it possible for me to speak and be useful to someone about to get an abortion." But the reality is, he says, that he knows nothing about what his client is going through, he "wouldn't dream" of giving her advice or offering comfort—he thinks only a woman could do that. "So either you make a speech to me, or you be silent and I will listen,

or we'll be silent companionably until we have met these silly legal requirements. . . . But I sure as hell don't intend to tell you what to do with your life."

On the top of the next page there is a box headlined *An Abortion Ritual*. This is a *Liturgy for Seeking Wisdom* and is reprinted from a pamphlet titled "You Are Not Alone" which is distributed to abortion clinics and pregnancy counseling centers by Catholics for a Free Choice. This "Liturgy" has five parts: Background, Preparation, Prayer, Visualization, and Closing.

Background: "This liturgy will help you decide whether to bring your pregnancy to term or to have an abortion." In *Preparation* you're supposed to "play soothing instrumental music quietly in the background. Light a candle, absorb its power, pray." (To whom?) Ah, we find out in part 3, *Prayer*: "Gracious and loving Holy Wisdom, fill me with wisdom, that I may see clearly the choice that I need to make. Bless me and comfort me with your Spirit."

In *Visualization* you are asked to see yourself walking along a path through the woods into the future. "At the end of this path see yourself in ten years if you decide to bring this pregnancy to term. (Pause for three minutes and listen to yourself.)" Then begin again: see another path through the woods, walk along it and at the end of this path see yourself in ten years if you decide *not* to bring this pregnancy to term. [This is not a baby: it is a pregnancy.] "Pause for three minutes and experience what this is like." After you have visualized these two pathways you're supposed to "find a cozy room with a comfortable chair. Sit in this chair and think about what you have seen. (Pause for as long as you like.)"

Finally, there's *Closing*. "Wisdom comes when we reflect on our life and make choices based on honesty and truth. Wisdom lives within us. Listen to her. Trust her. Talk with her whenever you need to. She is our friend."

"Blow out the candle when you are finished. Do something comforting, like drinking a cup of tea or taking a warm shower."

Catholic liturgies begin with "In the name of the Father, and of the Son, and of the Holy Spirit." Who would be the Trinity in this "liturgy"? Well, there's Holy Wisdom, the Mother, and there's Holy Wisdom's Spirit—that's the third person of the Trinity, but where's the Daughter? Perhaps she's the candle you're to light and absorb its power and pray? No matter who is what, I cannot imagine that

Holy Wisdom, whether a he or a she, would expect anyone to visualize herself ten years from now: How do you know what will happen *tomorrow*? How can you possibly “visualize anything ten years down the road” (or wooded path)? “Gracious and Holy Wisdom” ought to say: Come off it, who do you think you are?

“Wisdom comes when we reflect on our life and make choices based on honesty and truth.” It seems to me that if Catholics for a Free Choice were based on honesty and truth, they’d change their name to Ex-Catholics for the New Age.

“Holy Wisdom” seems much like a goddess, so it’s fitting that the next, and final, contribution would have to do with abortion as *sacrifice*. That’s how Frederick Turner sees it. He is a professor of Arts and Humanities at the University of Texas at Dallas and author of a number of books. He begins his “doctor” talk by reminding his patient that he’s supposed to give her some facts, “so let’s get it over with.” His imagined patient is in the early part of the second trimester “so that if we do the abortion, we’ll be killing an organism inside you that is potentially human and is shaped like a human baby but has a degree of organized sensitivity and awareness somewhere between that of a sheep and that of your own lower spine. It’s pretty small—smaller than your fist—and once it’s dead, we’ll remove it.”

These are “the facts.” But “Now for the difficult part. Suppose your baby were at term and in the birth canal. What you’d have there would be a human being, with rights that need to be protected. Some premature babies can survive when they’re three months early. If we killed a preemie, the law would call it murder. They’d be right, wouldn’t they?” But let’s look at the other end of the scale: “I’m scratching my hand, as you can see. I just removed, and killed, some hundreds of skin cells. Each of them has a full set of my chromosomes. In a few decades we’ll probably have the biotechnology to clone up one of these skin cells into a perfect baby twin of me. So in a sense, I’ve just killed a potentially viable human life . . .” (Stephen King, listen up: there’s a nifty idea for your next horror novel.)

Many words later, Professor Turner says: “See, at some point we have to connect with the rest of nature, and it always involves death.” After explaining that even now our immune systems are killing “billions of little beasties,” that when we eat, we must kill even if we’re vegetarians, that animals kill and eat one another, etc., he goes on to the “in other words” part: “nature—and our own inherited common sense—makes distinctions of value according to how high an organism

is on the scale of evolution, and implicitly recognizes that the lower can be legitimately sacrificed to the higher.” You can guess what he’s leading to: biologists used to believe that the stages of fetal growth mimicked the stages of evolution by which our ancestors became human; this doesn’t work as a usable scientific idea anymore, but it still makes sense in some other ways. “There’s a stage when the human fetus has something like a gill; perhaps it has as much of a soul then as a fish does. Later there’s a state when it’s still pretty hard to distinguish a photo of it from one of a chicken embryo. Maybe it’s about as important as a live chicken at that point. And so on.”

Finally he comes to his point: “It might help if you think of abortion as a sacrifice—the later the abortion, the heavier and graver the reason had better be, and the more sacred the whole thing is.” The “whole thing” is sacred, you see, because of its connection with sex and reproduction—“all of nature seems to rise to a pitch of beauty and intensity and expanse when it comes to reproduction. Think of the mating colors and mating dances of fish and birds and mammals.” However, that reproduction is *sacred* doesn’t mean that it’s not *wasteful*: “The male human wastes millions of sperm and the female wastes a valuable egg every month. Spontaneous miscarriages are wasteful, natural sacrifices. *If you abort a fetus intentionally for a good reason, you’re in accord with nature’s own tradition of sacred sacrificial waste.*” [*Emphasis mine.*]

The way he looks at it, “a sacrifice demands respect.” It had better be done in a good cause or it will come back to haunt us. *If* abortion as sacrifice is done right and in a good cause, it can be something much better than just making the best of a bad situation, “a nasty episode to be forgotten as soon as possible.”

What traditional religious ritual tells us, he says, is that sacrifice can be enriching, creative, evoking powers and values that can contribute great gifts to human existence. “Isn’t it possible that abortion, in the right circumstances, for the right reasons and intentions, could be like that?” (Aren’t non-aborted babies “great gifts to human existence?”) It seems to me that, in Professor Turner’s view, the unborn *baby* is “the nasty episode to be forgotten as soon as possible.”)

In conclusion, he tells his client that our society doesn’t provide us much in the way of ritual to deal with this difficult moment she has before her, “But maybe you—and I—can take advantage of this blundering, well-intentioned law, and make our little talk into the

beginning of a proper rite of sacrifice. Maybe you—and I—can take on a bit more moral and spiritual weight through this work we’re doing.”

Through this work we’re doing? And “A proper rite of sacrifice”? I read that to my husband and he snorted: “Hardly original—he’s late. The Aztecs invented the ‘proper rite’ eons ago.”

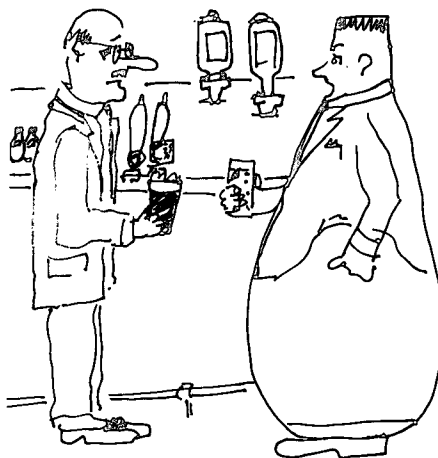
Although William F. Buckley Jr.’s contribution to this *Harper’s Forum* was second, right after Kristen Luker’s, I’ve saved it for last—as a kind of antidote to all that’s gone before. Here it is, in its entirety.

What you are doing in opting for an abortion has been legal since 1973. Before that it was illegal. You are entitled to wonder why it was illegal. Well, the consensus then was that the mistake made by a woman who conceives without intending to do so shouldn’t be rectifiable by snuffing out the life that was created, which is what you have now undertaken to do. The process is exactly that: to kill the fetus and arrange for it to be extruded from your womb. If it were left alone, in due course it would be a baby; eighteen years from now, it could become a young woman. It wouldn’t be a great surprise if she looked very much like her mother.

Babies are most awfully inconvenient, taking up time and money, and during the period of pregnancy they are often the cause of morning sickness and always the cause of a distortion, however temporary, of your weight and your girth. It is a genuine pity that babies weren’t made to just materialize when they are, say, two years old. But since the medical profession can’t contrive this, our choices are limited. We deliver the baby whole and alive in nine months, or we deliver it today embryonically and oblige our primary client, which is you. The other potential client has no voice in our deliberations, and that is all to the good, as we can imagine what he/she would be saying, assuming “it” had a day in court. . . . So shall we get on with it?

Bill Buckley *does* get down to those “deeper truths buried beneath the partisan slogans”—*Harper’s* should be pleased. I wish *I* were pleased by Peggy Noonan’s conclusion, which is “And I guess the last thing is what Dan Quayle said when he was asked about his daughter. If you don’t make the decision I want you to make, I’m still with you, right here. And if anyone’s mean to you, we’ll punch them in the nose together.” Maybe that was just a political afterthought—the magazine came out before the election and Dan Quayle needed

all the help he could get—Peggy is a generous partisan, and I’m still her fan. But the thought rankles: Wasn’t Quayle speaking more like a politician than a father—making a promise he couldn’t *deliver* on? It’s much easier to forgive than to forget; a daughter should be told that *before* she does the unforgettable—“absolution in advance” is hardly a deterrent. When the “choice” is somebody else’s life, kindness can kill. General MacArthur said “In war, there is no substitute for victory.” In abortion, is there any substitute for the *right* choice? That “other potential client” who has no voice in the deliberations *has* a voice of its own all the same, and “it” will go on speaking, *in saecula saeculorum*; no punch in the nose, however compassionate, can still it.



‘What nonsense! Whoever heard of side-effects from mineral water?’

THE SPECTATOR 6 April 1991

The Abortion War

Mark Cunningham

The pro-life movement is on the ropes. The Supreme Court has affirmed the central tenets of *Roe v. Wade* and embraced the concept of radical individualism that is at the center of the pro-choice position. President Bush, who has held the line on abortion even though he cannot present a coherent defense of his view, is likely to be replaced by Governor Clinton, whose Administration will surely embrace legislation to roll back the modest restrictions the Court allowed in *Planned Parenthood v. Casey*. Are there any assets remaining to those who resist the transformation of abortion into a positive good? What strategies ought they to follow?

First of all, there is considerable resistance to the actual practice of abortion. Though the AMA abandoned formal opposition decades ago, abortion is nonetheless fenced off within the medical community. At U.S. medical schools, only a quarter of ob/gyn residency programs require abortion training, and another quarter don't offer it all; participation in the optional programs is low. (How many mothers dream of someday presenting "my son the abortionist"?) In 1990, according to the *Washington Post*, "roughly eight thousand [8,000!] physicians performed most of the 1.6 million abortions in the United States . . . Roughly 70 per cent of these abortions are performed at 300 clinics." Outpatient clinics performed 46 per cent of abortions in 1973, 86 per cent in 1988. The standards vary from the relatively posh and professional services of Planned Parenthood to what are quite fairly called "abortion mills," places even the most zealous pro-choicers are ashamed to defend.

Activist pro-choicers are up in arms over the fact that 83 per cent of the 3,135 counties in the U.S. have no facilities for abortion. The numbers are deceptive, since the more populous counties are full of clinics, and it is no great burden for most people to reach the nearest good-sized city. Still, this suggests that community sentiment resists the pro-choice dream of an abortion clinic between the gas station and the general store in every two-street town.

Mark Cunningham is the Articles Editor of *National Review*, in which this article appeared (Nov. 2, 1992); it is reprinted here with permission (©1992 by National Review, Inc.).

In fact, most Americans disapprove of most abortions. A number of polls demonstrate this; my favorite, because liberals cannot impeach the source, was conducted for the *Boston Globe* in 1989. The study used a large, scientifically selected sample of the population; the pollsters posited various specific situations, and for each of them asked: "In this case, do you think it should be legal or illegal for a woman to obtain an abortion?"

Over 80 per cent of respondents supported legal abortions in cases of rape, incest, and danger to the life or physical health of the mother. Smaller majorities backed abortion for the reason of definite (65 per cent in favor, 23 per cent opposed) or potential (52 to 31 percent) genetic deformity.

But half or more did *not* think abortion should be legal for reasons such as these: the mother is a minor (50 to 35 per cent); she thought it the wrong time in her life to have a child (82 to 12); the baby was the wrong sex (93 to 3); the mother couldn't afford a child (75 to 16); birth control had failed (89 to 6); pregnancy would cause too much emotional strain (64 to 23); the father was unwilling to help raise the child (83 to 10) or absent (81 to 11). Solid majorities opposed permitting abortions in cases where one parent wanted to abort and the other did not: 72 per cent when it was the mother who wanted the abortion; 75 per cent when it was the father.

The *Globe* results are particularly interesting when juxtaposed to an account of the reasons why women actually choose abortion. The best information we have on this subject is a survey conducted by the Alan Guttmacher Institute (an offshoot of Planned Parenthood) of 1,900 women who had an abortion. (Multiple answers were permitted.) In this survey, 1 per cent claimed to be victims of rape or incest; 7 per cent cited a health problem; 51 per cent wanted "to avoid single parenthood" or had "problems with a relationship"; 68 per cent said they could not afford a baby; 76 per cent were "concerned about how having a baby could change her life," interfering with work, school, or similar responsibilities.

This casts in a new light the polls which more commonly make their way to the front page and the evening news, in which majorities of Americans describe themselves "pro-choice." For most people, evidently, that simply means not being rigorously pro-life. In fact, our "pro-choice" majority seemingly would be ready to outlaw most

of the abortions that are actually performed.

There is, however, an important qualification: most Americans who are not themselves pro-lifers strongly disapprove of the pro-life movement. In the June/July *First Things*, James Davison Hunter, a sociology and religious-studies professor at the University of Virginia, reports on his extensive analysis (with Carl Bowman of Bridgewater College) of several 1991 surveys of public opinion on abortion. He found that people who are not active pro-lifers—even people who agree that abortion is generally wrong—feel closer, culturally, to people holding strong pro-choice views. “Outside of the rank and file of the anti-abortion movement, the average American . . . tends to view the anti-abortion movement in the same negative way that the pro-choice coalitions do.” That is, they regard it as being “unconcerned about women and the poor, and marked by judgmentalism, extremism, and intolerance.”

Now, this image is false—the same surveys showed that “pro-lifers were significantly more concerned about child abuse, drug abuse, poverty and homelessness, and population growth than were the pro-choice . . . [and as concerned about] racial discrimination, minority rights, and women’s rights as their opponents.” But the image indicates a real resentment of pro-lifers’ message. People do not want to hear, or think, about it. Indeed, a recent *USA Today* poll put abortion a distant tenth on the list of issues affecting votes in the presidential campaign.

What Do Americans Know?

As a consequence, Americans are quite ignorant on the subject. One of the studies of public opinion, a Gallup survey, found that 80 per cent of Americans are not aware that *Roe v. Wade* and *Doe v. Bolton* legalized abortion through the full nine months of pregnancy; 17 per cent thought these decisions only granted a right to first-trimester abortions, and that only when the mother’s life or health is endangered; 25 per cent believed they granted an unrestricted right to abortion, but only for the first trimester. Interestingly, people who told Gallup they were moderately or strongly pro-choice were twice as likely as pro-lifers to belong to that 25 per cent.

This is a remarkable contradiction: people believe abortion to be wrong, but they resent those who remind them of it. One might wonder whether they are ignorant of the facts in part because they

would rather not know them. It seems that in the case of abortion, the moral values we actually hold have become impossible to express in polite society.

In fact, they have. The pro-choice philosophy is most strongly embraced by society's leaders. As the Los Angeles *Times* summarized its 1989 in-depth poll: "People on the high end of the socio-economic scale are dramatically more sympathetic toward abortion than those on the low end. For example, 45 per cent of the people who went to college generally favor abortion while only 25 per cent of high-school dropouts do. Likewise, 42 per cent of people earning more than \$40,000 a year favor abortion, but just 24 per cent of those who take in less than \$20,000 do."

The same divisions show up in all serious studies. A May 1992 Wirthlin poll (for *Reader's Digest*) found a similar pattern—even on the question of poor people's access to abortion: those earning less than \$15,000 a year opposed using tax dollars to fund abortions by a ratio of 63 to 32, while those earning over \$60,000 favored it, 57 to 41; blacks opposed it 64 to 33, whites by only 53 to 43.

This division by itself goes a long way toward explaining recent pro-life reverses. The greater wealth and education of pro-choicers translates into campaign skills which at least partially counteract the greater number of pro-life single-issue voters and their grass-roots savvy. It means more than that, however, for it means that acceptance of abortion is necessary for the approval of our betters, and acquiescence in it is connected to social and economic advancement. Why?

It has been established at least since Kristen Luker's *Abortion & the Politics of Motherhood* (1984) that the motive force behind the liberalization of abortion law beginning in the 1960s was the rise of the career woman and the development of a different understanding of motherhood, and of sexuality generally. The early pro-choice activists were feminists who deemed abortion necessary to the project of gender equivalence, allowing women the same freedom from sexual consequences, and thus the same ability to shape their own professional and private lives, as men.

In many states, particularly progressive ones such as California and New York, they had achieved that goal for all practical purposes before *Roe*, through liberalization of abortion law that made it easy for any sophisticated woman to evade the spirit of the remaining

restrictions by finding a sympathetic doctor. (Miss Luker notes that *Roe* had no effect on California's abortion rate.) But both feminist ideologues and committed career women wanted more: namely, the approval of society for their lifestyle and philosophy. With *Roe*, they achieved that.

That is why there is no room for compromise—why they find so mild a set of restrictions as those now enshrined in *Casey* unacceptable. For all the talk of rape and incest, those horrors account, as we have seen, for only a tiny fraction of cases. Unrestricted abortion overwhelmingly serves the career woman, married or not, who has plans that don't include the demands of pregnancy, let alone those of caring for a young child. (And it is true that single motherhood will knock you off the career track and into poverty before you can blink an eye.) Remember, three-quarters of all abortions are chosen because the mother is "concerned about how having a baby could change her life." Mary Cunningham Agee, whose pro-life Nurturing Network helps women through crisis pregnancies, reports: "Our experience shows that the most likely candidate for an abortion last year [1990] was between 20 and 26 years old, white, middle-class, with at least a high-school diploma."

By validating unrestricted abortion in *Roe*, however, the Court did more than help women continue their careers; it attacked the traditional understanding in which motherhood and human life are sacred (in a secular as well as religious sense). This provoked a counter attack by moral traditionalists, too late to stop *Roe* but in time to beat the even more radical ERA. For a time it seemed that the counter-revolution would succeed, but with the *Casey* decision these hopes have turned to dust.

The Broader War

We moral traditionalists must learn from this disaster; the abortion war is primarily a cultural one, and it cannot be won by simply asserting that abortion is immoral. The immediate strategy must be to stress the ways in which our abortion laws have gone wild, and to support alternative solutions to crisis pregnancies.

The first step has recently been advocated by Hadley Arkes [*NR*, Oct. 5]. Rather than directly join the battle on first principles, we should begin by asking what restrictions on our abortion laws, currently the most liberal in the Western world, are plainly sensible. The most

obvious one is parental notification: to oppose involving parents in a teenage girl's crisis pregnancy means that—as a society—we trust the judgment of a girl who has already made one mistake more than we do that of her parents; we assume that families are burdens, not assets, in a personal crisis.

This is the logic of a pro-choice position, for radical choice implies that all relations—family, church, community, as well as motherhood—are barriers to self-fulfillment, unless the individual actively chooses them. Moreover, parental notification does reduce teen abortion, both because parents are often willing to provide an alternative and because, presumably, girls are less likely to risk getting pregnant if it can't be kept a secret. The teen abortion rate dropped 21 per cent in Minnesota after a 1981 parental-notification law, rose when the law was blocked by the courts, and fell again when the Supreme Court denied the challenge. A parental-consent law in Massachusetts led to a 15 per cent drop in teen abortions.

These are meaningful victories: almost half the teenagers obtaining abortion do so without parental knowledge, and teenagers account for a quarter of all abortions.

In *Abortion Rites: A Social History of Abortion in America*, Marvin Olasky notes that the abortion rate among the non-slave population before the Civil War was about the same as today's; the problem was solved by no-nonsense Victorian social activism. While they worked for laws against abortion, the Victorian reformers also engaged in social work—identifying the “at-risk” social groups, and providing institutions that made the moral path easier: boarding houses, refuges, adoption services.

As Mr. Olasky points out, similar reformers are a major part of today's pro-life movement. Mary Cunningham Agee's Nurturing Network, mentioned above, targets career women; other pro-life centers help 700,000 women a year through crisis pregnancies. There is a whole network of hostels for unwed expectant and new mothers, including some associated with Jerry Falwell. This movement deserves more notice and public support for its own sake, and also to help give the lie to the image of pro-lifers as concerned with children up to the moment of birth, but not afterwards.

Mr. Olasky also points out that the Victorians stressed the dangers of abortions, and the suffering of women who have them. There is

considerable anecdotal evidence on these questions in our day. Every time reporters investigate legal abortion, they find stories as horrible as the back alley/coathanger ones that pro-choicers constantly recount—everything from “counseling” that includes blatant lies about fetal development to institutionalized malpractice like routinely using dangerous levels of anesthesia in order to do more abortions per hour. At Hillview Women’s Surgical Center in Suitland, Maryland, *60 Minutes* found evidence of one death, one “accident” that forced a hysterectomy, and another that left a woman comatose. The Center’s owner had been run out of Washington, D.C. for operating an unlicensed abortion clinic; she had moved to Maryland, which like most states has no laws regulating clinics.

Indeed, pro-choicers oppose the most basic health regulations, Meredith Veira of *60 Minutes* reported, for fear “that the pro-lifers will then use those regulations as a backdoor way to stop abortions.” Barbara Radford, spokesman for the National Abortion Federation, explained, “We want to make sure that women have choices when it comes to abortion services. And if you regulate too strictly, you deny women the access to service.” (Sound economics, anyway.) Nat Hentoff notes that Maryland does have an abortion law—exempting physicians from civil and criminal liability for “good faith” abortions.

There is also much anecdotal evidence of emotional trauma, sometimes life-long, after an abortion. The largest support/activist group, Women Exploited by Abortion, claims well over 200,000 members. David Reardon’s *Aborted Women: Silent No More* is only one of many accounts of the psychological and physical traumas that women face after abortions; even many overtly pro-choice oral histories admit the problem.

Surgeon General C. Everett Koop’s report, broadly trumpeted, on post-abortion traumas concluded that there was no scientific evidence that women suffered, physically or mentally, in the aftermath of an abortion. In fact, Dr. Koop could not produce any such evidence because all the studies were methodologically flawed. There is no orderly record-keeping, and little immediate (and no long-term) follow-up. Probably the best thing about the *Casey* decision is that it allows Pennsylvania to require follow-up and accurate record-keeping. In a few years, we may know how many women actually encounter problems, physical or mental, months or years after an abortion. Just as studies of the economic effects on women of no-fault divorce are leading to some reform of that disastrous “reform,” so might some

accounting of the real cost of abortion help turn this clock back.

There are also non-political approaches. The de Moss foundation has run one series of television advertisements promoting adoption and will soon start another. The ads simply show happy adopted children, without mentioning the alternative. But the implicit message—that someone wants your child if you are unable to keep it—infuriates pro-choicers. Hence the spate of articles in women's magazines on the horrors of adoption.

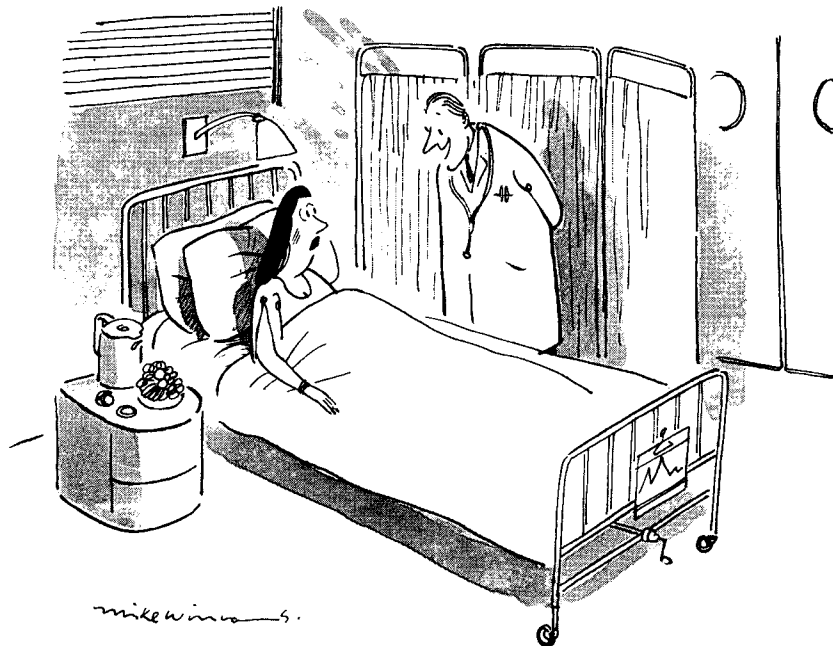
In the long term, the counter-revolutionists must await, and attempt to hasten, fairly radical social change—to unseat the social ideal of radical individualism that recognizes no restraints such as family and community—whether that is achieved by persuading or displacing the elite that fostered that ideal. This is an enormous task, but time is on our side. To begin with, younger baby-boomers are now settling down; marriage and parenthood will automatically change their views to some extent. Wirthlin's poll found that married people with children are markedly more socially conservative than other categories. Single people without children described themselves as pro-choice/pro-life in a ratio of 69 to 28, married with children, 42 to 47 (and remember that most people think "pro-choice" is a very big tent). Childless singles opposed by 55 to 44 amending the Constitution to protect the right of the unborn child; married parents came down 52 to 40 in favor.

Finally, if traditional morality is an accurate description of the best pursuit of human happiness, and the new morality a misguided dream, then all we need do is ask our fellow Americans to reflect on our common experience. Plainly, liberation has not lived up to its sales pitch.

Today's women are not as happy as the feminists promised; many of them are poorer and more lonely. The fruits of the sexual revolution include explosions of child abuse, child poverty, and female poverty, particularly among older women (whose husbands left them for 20-year-olds). Feminism—and radical individualism generally—is a bust outside academia and the activist groups, and even there fierce revisionism has set in. The hot thing in political theory is communitarianism—a movement that explicitly supports the traditional family and whose leaders include Mary Ann Glendon, perhaps our leading debunker of radical individualism in the context of abortion.

MARK CUNNINGHAM

Americans tolerate 1.6 million abortions each year (more than a third the number of live births) not because we think abortion is moral; we deliberately refuse to face up to the moral character of abortion because morality no longer seems to serve our interests. The missing piece of the puzzle is the link between the moral life and the happy one. Life without abortion is often more difficult; life with abortion promises to be easier. But in the end it creates its own problems. And in a sense not meant by whoever coined the phrase, living well is the best revenge.



'An actor? Yes, of course I'm an actor. You've seen our commercials, surely you didn't expect real doctors at these prices?'

THE SPECTATOR 30 May 1992

90/WINTER 1993

APPENDIX A

[The following syndicated newspaper column was released on December 3, 1992, and is reprinted here with permission (©1992 by Universal Press Syndicate).]

B-But . . .

William F. Buckley Jr.

The data from the national election are extruded little by little, and the mosaic gradually fills out. The data appear to challenge a number of instant generalities seized upon immediately after Terrible Tuesday. For instance:

—Although the shibboleth tells us that the Republicans lost because of their identification in the public mind with “social conservatism,” the wise men tell us simultaneously that the sign at Clinton headquarters that read, “The economy, stupid,” told us the final story about what it was that caused Bill Clinton to beat George Bush. The economy. One version or the other of these is correct.

—The social immoderates, which is to say those who believe in abortion on demand, in affirmative action for organized gay/lesbians, etc., pretty much belong to the Democrats, so that it should never have surprised anybody if the majority of them stayed with the party of the avant-garde.

But some corollaries go almost unnoticed. To the extent that there is a gender gap, about which we have heard so much, we need to ask two questions.

The first is: How many women voters has the Republican Party lost? The second is: How many men voters has the Republican Party gained?

If the latter exceeds the former, then the political strategy is not mistaken. In 1980, 1984 and 1988, Reagan and Bush had massive majorities among men and slight leads among women. This year, the gap actually shrank. What happened was that many men moved from Bush to Ross Perot. The result was that Bush’s support among men and women differed by less than 1 percent.

Ross Perot was ardently pro-choice, but drew 21 percent of men and only 17 percent of women. How do we explain that? Moreover, Bush suffered no gap whatever among white women. And unmarried women—ingest this, if you can—supported him more heavily than unmarried men (34 percent vs. 32 percent).

—To dilute the social issues certainly runs risks with some voters. White born-again Christians made up 17 percent of the electorate. They went 61 percent for Bush—a nice majority. Not as big as it had been in 1988, when it was a roaring 81 percent, which proves nothing more than that born-again Christians are also interested in economic health.

—Southern whites went 48 percent for Bush. Those of them who defected did so for the most part to Perot, not to Clinton.

Single-issue pro-life voters account for between 8 percent and 13 percent of the electorate. That is a lot of people. How does the GOP propose to hold on to them? Presumably by concentrating not on the abolition of abortion, but

APPENDIX A

on restrictions to abortion. Ninety percent of the voters favor restrictions of one kind or another (e.g., notification of the parents in the case of teen-agers, 24-hour waiting period, prohibited in the third trimester).

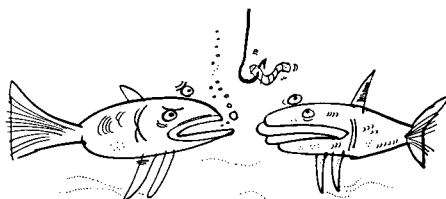
—If the Republican convention was the right-wing social orgy that drove the voters away from the party, we need to assimilate the polls' finding that the biggest pro-Republican bounce came after the first night of the convention, when the principal speakers were Pat Buchanan and Ronald Reagan: a bounce of 9 percent to 15 percent.

One-half of all voters thought that family values should be a campaign issue. But GOP HQ decided to drop family values a week or so later, and with its loss of interest, so did the interest of the voters diminish, to the point where only 15 percent of them thought family values an issue come Election Day. And 65 percent of those who were influenced by family values voted for Bush.

—American voters tend to be indulgent and moderate, but the majority do draw a line. The majority don't want to impose a radical moral and sexual agenda on their children via public schools or to subsidize and promote forms of expression that scandalize deeply felt beliefs.

"We see no consistency," writes National Review, "in a philosophy of government that bans a crucifix on public property but finances a crucifix immersed in urine, unless it is a philosophy of covert hostility to religion and traditional morality."

—And an interesting division, seldom noticed. It turns out that there is a "marriage gap." Unmarried voters lean to the Democrats; married to the GOP. This gap was seven huge points in Bush's favor, suggesting that social conservatism gives strength to the GOP coalition as long as it is one part of that coalition, which is all that social conservatives should be asking for.



'Believe me son, try it once and you're hooked.'

THE SPECTATOR 10 October 1992

APPENDIX B

[The following article first appeared—almost 18 years ago—in New York's Village Voice (March 3, 1975), and was reprinted in this journal's second issue (Spring, 1975). Margot Hentoff, an author and former Voice writer, is the wife of Columnist Nat Hentoff. She kindly gave us permission to reprint her article again here. (©The Village Voice, Inc., 1975).]

Let's Stop Deceiving Ourselves about Abortion

Margot Hentoff

For a period of time before abortion became legal, I used to enliven dull dinner parties by throwing into the conversation the statement that abortion was certainly murder. Since I rarely had dinner with any but a variety of civil libertarians, other liberals, and leftists, this was always good for some outraged denunciation—directed at me. If I were especially bored, I would add that I found some killing acceptable, that indeed I would want a defective newborn child disposed of, that perhaps capital punishment *was* a deterrent, and that if someone attempted to assault me—even only with fists—I would shoot him between the eyes without a tremor of guilt. Still, I would insist, we should call things what they are. And surely one did not have to be Catholic to understand that what abortion entailed was the slaughter of innocents.

But that kind of philosophical fooling around took place before the state, in effect, took its hands off the issue of abortion, leaving it to doctors and women. We now have a real situation in which abortions are being performed beyond the point of scraping out embryonic tissue. Now, the age of the products of midtrimester abortions are, at times, the same as that of prematurely-born infants who have a chance, however small, to live. In some cases, what determines whether the *thing* will be treated as an aborted fetus or a premature infant is whether it is wanted or not—a rather odd way to make a determination of humanity.

The whole issue of the ethics of dealing with human fetal life recently has been stirred up again. There is the Kenneth Edelin Boston manslaughter conviction. There are other cases in which doctors are coming under attack for having done research on aborted fetuses (in some instances, this research having required that the fetuses be kept alive for a period of time).

As the debate heats up, the liberal community is becoming more outraged than I have seen it since the Christmas bombing of Hanoi. But it remains unwilling to look at the real question abortion raises now and forever: is killing for utilitarian principles morally acceptable to humanists and where should it end?

Dr. Edelin and the pro-abortion people have made much of the idea that he was really convicted of performing a legal abortion and that he is a martyr in the abortion cause. But, in point of fact, Edelin was being tried for smothering a living fetus in utero during a late midtrimester hysterotomy (a kind of mini-

APPENDIX B

cesarean operation, the point of which is clearly not to bring forth another Julius Caesar). Edelin got stuck with the hysterotomy procedure because two previous salting-out attempts on the mother had failed to dislodge or kill the fetus. Since (as the juror who held out longest for his acquittal said) the purpose of the operation was death, what was Edelin to do? Apparently, his major error was that he didn't fudge what he was doing—which was to make sure that a viable fetus did not emerge.

I spoke to an obstetrician who mentioned that one possible procedure in such cases is to go into the uterus, remove the placenta first, and tie off its connection with the fetus—thereby depriving the fetus of oxygen. “Then” the doctor said, “if you go back into the uterus and fish around a while for the fetus, you will bring out a naturally dead fetus, not a live one.”

Edelin apparently addressed himself to the end of the fetus first—an act which looked, to some of the witnesses and to the jury, remarkably like murder, albeit in a good cause.

Here we have one of the problems created by the liberal community's obfuscation of language in refusing to speak plainly about what abortion is. They have held on to the illogical concept that the fetus is not a human being, that no killing is involved, and that an abortion is merely an operative procedure on a woman who has the right to decide what she wants to do with her body and the products thereof.

To liberals, state-condoned killing is what only the right-wing espouses. Capital punishment, for example. And, for liberals, when the Right-to-Life people claim to care about unborn children, it is comforting to insist that they are merely making mischief which will result in the further deaths of mothers, as well as more battered children who might die later on as a result of being unwanted.

On television, on Sunday, I watched a young black woman being interviewed about what would happen if she did not have an abortion. As if she had been programmed, she responded to the question, “Why do you want this abortion?”

Like another breed of Stepford wife, she answered, “I would rather have the abortion than have the baby and hurt it later on.”

Have we finally convinced the poor that they are out of control?

In a Herblock cartoon last week (sardonically titled “Creation of Life”) the gleeful Boston D.A. becomes Dr. Frankenstein watching his monster (labeled Massachusetts Abortion Case Conviction) rise to commit his evil deeds. But it is not entirely because of evil district attorneys that fetuses lie in unquiet graves.

In the same week, Harriet Van Horne wrote:

Right to Life people were the hawks shrieking for blood in the dark days of Vietnam . . . They are tainted with death, these zealots who would put a 37-year-old doctor behind bars for performing surgery sanctioned by the Supreme Court. A kind of surgery, moreover, that many Americans accept

THE HUMAN LIFE REVIEW

as socially constructive in a nation that cannot feed its populace and is running out of vital nonrenewable resources.

Our side, you see, only performs surgery; theirs always deals in death.

Van Horne goes on:

The cost of maintaining the children of the poor comes to well over \$1 billion a year . . . We have long since exceeded our optimum minimum population. Poor families breed more promiscuously than affluent families.

There is another liberal argument, much used. Dr. Edelin speaks often of the deaths from illegal abortions he has seen and explains that his choice is between the life of the fetus and the life of the mother. But, in most cases, what he is really doing is taking the life of the fetus in order to preserve the freedom of the mother to be unburdened by a child. Not the same thing. The name of this game is the Ethics of Convenience, and the rules of the game preclude admitting exactly what's going on.

I asked an obstetrician what they do with fetuses who are still alive after an abortion. "Well, they can't really breathe," he said. "Their air sacs are not sufficiently developed. There is some squirming around and gasping and respiratory movements, but in three or five minutes it stops."

"That must be sort of demoralizing to watch," I said.

"Yes," he said, "It is."

A pediatrician said, "they talk about 24-week viability—but you can get premature infants who live at 20, 22 weeks. Rarely, but you can get it."

One of the many things which makes late abortions demoralizing is that we have, in modern Western society, rejected infanticide as a solution to social problems. Unfortunately, as the age of the aborted fetus increases, it gets to look like a baby. Our instincts tell us that these are babies, and that what we are allowing has more to do with infanticide than with contraception.

"Look," another doctor said, "doctors can't decide when life begins. I don't know who can—but we can't make the decision. Give us the rules and we'll do what we're supposed to do."

He is, of course, right. Dr. Edelin is no more guilty than the state of Massachusetts which refused to enact *any* abortion law after the Supreme Court decision. He is no more guilty than the Supreme Court which begged the question, than the community which refuses to acknowledge that the death of a human being is a fundamental ethical issue.

Perhaps doctors are *least* equipped to make such judgments. Their training has educated them to go against their own early instincts—to cut into flesh, to inflict pain, to mutilate in order to cure. In a way, they are trained to be less susceptible to their own gut reactions, less likely than the rest of us to accept the appearance of things. To doctors, if the law says an unborn child is only fetal tissue, it is fetal tissue. Tell them to maintain life in its most tortured form, and they maintain life. In Nazi Germany, among psychiatrists in Russia,

APPENDIX B

it has not been difficult to convince doctors that what is legal is ethical. And why should they be expected to be moral philosophers? A jury, on the other hand, ignorant of fine points and medically uninformed, responds to Dr. Edelin's statement that "they had a fetus in the mortuary" by saying: No—what they had was a human being in the pathology lab.

And there is more coming down the pike. The Right-to-Life people may be troublesome, but someone ought to pay attention to what is happening. What we have now is chaos in terms of fetal research, salvageability of aborted fetuses, legal actions, and the issues of guardianship and consent. To say nothing of the absence of an ethical philosophy.

Until now, liberals have been able to sustain their antideath self-image by insisting that, in routine cases, abortions only remove fetuses with no chance for independent life from mothers who have the right not to be used as incubators.

That branch of medicine, however, which deals with treating fetal life has progressed so far that, as a doctor told me recently, "In the not so distant future we will be able to maintain life outside the woman's uterus perhaps as early as 12 weeks after gestation. But what kind of baby would it be?" He asked. "What kind of damage to the central nervous system would have been done?"

What will we do when that time comes, I wonder. Who will be responsible for what is born? Will we keep it or throw it back into the sea? Or will we kill it, quickly, before it gets away?



*'It's so nice of you young people to take me
for this lovely outing . . . It's wonderful to
have such caring, thoughtful relatives . . .'*

APPENDIX C

[George Weigel is president of the Ethics and Public Policy Center in Washington. The following column appeared in the Los Angeles Times (November 29, 1992) and is reprinted here with the author's permission.]

Women Reap the Rewards of 'Roe' in Abuse *Twenty years of 'freedom' to abort, 20 years of escalating sex crimes can't be a coincidence*

George Weigel

The sexual harassment charges swirling around Sen. Robert Packwood have ignited a firestorm of questions about Olympic-class political hypocrisy.

How could a U.S. senator famous for his advocacy of women's rights have so blithely and aggressively pursued adulterous sexual adventures?

Did feminist leaders—who surely had heard the stories circulating for more than a decade about Packwood's philandering—make a Machiavellian bargain to look the other way so as not to jeopardize a dependable pro-feminist vote in the Senate?

Tantalizing as these issues of personal and political responsibility may be, the Packwood affair should raise an even deeper public question about the relationship between the abortion license that the Oregon Republican and his erstwhile feminist allies championed, and the cause of equality and justice for women in the United States.

The orthodox feminist understanding of this equation has been set in concrete ever since *Roe v. Wade*: Abortion, available everywhere, anytime, and for any reason whatsoever, is essential to securing women's rights. Among these rights is the right to be free of sexual harassment in the workplace. Packwood's affairs behind closed doors blatantly contradicted his public support for women's rights, as putatively exemplified by his vehement and long-standing defense of *Roe*. Therefore, Packwood is a hypocrite.

It sounds very simple and persuasive. And at one level, it is: Aggressive sexual harassment is very bad news, and if the senator engaged in it, he committed a serious abuse of office. But there are other questions begging to be asked in the wake of this affair. Is the feminist orthodoxy on abortion not itself riven with cultural contradictions, precisely because it takes an entirely instrumental or pragmatic view of abortion law? And haven't those contradictions helped create a cultural situation conducive to sexual harassment and a host of other sorrows?

The hard sociological fact is that abortion on demand (the regime established by *Roe*) has been the greatest deal for irresponsible or predatory men in American history. Why? Because whatever else it said, *Roe* freed men from responsibility for the sexual conduct they consensually enter.

Roe is alleged to have empowered women; in fact, *Roe* legally disempowered women from holding men accountable for their sexual behavior where that

APPENDIX C

behavior had unplanned results.

Roe's cultural message has been even more potent than its legal impact, for it effectively eliminated any real-world consequences for men who use women as mere instruments of male sexual gratification. Those who do not understand the extraordinary temptations that this has created ought to think again about the dynamics of male sexuality, and about the ancient and ongoing struggle to discipline those dynamics through culture, moral standards and law.

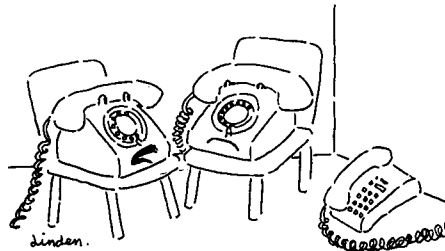
In sum, *Roe* not only changed our law; it changed the moral culture of America. And it did so to the great disadvantage of women.

Many American women instinctively understand this, which is why, in survey after survey for the past 20 years, women have opposed *Roe*'s abortion license in far greater numbers than men. And while there can be no algebraic certitude in these matters, is it so implausible to suggest that many of the current pathologies in relations between the sexes in contemporary America—spousal abuse, rape, “trading in” older wives for younger models, the feminization of poverty—have something to do with the cultural climate since *Roe*?

Every one of these phenomena has drastically increased since Jan. 22, 1973, the date the Supreme Court issued its supposed Magna Carta of women's rights. Is the suggestion of a linkage here, at the level of public moral culture, really so far-fetched?

The new Congress and President will soon be faced with demands—by the same feminists who were once among Bob Packwood's strongest supporters—to pass the “Freedom of Choice Act.” This would “nationalize” *Roe* through federal legislation and give the United States the most radically permissive abortion regime in the Western world. But it would do more than legally extend *Roe*'s reach into every nook and cranny of state and local law: It would go a long way toward institutionalizing the cultural revolution launched by *Roe*.

Those who are rightly distressed by the image of Senate offices as sexual free-fire zones might consider what this son-of-*Roe* legislation could unleash on the country as a whole.



'I think it's time you told him the fax of life.'

THE SPECTATOR 24 October 1992

APPENDIX D

[Jonathan M. Steingass, a Lutheran clergyman, is also a practicing attorney in Medina, Ohio. He sent us the following piece shortly after we received the article by Prof. Robert Byrn (in this issue); because it complements Byrn's argument, we thought our readers would want to read it too.—Ed.]

Sacred Sex and the New Right to Privacy

Jonathan M. Steingass

In *Griswold v. Connecticut*, 381 U.S. 479 (1965), the landmark case establishing the Constitutional right to privacy, the challenged state law forbade the use of contraceptives, even by married couples. The Court struck down the law as an intrusion into "the sacred precincts of marital bedrooms." But the privacy cases following *Griswold* have protected sex outside of the marital bedroom too.

It is truly amazing how simply the United States Supreme Court made the momentous shift from protecting marital sex to protecting non-marital sex. In *Eisenstadt v. Baird*, 405 U.S. 438 (1972), the Court, citing *Griswold*, struck down a conviction for selling contraceptives to an unmarried person in violation of state law. Justice Brennan, writing for the Court, dispensed with the relevance of marriage to the matter in these two sentences: "Yet the marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals, each with a separate intellectual and emotional make-up. If the right to privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child."

In effect, the Court supplemented the marital bedroom with a "sacred precinct" of its own (the new right to privacy) and placed there its idol, individual sexual choice. Society, with its clumsy laws limiting a person's access to the means of preventing the natural result of the sex act, and with its laws protecting marriage as the legal context of sex and child-bearing, must stay away and allow the individual sexual actor "to choose whether to bear or beget a child."

How far the Court has extended this right beyond the original factual basis of *Griswold* is illustrated by the cases involving minors. In *Carey v. Population Services International*, 431 U.S. 678 (1977), for example, the Court struck down a New York law forbidding the sale or distribution of contraceptives to minors under age sixteen. Brennan again spoke for the Court (a plurality) in rejecting the State's argument that the law was justified as a reasonable regulation of the morality of minors. He said that the State, in any case, has no significant interest in discouraging sexual activity among the young. The Court thus extended to minors under age sixteen "the constitutionally protected choice of whether to bear or beget a child." In less flowery language, this means, at least

APPENDIX D

in part, that every person under sixteen has a constitutional right to engage in sex without fear of an unwanted pregnancy.

It must be realized that the Court was not just saying “they’re going to have sex anyway, so at least let them protect themselves.” The court was speaking seriously about fundamental human rights. Its clear implication was that sexual expression, even among the very young outside of marriage, has a high value of its own, a sacredness, if you will, that must override all other considerations. The language used by the Court in these cases is like that used in First Amendment cases involving the guarantees of religion and speech, as if unrestrained sexual expression for all must be protected as an intrinsic good, and as if bringing or not bringing children into this world is a matter of purely individual choice.

This became clear in *Roe v. Wade*, 401 U.S. 113 (1973), which followed only a year after *Eisenstadt*. The individual woman’s right to privacy in matters of sex includes her right to abort her child. Her free choice about the use of her own body must come before the interests of marriage (the husband has no legal right to be consulted) or even of life itself (the unborn child has no rights at all). According to the dogma of the new privacy, the decision as to whether or not to bear a child only fundamentally affects the person making the decision, and everyone else’s interest in the matter is of little consequence.

This dogma was recently affirmed by a new plurality of the Court in *Planned Parenthood v. Casey* (1992), which stated, in upholding *Roe*: “Our obligation is to define the liberty of all, not to mandate our own moral code.” The right to sex, to abortion, and to bearing and raising children is thus a liberty not to be hindered by mere morality. But the Court not only refuses to mandate its own morality, it does not allow society to enact laws based on society’s morality either. In fact, the difference between the *Griswold* privacy right and the new privacy is the absence, from the latter, of any moral context.

That moral context was expressed by Justice Harlan in his dissent in *Poe v. Ullman*, 367 U.S. 497 (1961), which he used as his concurrence(!) in *Griswold*: “. . . Society has traditionally concerned itself with the moral soundness of its people. Indeed, to attempt a line between public behavior and that which is purely consensual or solitary would be to withdraw from community concern a range of subjects with which every society in civilized times has found it necessary to deal. The laws regarding marriage which provide when the sexual powers may be used and the legal and societal context in which children are born and brought up, as well as laws forbidding adultery, fornication and homosexual practices which express the negative of the proposition, confining sexuality to lawful marriage, form a pattern so deeply pressed into the substance of our social life that any constitutional doctrine in this area must be built on that basis.” Harlan agreed with the right to sexual privacy within marriage, but not outside of it.

Justice Harlan said what seemed perfectly obvious at the time, that any

reasonable constitutional doctrine in the area of sex and marriage should not protect sexual choice for its own sake, but should protect marriage as that institution wherein sex can be properly, safely and freely expressed and which provides the best context for child-bearing and child-rearing. This traditional view had grown out of centuries of experience of the dangers and powers, as well as the blessings, of sexual expression. And this view also recognized that public morality, expressed in part through laws regarding marriage and divorce, illegitimacy, homosexuality, contraception and abortion, served to protect us from these dangers and to properly channel these powers.

Many of these laws are gone now, struck down as unconstitutional since *Eisenstadt* and *Roe*, but our society isn't dealing very well, under the regime of the new privacy, with the powers or the dangers of sex. In the face of the AIDS problem, for example, the New York City public school system is distributing condoms to its students (New York has come a long way since *Carey*), and along with the condoms comes this advice: "You have the right to decide whether to have sex and who to have it with." (New York City Health Department pamphlet, as reported in the *Wall Street Journal*, October 5, 1992). The individual's right to have sex as he or she pleases is the only sexual value society can now constitutionally teach; it is the only official morality left. The "safe sex" solution is a desperate attempt to give credibility to this public moral vacuum. But this "solution" doesn't work because the only truly safe sex is moral sex.

Western civilization has long held that the value of marriage is primary and the value of sexual expression is subordinate to it. That idea was the basis for both our public laws and our private morality. But for twenty years now, the Supreme Court has used all of its power to promote an opposing idea, that sexual expression has a fundamental value of its own, quite apart from marriage. The Court has given to each individual the constitutional right to use his or her sexual powers however he or she wills, without constraint of law either as to context or consequence. In so doing, the Court has not only struck down our laws, but has dealt a blow to our belief system, to our very character as a people. The myth of Sacred Sex and the new Right to Privacy, enshrined as the highest law of the land, has been a disaster to the "substance of our social life" from which we will not easily recover.

APPENDIX E

[Michael Lacey writes for the New Times in Phoenix, Arizona, in which this article first appeared (Sept. 23-29, 1992); it is reprinted here with permission (©by the New Times, 1992). The names of the Chinese refugees have been changed to protect relatives in mainland China.—Ed.]

In China, No Rights to Life

Michael Lacey

The man from China sat in his chair and wept.

Thousands of miles from his homeland, Quan Lu had been answering questions in an airless room in Florence, Arizona.

"It must have been difficult for your wife," said the man sitting next to Lu, and with that simple remark, the tears rolled out of the young man's eyes.

Difficult? . . . yes. . . .

Living in terror that the government would force her to undergo an abortion, Lu's pregnant wife had walked mile after hilly mile across rural China's craggy, landscape trying to elude the birth-control police. She dragged the couple's toddler with her.

Faced with a staggering population and the unthinkable challenge of feeding, sheltering and clothing so many people, the Communist rulers had become ruthless environmentalists. Radical eco-bureaucrats have declared that no Chinese family can have more than one child.

Lu and his wife knew they were in violation of their country's rigid policy when she became pregnant a second time. But in China, where there is no social security, sons and daughters have traditionally been old-age insurance.

"I think about one child and it is not safe," said Lu. "It's only one child. When we get older, our children take care of us. I always come back and take care of my own mother and father."

To protect the life of their unborn child, Lu's wife quit her forestry job in the third month of her pregnancy, before she'd begun to show.

"She went into hiding," said Lu. "She lived a few days here, a few days there. Sometimes she lived for a couple of days with her parents, then a couple of days with mine. Sometimes with friends."

For the next six months, Lu's wife held her possessions in one hand and her toddler son in the other as she moved about.

"She and our child wandered on foot through the mountains until she gave birth in my parents' home."

Because Lu was a member of the Communist party and had even been a captain in his nation's army, the authorities made an example of the couple's defiance.

Lu was fined 10,000 RMB, more than three times the maximum an ordinary citizen would pay for violating the one-child edict, a sum large enough to wipe out his life savings and drive him into debt. And the couple feared this was

not the end of the harassment.

Because Lu's wife had not been well at the onset of the pregnancy, the forced march sapped her strength.

"Before she gave birth, she had problems with her womb," said Lu. "After birth she had a lot of blood come out. The doctor said she was not healthy enough to be sterilized."

The authorities informed Lu that he must be neutered in his wife's place. Instead, he decided to flee the country and try to build a life for his family abroad.

In January of this year, Lu kissed his wife and children goodbye. Along with 112 countrymen, he boarded a ship that smuggled them illegally into Hawaii, where all were arrested.

Since February the group has been locked up in American cells. All 112 have applied for political asylum, with approximately one-third of the group claiming to be part of the democratic movement that culminated in the deaths at Tiananmen Square; the rest are birth-control resisters. Thirty-three of the Chinese have been shipped to Florence, Arizona. It is an unlikely stage for such heart-wrenching drama.

The judicial proceedings in Florence, though conducted in a permanent facility, might as well be unfolding in a trailer park.

The carpet, the walls, the ceiling tiles are all of that stamped out of a factory beige common to mobile homes. The Immigration and Naturalization Service guard has no gun or bullets in her holster. Near the judge's chair, a wooden pallet supports a large, industrial cardboard box containing an air conditioning unit. Outside it is 105 degrees. Inside an attorney swats at a fly, catches it and crushes the insect beneath thick-soled shoes. Compelled to work one-week shifts in Florence, the judge and the attorneys never spend the night. They prefer commuting three hours a day by car to Phoenix to sleeping in the prison community. Everyone here labors far from reporters' questions. The INS attorney does not even bother to carry a business card.

The anonymity of this process and the fate of these refugees would change overnight if that champion of family values, George Bush, embraced the victims of planned parenthood gone insane.

Lu's case, for example, is loaded with the elements of a 60-second reelection commercial: Godless Communists performing unspeakable acts of abortion and sterilization in the name of family planning and the environment.

But George Bush is worse than silent about Lu's family.

In fact, the president's State Department actively opposed the granting of asylum to Lu and wrote a letter to the immigration court outlining its objections.

To be sure, the president has issued a vague proclamation supporting the victims of China's zero population-growth policies, but these sentiments lack the force of law. They are mere words, and are nothing more than Bush's slippery attempt to have it both ways. While the president talked one game, the State Department got down to business.

APPENDIX E

George B. High, acting director of the Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs at the State Department, wrote the judge on July 29 regarding Lu's application: "With respect to fines, in cases where couples exceed a stipulated limit of children, our officers found that payment of fines ranging from 1,000 RMB to 3,000 RMB was standard. Arranging documentation and fares to travel to the United States would have been much more expensive. We do not rule out that a couple may be pressed to have one of them undergo a sterilization procedure. However, for your information, we have noted a pattern in many asylum applications based on China's population policy of claims that the wife was too ill to be sterilized, prompting the husband's fear of sterilization and his flight to the U.S."

The State Department may well be hearing such claims because the Communists have confronted the very real problem of overpopulation with draconian zealotry. Washington, D.C., bureaucrats should not be surprised; none of this is new business.

In 1988 a Chinese student, Li Quan Bang, pursuing an advanced degree in engineering in Phoenix, panicked when the Beijing government demanded that he and his pregnant wife return to China for an abortion. The wife, seven months into her pregnancy, learned that her elderly mother was being threatened nightly by government agents.

"My poor mother-in-law could not eat or sleep for worry over what they would do if we returned with a second child," said Bang.

"Her blood pressure was up and she was having severe headaches. We were afraid she would have a stroke."

The factory that had granted Bang's wife a leave to join her husband while he studied in Arizona wrote to the couple saying that the government had threatened reprisals against all of the employees in the ball-bearing plant if she did not return for an abortion.

The final letter to the couple summed up matters concisely "Have you received our last express-mail letter? Have you taken any action as a result? The factory officials are anxious to know whether you have done as ordered. The punishment for this violation is very severe.

"If you cannot have this abortion done abroad, then the factory director orders you to return to China immediately. Any further delays and you will be punished according to the law.

"There is nothing ambiguous about our order! Make up your mind immediately! To your health!"

The official letters and the threats did not move Bush's State Department, which rejected the Bangs' application for asylum. The couple was allowed to remain in Arizona only after congressman Jon Kyl became interested in their plight and raised hell. That was four years ago.

Currently, the State Department has opposed asylum for all 112 Chinese

apprehended in Hawaii: Bush's official position on the political and social unrest in China has been to support the Communist rulers. China, you see, represents a potential market of one billion consumers for American products. The debate over students crushed by tanks and parents forced into abortions and sterilizations is not free of economic consideration.

This country cannot absorb all of China's population problems. But the State Department is not arguing that these refugees are exceeding quotas. They argue that these people are not worthy of asylum. Surely there is a better standard. Our government already admits Chinese immigrants if they are millionaires whose investments can create ten jobs in the United States. Fair enough. The 112 peasants have promises of employment within the Chinese community of New York. If they have sponsors, if they have jobs, why are we sending them back?

In one seven-day period this month, the judge heard the cases of Lu, Yuan Zemin, Deng Jiaqi and Ping Woo.

After Zemin's first child, the government fitted his wife with an IUD. The couple paid a private doctor to remove the device. The government's abortionists came for his wife when she was eight months' pregnant. In the ensuing melee, Zemin's wife escaped to the distant home of relatives, but Zemin himself was beaten so savagely that he was left totally deaf in one ear and with only partial hearing in the other.

"My family and me left my home for eight years," explained Zemin. "In June of 1991, I thought it such a long time, everything should be fine, so I returned. On June 15, the government [workers] came to my house. They want to catch me and fine me. But I don't have much money. So they want to put me in jail. I run away. The government knock down my house. I have no place to live."

Jiaqi's story is worse. He said the Chinese government sterilized him after he and his wife exceeded the one-child-per-family limit. Immigration officers thought he was lying, so they pulled his pants down and spread-eagled him to inspect his crotch. With more efficiency than sensitivity, the INS reasoned that a female doctor could handle Jiaqi's testicles as well as any man. Apparently, no shred of dignity is beneath clumsy, bureaucratic insult.

The doctor could not decide what she was looking at. She wrote to the court: "Physical examination revealed no likely surgical scar on the scrotum, which may be due to the redundant scrotal sac with its many folds which may obviate the minute surgical cuts routinely used in vasectomies." This thoughtless physical, done without warning or consultation with Jiaqi's attorney, does not call up the image of the Statue of Liberty, but it does reflect the INS perception that at times it looks like the entire Third World is climbing over America's white picket fence. These particular refugees have escaped the Droogish nightmare of Red Chinese environmentalists and are ensnared now in the grinding bureaucracy of immigration court.

It is truly no man's land.

APPENDIX E

Evidence, in any conventional sense, simply does not exist. Neither side can subpoena witnesses from Beijing. While the judge, the prosecutor and the defense attorney are learned and civil, the entire proceeding is murky at best. No one in Arizona speaks the particular dialect used by this boatload of Chinese peasants, so the court-appointed translator makes do with Mandarin, the tongue of the educated and elite. When a Los Angeles translator is located who *does* speak the correct dialect, his English is fortune-cookie rudimentary.

The law is clear that if the Communists apply harsh birth-control laws across the board, regardless of race, color or political creed—and that is just how the Marxists do it—there is no persecution and the refugees cannot be granted asylum. The law is equally clear that the judge can cite plenty of judicial exceptions, allowing in the desperate as he chooses. While the judge and the attorneys, each with 20-plus years of Western education, debate and consider events in mainland China of which they have absolutely no knowledge, a Chinese peasant who was working the Asian earth on his hands and knees last winter sits in unknowing stasis.

Alice's tea party made as much sense.

On September 9, a woman, Ping Woo, walked into the courtroom where her plea for asylum was ready to be heard.

A poor peasant who dropped out of school after five years of instruction to keep her father's house, Woo had married a village farmer before running afoul of Chinese functionaries. Her personal possessions and toiletries have been repeatedly stolen by American prisoners in the seven months she has been caged. Woo has yet to adjust to jailhouse food.

Though the immigration judge smiled at her before the official proceedings began, she did not return the official's courtesy. Instead, she worried, fingernails already bitten down to the quick.

And now something appeared to be going wrong. The translator explained that her attorney would not be coming. Would it be all right if this other lawyer, the one standing right here, took her case? She shook her head to say yes, but there was no way of knowing what went through her mind. Woo could not have guessed that the substitute attorney, Charles Kuck, represented a remarkable stroke of good fortune for her. He is one of those young attorneys whose belly still burns with a passion for justice. And he navigates the endless maze of immigration law skillfully.

Gently, Kuck coaxed out her story for the court.

The mother of two healthy boys, one 8, the other 4, Woo said she nonetheless ached for a little girl. And so she became pregnant and prayed.

Government agents appeared at her home in the middle of the night during her fifth month of pregnancy, claimed Woo. "I was so scared and crying and begging them to let me keep my baby . . . but they did not listen to me. Instead, they pushed me into their truck."

Taken bodily to a local hospital, Woo was forced to submit to an abortion. Once the fetus, female, was removed from her womb, Woo's body collapsed in exhaustion and despair.

"I was deeply hurt both physically and emotionally after the abortion. I felt so helpless as a mother at my inability to protect my unborn baby from being cruelly destroyed. I was so depressed. . . ."

Woo seemed to view her tragedy as fate. Her words described what happened almost as if the forces of nature intervened rather than government brutes and medical stooges: "I just . . . my wish could not come true. My baby daughter could not be born."

After many days in a hospital bed, Woo slowly regained the will to live. She still had her two boys, after all, and she was young enough, 29, to reasonably hope that there was time, plenty of time, to get pregnant again and have a little girl.

While still convalescing, Woo was informed that immediately after the abortion the doctors had also sterilized her.

This final, devastating bit of news was given to the bedridden Woo offhandedly, by a nurse.

After checking out of the hospital, Woo began making plans to leave China and join her husband.

When she had become pregnant with her third child, in August 1989, the Communists had threatened her husband with castration. One month later, he fled to America. Today, he lives surreptitiously and illegally in New York City.

In November 1991, she hugged and kissed her two boys and entrusted them to her sister.

Then she slipped over the border into Hong Kong. From there Woo traveled to Thailand and then on to the Philippines. Using a phony passport, she flew to Hawaii, where the INS seized her.

In its formal response to the court, the State Department accused Woo of lying.

In a letter dated May 13, 1992, David T. Hopper, director, Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs, wrote: "Because of the large number of low-credibility asylum applications by residents of Fujian Province's Chang Le County, State Department officers recently visited there to investigate the birth-control system and other characteristics. They found birth-control practices very liberal. Two children generally were permitted, and couples with three children are not uncommon. Although forced abortions were known to occur a decade ago and perhaps occur even today, we nevertheless believe that would be inconsistent with the situation in Chang Le. We strongly doubt this applicant's assertions, either about the birth limitations, or about forced abortion and castration."

Woo's attorney introduced two documents to counter the State Department's cynicism.

The first piece of paper, once translated, was a hospital record of Woo's

APPENDIX E

abortion faxed out of China by her relatives. The second piece of evidence documented her sterilization with words that sounded as if Woo had won a state prize from the Communists: “[You are] now *eligible* for ligature birth control.”

This amounted to an unusual level of support for Woo’s case. But what did it actually prove regarding her truthfulness?

All of the applicants are evasive about the particulars of the silk pipeline that shuttled them to American shores. It does not enhance their credibility when they shroud the financial details of their immigration. But if these Chinese peasants are granted asylum and if they then must work out their debts with years of sweat-labor in a New York noodle shop, they keep it to themselves.

INS guard A.L. Ramirez may not believe everything she hears in the Florence courtroom, but she does not seem overly concerned, either, with the Chinese reluctance to name names.

“They all have saved money,” said Ramirez during a break in the testimony. “They do not live lavishly like Americans. They are never in here on drug charges. That is not how they make their money.”

Woo’s husband had sent her \$10,000 in American money that she turned over to her smugglers. They, in turn, had provided her with a phony passport. Would hospital records be any harder to produce?

The government’s attorney, John Holya, finessed the problem of the documents’ authenticity by ignoring the paperwork. Pointing out that Woo had testified she fled China to join her husband, Holya argued, “What happened is certainly repugnant, and the government would agree that it is a terrible thing to have a forced abortion. However . . . what’s happened is done. She is not facing abortion or sterilization.”

The logic of the American government’s lawyer was as true, cold and unforgiving as the scalpel that mutilated Woo’s body.

Judge John Richardson had heard enough: “I do find her credible,” said Richardson. Describing the actions of the Chinese government as “base and vile,” he granted Woo asylum on humanitarian grounds.

The first to congratulate her was INS attorney Holya, a man who seemed relieved with each case he lost.

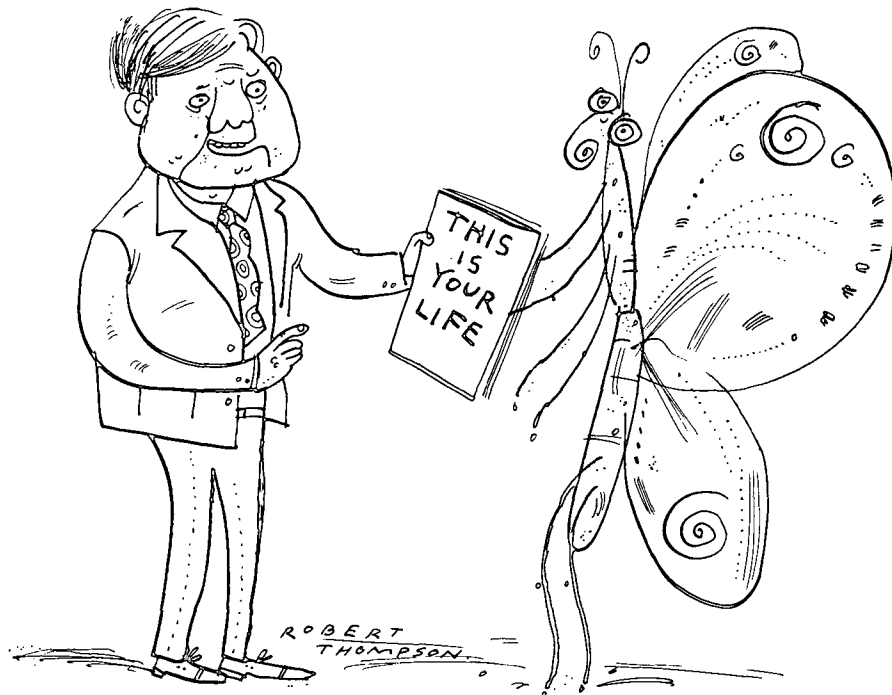
That night Charles Kuck drove Ping Woo to Phoenix Sky Harbor International Airport and put her on an airplane for New York City, just as he had done for Quan Lu, Yuan Zemin and Deng Jiaqi.

Although Kuck won asylum for the cases profiled here, not all of the detainees have been as fortunate. Three others represented by out-of-state lawyers lost their bids for freedom. Their appeals may take as long as two years, and they will remain incarcerated during that period. Kuck’s clients, however, are tasting the excitement that begins with the first step toward citizenship.

America’s newest residents posed for a journalist’s photographs, not understanding a single word being uttered in their presence.

THE HUMAN LIFE REVIEW

The day after Woo was reunited with her husband, an urgent telephone call came from the Chinese community in Manhattan. Please, said the caller, do not print their pictures. Do not use their real names. They all have family members still in China. The children and spouses can now legally come to America, but the aunts, the uncles, the grandparents must remain behind with the Communists.



'You were born, married and had children. Then in the afternoon . . . '

THE SPECTATOR 10 October 1992

APPENDIX F

[Dr. Michael R. Heaphy is a practicing physician in Ohio. The following article first appeared in *National Review* (Nov. 2, 1992) as a sidebar to the article by Mark Cunningham (also reprinted in this issue). It is reprinted here with permission (©1992 by National Review, Inc.).]

Dismemberment and Choice

Michael R. Heaphy, M.D.

For the last few years, it has been commonplace to hear conventionally enlightened people soberly and confidently announce that they are not pro-abortion but, rather, pro-choice. Because of the generality that is implicit in the unqualified word “choice,” it is logical to examine the pro-choice argument from a broad perspective.

To make a *pro-choice* argument is to assert a liberty to perform an action, *X*, without bothering to explain why *X* should be legal, without acknowledging the nature of *X*, and, sometimes, without permitting the name for *X* to cross one’s lips. Illogically, “choice” is both the premise and the conclusion. The pro-choice argument for abortion is that abortion should be legal because women have a *right to choose*. The problem with this argument is that an unqualified right purely and simply to *choose* could be used to advocate legal status for drunk driving, cannibalism, insider trading, or anything else. Unless one believes that all conceivable actions should be legal, it is not reasonable to base advocacy of legality for a particular action on *unqualified* choice.

To understand what abortion is all about, it is useful to re-direct our attention from the abstract plane down to a more practical level. Such a real-world viewpoint can be achieved by considering the day-to-day work of a physician who does little else with his professional life except abortions. For example, in my own state of Ohio, there is the practice of W. Martin Haskell, M.D.

Depending on the size of the unborn child (or should I use one of the sanitized terms—like the “conceptus”?), Dr. Haskell employs various techniques. If the fetus isn’t too far along, Haskell can probably use the suction curettage method in which a sharp curette is used to reduce the fetus into chunks small enough to be sucked out of the uterus.

Later in pregnancy the fetus is too large for this method. Such cases provide Dr. Haskell with many of his referrals. He is an expert at killing human fetuses at five and six months’ gestation. He uses laminaria to dilate the cervix in a three-day procedure, then simply goes in, makes a direct instrument attack on the fetus, kills it, and takes it out.

Of course, the head is usually crushed in this D&E (dilation and evacuation) procedure. An unripened cervix just doesn’t expand enough to pass a five- or six-month head. If the unborn baby is big enough, then the arms and legs may have to go too. The fetus is typically dismembered and removed piece by piece

in a D&E abortion. The parts are often inspected to make sure an arm or a leg hasn't been left in the mother.

The news organizations' reticence about mentioning the actual nature of abortion may arise in part from a chink in the gleaming semantic armor that otherwise encases the subject: *The abortion advocates forgot to re-name the body parts encountered in abortion.*

Presumably the "conscientious practitioners" of abortion (as the AMA now calls them—in slight departure from its own earlier description of them as "modern day Herods"), would be loath to admit to killing unborn children. They would rather say that they *terminate pregnancies*, an odd assistance for a process that invariably terminates itself.

As long as the discussion is couched in such genteel terms, there isn't much room for primitive, natural words like "arm" and "leg." They are gaucheries. On the other hand, if we could simply introduce a few Choice words into the vocabulary, then our mass media would no longer need to shy away from the topic of abortion techniques. The unborn child won't be called a child but just a "fetus" (Latin for "offspring"), and the arm is only a "potential arm" or, say, a "*brachium*."

Dr. Haskell operates abortion facilities in Cincinnati and suburban Dayton. When Yvonne Brower, a University of Cincinnati student, called to enquire if she could observe abortions to gather information for a term paper, the clinic manager was magnanimous. On September 21, 1989, Miss Brower observed Dr. Haskell killing fetuses at the Women's Med Center, which he owns, in Kettering, Ohio. The events of that morning prompted Miss Brower to file a complaint with the police.

The following excerpt from the police report is of interest:

She stated that by 11 o'clock she had already observed two "D&E" three-day procedures on two patients. She stated on the third patient, however, the abortion was different. . . . The patient's water was already broken and she spontaneously gave birth prematurely before the proper D&E procedure could be done. She stated that the baby was delivered feet first very quickly through the birth canal. The head was on its way out when Dr. Haskell reached over and got his scissors and snipped the right side of the baby's common carotid artery.

Even then, Miss Brower stated, the newborn infant was not exactly dead. The police report again:

The complainant stated that the baby was still moving when she looked at it once again. . . . it was breathing shallow breaths, as was evidenced by the chest moving up and down. She stated that she could also observe the baby's hand having slow, controlled, muscular movements, unlike the short jerky twitchy motions she had seen and learned to expect when the baby was already dead before it came out of the birth canal.

The *Dayton Daily News* reported this story on Sunday, December 10, 1989.

APPENDIX F

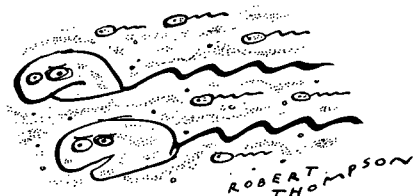
In the *Daily News* Dr. Haskell described the event in question in this way: “it came out very quickly after I put the scissors up in the cervical canal and pierced the skull and spread the scissors apart. It popped right on out. . . . the previous two, I had to use the suction to collapse the skull.”

Haskell also said Miss Brower “quite possibly” misinterpreted what happened in the abortion. Miss Brower, however, said she saw Dr. Haskell perform 15 abortions the day before and two others that morning. “So it’s not like I hadn’t seen any before,” she said.

Dr. Haskell was questioned by the police. He maintains that when he does abortions he always causes the death of the fetus to occur just before delivery rather than after. The prosecutor did not bring charges.

Of course, if killing the unborn, at the moment when Haskell *openly admits* to the act, is not merely *not illegal* but rather a “fundamental right,” it would be remarkable for virtually the same act to constitute legal homicide a few seconds later. *Legal* homicide or not, however, it would seem clear that a direct, intentional, and lethal assault on a human fetus must constitute a *homicide-in-fact* in that old-fashioned, as-long-as-words-have-meanings sense that even our federal judges are not quite able to change. It would be rather surprising if, here or there, some abortionist did not proceed to act on the logical basis that the result is the same whether one kills the fetus and then takes it out or takes it out and then kills it.

At present, good people in America are working to undo a decree that has transformed an entire class of human beings into constitutional outlaws suitable for discretionary killing. The idea that something so grandiose and Platonic as “choice” will be lost to our people if this killing is prohibited is as ludicrous as suggesting that the American people are already deprived of the same ideal by the prohibition of burglary or rape. The abortion struggle is of pivotal importance for humanity because it is about the value of human life and the value of truth. If that seems too abstract, then consider a more concrete approach: Recall that it is also about crushing unborn babies’ skulls and ask whether or not it is OK to do that.



‘Be careful, life is sexually transmitted.’

THE SPECTATOR 7 November 1992

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