

# Lifeline

*A Legal Network  
in Support of Life*

A P U B L I C A T I O N O F T H E L I F E L E G A L D E F E N S E F O U N D A T I O N

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*Katie Short*

## Ninth Circuit Overturns \$107 Million “Nuremberg Files” Verdict

### WANTED: More Decisions Like This One

**Two years ago, we reported on the decision of a federal district court in Oregon which held certain pro-life individuals liable for publishing posters which gave the names and addresses of abortionists and urged people to contact them and ask them to “turn from killing and injuring women and children, to helping and healing those in need.”**

The court also found the defendants liable for their tangential involvement in the “Nuremberg Files” web site, a site which urges the collection and dissemination of information about abortion providers and proponents. The court found that the posters and web site were “true threats” to seriously harm or kill the individuals. Based on his jury instructions, a jury awarded a staggering \$107 million dollars to the plaintiff abortion providers. [See *Lifeline*, Vol. IX, No. 1, April 1999]

On March 30, 2001, the Ninth Circuit overturned this judgment, not only ruling that the lower court had improperly instructed the jury, but also specifically holding that the posters and web site were constitutionally protected speech. The Court relied heavily on a prior Supreme Court case, *NAACP v. Claiborne Hardware*, 458 U.S. 886 (1983), which involved a boycott by blacks of white-owned businesses in Montgomery, Alabama. The Supreme Court held that the speech and actions of the boycott organizers was protected

*Ninth Circuit overturned this judgment, not only ruling that the lower court had improperly instructed the jury, but also specifically holding that the posters and web site were constitutionally protected speech.*

under the First Amendment, even though the organizers assigned black-hatted watchers outside the stores and threatened to “break

(NUREMBERG CONT. ON PAGE 4)

## GENERAL RECAP & UPDATE

***Planned Parenthood v. ACLA et al.*** (Portland)—On March 29, the Ninth Circuit reversed the trial court decision imposing \$107 million in damages against pro-life activists and directed the court to enter judgment in favor of the defendants on all accounts. The court ruled that the defendants’ posters and web site publicizing the names and addresses of abortionists were not threats but constitutionally protected political speech. See article this page.

***Conservatorship of Wendland*** (Stockton)—Robert Wendland died July 17, 2001 (story page 2). After arguments before the Third District Court of Appeal, the Court’s decision was to remand the case for trial. They upheld the standard of proof used during the first trial, (clear and convincing evidence, but held that Rose Wendland, (Robert Wendland’s wife and conservator), must

(RECAP CONT. ON PAGE 3)

## Robert Wendland, R.I.P.

Robert Wendland died on July 17, 2001. His mother, Florence, was with him when he died. Robert's death followed several weeks of disturbing reports from Florence concerning the situation at Lodi Memorial Hospital, where Robert had lived since his accident in 1993.

As reported elsewhere in this issue [see this page], the oral argument of Robert's case before the California Supreme Court went extremely well. The attorney for Rose Wendland was quoted after the argument as saying "I think that we lost this case today."

Two days later, on June 1, when Florence was on one of her regular visits to Robert, she was informed by hospital administrators that Rose had made several new orders. First, Florence was no longer allowed to visit Robert anywhere but in his hospital room. (Florence had been accustomed to take Robert for walks to different areas in the hospital, including the activity room and the "quiet room.") Second, other family members, such as Robert's sister Rebekah, were prohibited from visiting Robert. Third, the medical personnel at the hospital had been instructed not to give any information regarding Robert's treatment or condition to Florence or other family members.

In early July, Florence noticed that Robert appeared ill and feverish. Being unable to obtain any information about his condition, Florence notified her attorney, Janie Hickok Siess, who contacted Rose's attorney about the situation, including Rose's new orders. Rose's attorney simply affirmed Rose's determination to continue this new course. Becoming increasingly alarmed by Florence's reports about Robert's deteriorating health, Janie immediately filed a petition in the trial court to allow Florence access to information about Robert's condition and treatment, as well as an examination by a different physician.

The trial court denied the petition, as did the Court of Appeal, where Janie filed a writ four days later. Janie also held a press conference, which apparently sparked enough inquiries from the press to cause Rose to issue a press release, in which she revealed, for the first time, that Robert was "under the care of" Ronald Cranford. Cranford, a staunch advocate of physician assisted suicide and euthanasia, had testified on Rose's behalf at

(WENDLAND CONT. ON PAGE 9)

## Wendland Goes to California Supreme Court

Dana Cody

**Thank you to all our readers who continue to support LLDF with their prayers, time, and donations. On May 30, 2001, your prayers were answered when Janie Hickok Siess argued for Robert Wendland's right to life on behalf of Florence Wendland, Robert's mother, and Rebekah Vinson, Robert's sister, before the State Supreme Court.**



I had the privilege to watch oral argument and it was a sight to behold.

The Wendland case centers around Robert, a cognitively disabled man close to 50 years of age. Due to Robert's disability he had to be fed with a feeding tube, and Rose Wendland, Robert's wife, sought leave of the court to end Robert's life by removing the tube. At issue is whether or not as Robert's conservator, Rose has the authority under the law to do so. Keep in mind that Robert recently bowled a 175 from his wheelchair.

Each side had thirty minutes to present its case. During that time the attorneys were pelted with questions from each of the seven justices. The "other side" divided their time into ten-minute segments among Robert Wendland's court appointed attorney, Rose Wendland's attorney, and one attorney representing the interest of amici, the Alliance of Catholic Healthcare.

Janie flawlessly answered every question, championing Robert's right to life, while the other side sat there slack jawed.

Then it was their turn. The other side was unable to adequately answer any question presented by the court. When asked what evidence there was in the record of acting in Robert's best interests, as required by Probate Code section 2355, they could find no adequate answer. The justices patiently responded by rephrasing the question again and again. When asked whether or not ending Robert's life based only on a preponderance of the evidence, as required by Probate Code

section 2355, would violate Robert's fundamental right to life, their answers were off point and confusing.

At one point the justices tried to help Rose's dazed and confused dream team by naming

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*Still, the team of pro-death attorneys remained . . . unable to give any suitable answer as to why Robert's life should be ended based on an educated guess rather than by the clear and convincing standard . . .*

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instances under the law where higher standards are used to ensure the law protects citizen's rights, such as deportation, sterilization, and parental rights. The justices did everything but beg for an answer that might align Robert's situation with that of someone in a permanent unconscious state. Still, the team of pro-death attorneys remained dazed and

(SUPREME COURT CONT. ON PAGE 15)

## The Politics of Stem Cells

Wesley J. Smith

### The Good News You Never Hear

**Stem cells are undifferentiated “master cells” in the body that can develop into differentiated tissues, such as bone, muscle, nerve, or skin.**

Stem cell research may lead to exponential improvements in treatment of many terminal and debilitating conditions, from cancer to Parkinson's to Alzheimer's to diabetes to heart disease. Indeed, breakthroughs in stem cell research reported just in the last six months take one's breath away:

- Italian scientists have generated muscle tissue using rat stem cells, a discovery that may have significant implications for organ transplant therapy.
- University of South Florida researchers report that rats genetically engineered to have strokes were injected with rat stem cells that “integrated seamlessly into the surrounding brain tissue, maturing into the type of cell appropriate for that area of the brain.” The potential for stem cell treatments to alleviate stroke symptoms such as slurred speech and dizziness — therapy that would not require surgery — has the potential to dramatically improve the treatment of many neurological diseases.
- The group of scientists who achieved worldwide fame for cloning Dolly the sheep have successfully created heart tissue using cow stem cells. The experiment demonstrated that stem cells could be transformed into differentiated bodily tissues, offering great impetus to further research.
- Scientists at Enzo Biochem, Inc., inserted anti-HIV genes into human stem cells. The stem cells survived, grew, and developed into a type of white blood cell that is affected adversely by HIV infection. In the laboratory, these treated cells blocked HIV growth. The next step is human trials, in which stem cell therapy will be attempted using bone marrow transplantation techniques currently effective in the treatment of some cancers.



What will surprise many people is that none of these remarkable achievements relied on the use of stem cells from embryos or the products of abortion. Indeed, all of these experiments involved adult stem cells or undifferentiated stem cells obtained from other non-embryo sources. The rat muscle tissue in the first example was generated using adult rat brain cells. The brain tissue generated in the Florida research was obtained using human stem cells found in umbilical cord blood — material usually discarded after birth and a potentially inexhaustible source of stem cells, since 4 million babies are born in the United States alone each year. Dolly's creators

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prove only that she acted in good faith based on medical advice. The court characterized her decision to end Robert's life as one of privacy and choice, stating that, of course, Rose has every right to discontinue Robert's life-sustaining treatment. On June 21, the California Supreme Court voted unanimously to grant Robert's mother's request that it review the appellate court's decision. Oral argument held May 30, 2001, decision pending. Conservatorship of the Person of Robert Wendland (2000) 78 Cal.App.4th 517; 93 Cal.Rptr.2d 550. Supr. Ct. No. S087265. See article p. 2.

***Foti v. Planned Parenthood/Planned Parenthood v. Foti*** (Menlo Park)—

This action and cross-action between sidewalk counselors and PP and its escorts is now stayed, pending the outcome of a new lawsuit filed by PP in which it seeks a declaration from the court that a speech-free zone injunction it obtained six years ago against completely different parties actually applies against these sidewalk counselors and anyone else PP serves it on. The defendants have filed motions to strike PP's new complaint for declaratory relief.

***Reeves v. Rocklin United School District***—

Pro-lifers leafletting and holding signs were detained after high school administrators involved the local police; during a second visit to the same school, pro-lifers were forced to move off the campus after being refused visitor registration. They were also told that the public street adjacent to the school was off-limits. Despite clear California case and statutory authority allowing free speech on and near public school campuses, the trial court ruled that the administrators could permissibly exclude the pro-lifers in order to prevent “disruption” of school activities. Case on appeal.

***Kelly v. County of Orange***—

Nurse Karen Kelly, who was fired for not violating her pro-life convictions, sued the County of Orange for wrongful termination and religious discrimination. Trial set for fall 2001.

***North Dakota v. Family Life Services***—State Attorney General took over pro-life

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[the] damn neck” of any violators they caught going into the stores.

In the opinion by Judge Kozinski, joined by the two other judges on the panel, the Ninth Circuit not only pointed to the clearly analogous facts in *Claiborne Hardware*, but made several important distinctions, distinctions which had been urged on the district court by the defendants, but which it had ignored.

First, the posters and web site not only did not advocate violence, they did not mention violence at all. The posters urged nonviolent efforts to convert the abortion providers (or get their medical licenses revoked), and the web site sought information by which the abortionists and others might be identified and tried in “perfectly legal” Nuremberg-like war crimes tribunals “once the tide of this nation’s opinion turns against the wanton slaughter of God’s children.” Thus, all constitutional analysis based on the theory of “authorizing, ratifying, or directly threatening” violence was beside the point. There was no mention of violence.

Second, on the question of whether the publications were implied rather than explicit threats, the court noted that the putative “threats” were not communicated to the abortion providers, but instead were “made in the context of public discourse.” The posters were distributed at pro-life gatherings, and the web site is available to anyone with Internet access. The absence of personal communication of the publications to the plaintiffs considerably blunted the claim that the defendants intended them as threats rather than as rhetorically charged political speech. More importantly, the fact that the speech made “through the normal channels of group communication and concerning matters of public policy,” means that it is afforded the “maximum level of protection by the Free Speech Clause because it lies at the core of the First Amendment.”

Third, as to whether the plaintiffs actually felt threatened as a result of the publications, and whether the defendants should have known

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## CALFACE Update

Katie Short

**Our readers may have noticed a flurry of media stories in July concerning an alleged new wave of violence against abortion clinics, particularly in California. These reports apparently were the product of a well-orchestrated public relations campaign to create support for SB 780, a bill which puts the draconian penalties of the federal *Freedom of Access to Clinic Entrances Act (FACE)* into California law.**

In addition to severe criminal penalties, SB 780 stacks the deck against pro-life defendants in any civil action brought under this law by allowing courts to prohibit the use of cameras either before or after trial. As anyone familiar with the issues surrounding clinic protests knows, these situations virtually always involve “he-said-she-said” (or “she-said-she-said”) accusations of misconduct between “clinic defenders” and pro-life individuals, with no visible harm to either party. The best evidence that a court can have to determine what actually happened or is happening is a videotape or photographs. Because videotapes have proved so effective in recent years in disproving abortion providers, inflammatory and sensational allegations, these providers have every incentive to seek court orders prohibiting the use of cameras. It is to their advantage for a court or jury to have to rely simply on the oral testimony of clinic personnel vs. pro-life picketers. Only through the use of videotaped evidence have pro-life picketers been able to rebut the *de facto* presumption, created by the media, the abortion lobby, and bills such as SB 780, that they are lawless, violence-prone fanatics.

Even more troubling is the provision in SB 780 which allows a court, in its discretion, to permit witnesses and others to use pseudonyms in civil proceedings. §423.5(c). Not only does this prevent a defendant from doing the most basic type of background investigation of a witness, it will adversely affect the accuracy of the witness’s testimony. It is an unfortunate truth of human nature that putting one’s name to a statement guarantees its

accuracy better than if the statement is made anonymously.

The procedures in §423.5(b) and (c) might conceivably be appropriate in situations where the accused and the accuser are genuine strangers to one another, and where the accuser has no incentive to embellish the truth.

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*SB 780 directs the Attorney General to “collect and analyze information relating to anti-reproductive rights crimes, including . . . persons suspected of committing these crimes or making these threats.”*

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Where, however, the parties are ideological opponents in one of the most hotly debated moral, religious, and political issues of the day, a provision allowing one side to give anonymous statements under oath without fear of exposure is an invitation to perjury and fraud on the court.

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## The Poison Pill

Tony Wynne

### California lawmakers have slipped a poison pill into the health benefits programs offered by California employers.

Last year, the California legislature enacted the *Women's Contraception Equity Act* (WCEA) (Health & Safety Code Section 1367.25 and Insurance Code Section 10123.196). These statutes, sponsored by Planned Parenthood and other abortion-rights organizations, require group and individual health insurance policies and disability policies that include prescription drug benefits also to include coverage for prescription contraceptives, including abortifacient drugs and devices. Unfortunately, given the nature of the pill, many California employers may not experience even the slightest indigestion. Those opposed to contraception and abortion however, may have to lop off a portion of their benefits packages to avoid ingesting the pill.

Faced with the dilemma of either discontinuing its prescription drug coverage for employees or continuing to offer it together with prescription contraception coverage, Catholic Charities of Sacramento, Inc. sought relief from the Superior Court, and failing there, from the Court of Appeal. The appellate court rejected Catholic Charities' federal and state constitutional arguments, and held that Catholic Charities was subject to the law. *Catholic Charities of Sacramento, Inc. v Superior Court*, \_\_\_ Cal.App. 4th \_\_\_ (2001).

The stated legislative purpose of the WCEA is to "prevent discrimination against women in healthcare insurance." There are a few things wrong with this premise. First of all, what do contraceptives have to do with "healthcare", anyway? Pregnancy is not a disease. It is a natural consequence of sexual intercourse between a man and a woman. It would be self-contradictory to describe someone as "a healthy cancerous woman" or "a healthy diabetic woman". On the other hand, the world is full of healthy pregnant women.

Second, what does any of this have to do with "insurance"? Insurance is supposed to protect

against perils or risks unexpected and unintended by the insured. No one expects to get cancer, or to be injured in an accident. But

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*The most important thing to remember about this case is that the WCEA does not require California employers—Catholic Charities or anyone else—to provide prescription contraceptive coverage to their employees.*

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buying contraceptives? A person makes a decision to do that. What about prescription drugs taken as preventative treatment for those with medical conditions? Aren't contraceptives essentially the same thing? No, they are not. A woman's reproductive years are not an unwanted or unexpected condition such as high blood pressure or a bad heart condition. They are, essentially, a certainty. It is axiomatic in insurance that you cannot insure against a sure thing.

Third, an attempt to eliminate discrimination in insurance is not only moronic, but oxy-

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ministry, with trial court placing Family Life Services, a pro-life ministry, in permanent long-term receivership (now 5 years). The North Dakota Supreme Court reversed and sent the case back to the trial court. In an unusual move, the Court also ordered that the case not be returned to the same trial court judge. The case is now before a new trial court judge and the case appears headed for a satisfactory resolution. The Attorney General, having failed in its attempt to appoint state-selected religious leaders to the FLS board, has now moved for dissolution. A decision is expected by August.

**U.S. v. Alaw** (Wash., D.C.)— Department of Justice suing rescuers civilly for "blocking" a clinic where no abortions were taking place and doors were locked. Judge issued injunction in spite of lack of evidence. **Victory!** Case reversed on appeal and sent back to trial court.

**Spingola v. U.C. Regents** (Berkeley)— Street preacher of pro-life message harassed. Summary judgment granted in part and the remainder transferred to State Court. Case pending.

**Wilkerson [PP] v. Scott et al.** (San Diego)— Injunction and \$2,500,000 damages suit against multiple sidewalk counselors. Counselors appealed preliminary injunction; court of appeal very grudgingly reversed the most outrageous provisions, while indulging every conceivable presumption to affirm the remainder, including a 25-foot speech-free zone and a requirement that pro-lifers stand single-file on the sidewalk. Discovery in process. Trial set for November.

**Amy Jo Mattson v. MKB Management Corporation dba Red River Women's Clinic** (North Dakota)— False Advertising suit. Abortion mill claimed in writing that there was no link between breast cancer and abortion. In response to the suit, the clinic stopped distributing one brochure, but is now distributing a different misleading brochure. Trial court denied defendant's motion for summary judgment. Trial set for September 11.

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## SAMPLING OF PRE-LITIGATION AND OUT OF COURT RESOLUTIONS:

**Bakersfield**—Dispute between PacBell advertising and pro-life organization; settled amicably.

**Santa Ana**—Employee fired: refused to schedule abortion appointments.

**Monrovia**—Residents opposing the opening of a Planned Parenthood abortion facility in their area.

**Laguna Beach**—Police threatening to arrest pro-lifers for writing pro-life slogans in chalk on the sidewalk.

**New Hampshire**—Possible defamation action. Widely distributed video portrays pro-lifer as dangerous terrorist.

**San Diego**—Police threatening to arrest pro-lifers who engage in residential picketing.

**Modesto**—Employee fired for wearing Precious Feet pin.

**And much much more we can't tell you about yet!**

## EDUCATION

LLDF, on an ongoing basis, provides referrals to attorneys for assistance in ensuring care for medically dependent relatives and for adoption and guardianship matters; obtains legal assistance for women injured by abortion; advises employees in regards to free speech rights in the workplace; instructs pro-lifers in how to defend themselves in court; advises attorneys and citizens on working with legislative bodies re proposed legislation; advises numerous sidewalk counselors, picketers, and prayer supporters of their free speech rights and rights to peaceful assembly when speaking out for the unborn in their communities; provides spokespersons for television, radio, and print media, and speakers for training workshops and debates.

## LIFELINE EDITORIAL POLICY

The purpose of LLDF is set forth in our mission statement above. To that end, Lifeline welcomes all ideas, opinions, research and comments, and all religious and political points of view, so long as not seen to be clearly divisive, and so long as fundamentally based upon the twin pillars of truth and charity.

## ASK THE ATTORNEY

Rose Grimm

### An Interview with Steven Lopez

#### Steve, could you describe your education and non-pro bono work?

I have an undergraduate degree in accounting and finance and an MBA in general management from the U.C. Berkeley Haas School of Business. I also have a law degree from Stanford University Law School. While in law school I decided, to the extent that I practiced law, I would focus on the building side of law rather than the purely adversarial side of law. As a result, since graduating from law school I have practiced as a transactional lawyer working in the areas of corporate law, estate planning, and asset protection planning.

My corporate legal work has been primarily with start-up and emerging companies, which has led me recently to set up a venture capital fund dealing with information technology, biotech, communications, and energy companies. Fortunately, we had no dotcom investments!



Steve Lopez with niece, Madeleine

In addition, I have developed a parallel business in management consulting and strategic planning, helping organizations to define their mission, purpose, goals, and objectives. I use a proprietary system based upon a combination of Jacques Maritain's Three Degrees of Knowledge, Thomism, and Pope John Paul II's Christian Personalism. The system has been very successful for those organizations, both non-profit and for-profit, that seek to truly recognize, integrate, and utilize the full capacities and innate dignity of the human person. LLDF and a number of pro-life groups have been beneficiaries of this system.

#### How did you become involved in pro-life work?

Well, that is an interesting story. I have always been pro-life, but like with many people, it was an abstraction for me. I had never really considered that abortion is an abhorrent act of violence that kills a living innocent and totally helpless human being. Nor had I considered what that meant in a truly concrete way, such as we see from Holocaust pictures for example. In my second year of law school, a good friend, Anthony McCarthy, who was studying for his Ph.D. in electrical engineering at Stanford, kept asking me to go along with him to pray the Rosary in front of an abortion mill in San Jose. I always seemed to have something better to do, and couldn't imagine myself praying with others in front of some building, but finally his friendship and his persistence paid off. I agreed to accompany him one Saturday morning while they were doing abortions. When I first arrived I felt very out of place. After 40 minutes or so it dawned on me in a very graphic way what was happening inside to the steady stream of young (and usually quite upset) women who were entering the abortion mill. At that moment I realized that this was going on in countless other towns and cities all across America and the world. It was almost surreal. I couldn't believe that this could really be happening in a so-called civilized society. It was no longer an abstraction for me. I have never been the same since and as a result have dedicated myself and my efforts to the elimination of even the possibility of abortion from the laws of our country.

#### What was your role in the founding and the on-going work of LLDF?

The origin of LLDF is inseparably linked to Operation Rescue West Coast and the rescue movement that began in 1988. I was the San Francisco Bay Area Director of Operation Rescue at the time.

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## BOOK REVIEW

***Arguing About Slavery: The Great Debate in the United States Congress***

by William Lee Miller

(New York, Knopf, 1997 514 pp, plus appendix and notes)

If you ever feel that you need a break from the abortion issue and are looking for something completely different, don't read this book. Rather than taking your mind off the victories, the defeats, the alliances, the betrayals, the tactics and the tacticians that surround anyone involved in the pro-life movement, every chapter of this book introduces another strikingly familiar personality or situation.

The political party which rewards its turncoats and ignores or punishes those who uphold its principles? It's here. The other political party which never seems to have any turncoats, and whose members fall over one another to demonstrate their allegiance to an evil institution? It's here, too. The parliamentary maneuver which snatches defeat from the jaws of victory? It's here. The dedicated individuals in the movement who don't let defeat slow them down, but who get up, dust themselves off, and prepare for the next battle? Thank Heaven, they are here, too.

The setting is the United States House of Representatives; the time, the 1830s and 1840s. The chief protagonist is John Quincy Adams, sixth president of the United States. After a lackluster single term in the White House, Adams lost his bid for re-election and returned to private life. Two years later, in 1830, he consented to run for Congress at the age of 63. He served in the House of Representatives for 17 years, and there earned the sobriquet "Old Man Eloquent."

The topic is not slavery itself, but how, at this juncture and in this forum, slavery and its legality were discussed. In the 1830s, the organized movement to abolish slavery was just getting off the ground. Abolitionists were still very much political outsiders. Not only did abolitionists not get elected to Congress; most people wouldn't admit to knowing any. However, the abolitionists made their presence felt in Congress through the submission of petitions on the subject of slavery and the slave trade. And when the right of this politically impotent movement to be heard came under attack, John Quincy Adams stepped forward to champion the constitutional right of petition.

At first glance, the right to petition Congress, a right so arcane that the author has to explain to the modern reader what it means and where it comes from, might seem hardly worth fighting for, or, for that matter, fighting against. After all, these petitions didn't actually do anything. They didn't put an issue on the ballot; they didn't force Congress to take any action; they couldn't, of themselves, change anything. These petitions, usually praying for an end to slavery and the slave trade in the District of Columbia, were routinely presented and systematically ignored. That is, until the day in 1835 when certain congressmen from slave states decided that they didn't want to hear any more about the evils of slavery.

In the minds of these members of Congress, objections to slavery, no matter how gently couched, were an affront to their honor, an incitement to slave insurrection, or both. So carried away did they get with their own rhetoric that during the course of these debates, they frequently asserted that the institution of domestic slavery was the best guarantee of equality and liberty in society. Figure that one out. ("Pro-Child, Pro-Family, Pro-Choice," anyone?)

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**DeParrie v. Hanzo et al.** (Oregon)—Civil rights suit against abortion clinic director for defamation and civil rights violations. Dismissal upheld by Ninth Circuit. Plaintiff filed a petition for certiorari which was denied.

**Crone v. Resurrection Health Care Corp.**

(Illinois)—Psychiatric nurse suing for wrongful termination; rights as a conscientious objector were violated for refusing to dispense "day-after" pill. Case in discovery phase.

**Dym v. White** (San Diego)—First

Amendment/Due Process case, involving a judgment against ORC (Operation Rescue of Calif.) after a kangaroo court judge/trial, without the right to cross-examine witnesses. Case is on appeal.

**Spingola v. Village of Granville Ohio**—City

passed vague ordinance to apply as needed against pro-lifers at public events. On appeal in Sixth Circuit.

**Planned Parenthood of Central Penn. v.**

**Snell et al.**—Five sidewalk counselors sued by abortion clinic seeking injunction. Counselors have filed cross-complaint against clinic escorts' unlawful interference.

**Veneklase v. Fargo North Dakota**—

Pro-lifers, arrested for praying on sidewalk in abortionist's neighborhood, sued for damages and ultimately won, and won again, then lost on appeal — but lost (and by one vote) on en banc rehearing. The deciding vote en banc was cast by a judge who had been a lawyer partner in the firm representing the abortionist; he refused to recuse himself. Plaintiffs intend to have filed a petition for certiorari to the U.S. Supreme Court. The City waived the right to reply, but the Supreme Court has requested a response, which is due July 18. Because the Court is on summer break, there will be no ruling on the petition until October.

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Another close friend, Ron Maxson, had recruited me, describing to me the concept of Rescue, non-violent civil disobedience in the tradition of the civil rights movement, putting your body between the abortionist and the unborn child to stop the killing. With an incredible group of pro-lifers from the San Francisco Bay Area, over about a two-year time period, we planned and conducted about 12 large and small rescues.

As an aside, from the perspective of growing up in a conservative law-abiding family, I was extremely surprised to learn through first-hand experience that police brutality is very real. And, where the news media is concerned, out of thousands of arrests of rescuers, not one incident of assault or violence by a Rescuer was recorded, but the news media continually characterized the Rescue movement as violent.

In the beginning prior to the first rescue, I immediately understood that the legal requirements associated with the rescues would be substantial. And, in the pre-planning and post-planning process for these rescues, many involving up to 300–400 people at a time, the O.R. leadership realized that there was a critical need for a coordinated legal effort, both to deal with the municipalities and to shepherd through the legal system with minimal consequences the rescuers who were arrested for trespass and illegal assembly.

We had a dedicated group of attorneys who assisted us. I will never forget asking Dan [Grimm] if he would be willing to represent O.R. and the rescuers. His immediate response was, “You can count on me 100% to do whatever is needed.” Dan was the first attorney recruited and he brought many of his pro-life attorney friends with him, one of them being Katie Short who is the very accomplished LLDF Legal Director to this day.

The founders of LLDF, in addition to myself, are really Ron Maxson and Mimi Streett. Ron, as part of the O.R. West Coast leadership, understood the need for a coordinated legal effort which would require a separate legal organization. Mimi was the first person he and I turned to, asking her

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that they would, the court noted that the defendants’ speech “no doubt frightened the doctors, but the constitutional question turns on the source of their fear.” There was considerable evidence that the abortionists were frightened not because they understood the defendants to be threatening them with harm, but because they feared that publication of their names had made them targets for “the John Salvis of the world.” However, to hold the defendants liable because they should have known that the plaintiffs would fear harm

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*One doesn't need to look  
at the historical record,  
however, to realize that  
the web site is not an  
incitement to kill  
abortionists. As the Ninth  
Circuit noted, “none of  
the statements ACLA  
is accused of making  
mention violence at all.”*

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from unrelated third parties would impermissibly constrict their free speech rights. The defendants have the right to speak out without their words being adjudged threatening “by reference to facts over which [they] have no control.”

The Ninth Circuit decision was greeted in the media with a firestorm of criticism, mostly from people who didn’t understand the theory of the plaintiffs’ case. Amid this uproar, the plaintiffs filed a motion for rehearing en banc [by a eleven-judge panel, rather than just the

three who rendered the original decision — Ed.]. Their motion was supported by an amicus brief from dozens of senators and congressmen who asserted that the Ninth Circuit’s ruling undercut the purpose of FACE, which they claimed was intended specifically to outlaw publications such as the posters and web site.

In the concurrent media campaign, commentator after letter-writer after guest editorialist decried the decision, which they erroneously implied had overturned a finding that the web site incited violence against abortion providers. However, the plaintiff abortionists had never argued this “incitement” theory, realizing that it was a constitutionally losing proposition to say that the web site and posters were speech intended to and capable of producing “imminent lawless action,” i.e., the sort of speech that incites an angry mob to start rioting. As discussed above, they argued instead that the web site was a direct threat that the defendants were going to harm them. (Once in front of a jury, however, the plaintiffs, with the indulgence of the trial judge, were allowed to introduce all the inflammatory, prejudicial evidence that would accompany an unconstitutional “incitement” theory of the case.)

Critics of the Ninth Circuit’s decision pointed to the web site’s listing of abortionists, including those killed or wounded, as proof positive that the web site is a hit list. Abortion doctors’ names and other identifying information are posted on the web site, doctors such as Barnett Slepian are killed, and then their names are crossed out, right?

Wrong. The undisputed evidence at the *PP v. ACLA* trial was that Neal Horsley, creator of the web site, didn’t even know of Dr. Barnett Slepian’s existence until he heard about the shooting from reports in the mainstream media. One newspaper account also carried a chart listing abortion personnel previously killed and wounded, with names shaded or crossed out. All of these individuals, with the exception of Slepian, had been shot before the

(NUREMBERG CONT. ON PAGE 9)

(NUREMBERG CONT. FROM PAGE 8)

web site was even in existence. Horsley simply incorporated that information into his site. Thus, two facts are indisputable: 1) no abortion provider has been killed because his or her name was on the web site, and 2) there has been a significant *decrease* in violence against abortion personnel since the web site began.

One doesn't need to look at the historical record, however, to realize that the web site is not an incitement to kill abortionists. As the Ninth Circuit noted, "none of the statements ACLA is accused of making mention violence at all." The web site clearly states that it seeks to gather documentation about, not just abortionists, but anyone involved in providing, promoting, or protecting legal abortion, including judges, politicians, and celebrities, so that this information can be used to prosecute them in "perfectly legal courts" in the future. Unless one starts from the point of view (commonly held by abortion advocates) that the only people opposed to abortion are a fringe minority of violence-prone fanatics, this justification for the site is hardly far-fetched.

Critics of this decision also found the absence of any direct threats, or even mention, of vio-

lence to be mere pettiffoggery. Anyone can see that these facially nonviolent sentiments are really code for killing abortionists, right? However, even if it were permissible (which it isn't) to hold speakers liable for the possible effects their words might have on hypothetical third parties at some unknown remove of place and time, how would one then draw the line between alleged "incitements to kill" and constitutionally protected advocacy? For abortion advocates, that's easy; they don't. They are on the record claiming that the phrase "Choose Life" is a rallying cry for murdering abortionists and that "the rhetoric and activities of anti-choice groups like Priests for Life have the effect of encouraging extremist violence." In other words, to oppose abortion is to incite violence, period.

As we go to press, the Ninth Circuit has not yet ruled on the plaintiff's motion for reconsideration en banc. While granting these motions is unusual, and particularly so where the original three-judge panel decision was unanimous, we have learned nothing if we haven't learned to expect the unexpected where abortion is involved. **L**

*"[T]he great enemy of clear language is insincerity. When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink."*

— George Orwell, *Politics and the English Language*

(WENDLAND CONT. FROM PAGE 2)

the 1999 trial in this matter. In his testimony, he likened Robert's responses and activity to that of a trained animal, and stated that providing Robert with food and water was "futile". In other news reports, Cranford was identified as the "spokesman for Wendland's wife".

Florence did not know, and was prevented from knowing, that Robert had pneumonia until she learned from a press release issued by Rose Wendland's attorney the day Robert died. Janie Siess was at the Supreme Court clerk's office filing an emergency petition for review even as Robert died. Shortly after filing the emergency petition requesting that Robert's mother, Florence, be apprised of Robert's condition, she received a call from the *Los Angeles Times* informing her that he had died.

Rose's attorney, Lawrence Nelson, is now considering contesting any further consideration of this case by the California Supreme Court. We plan to assist Janie in that fight, if necessary, but let's not forget that dangerous legal precedent was already averted because of LLDF's participation in this case. Please pray for the repose of the soul of Robert Wendland, and for Robert's mother, Florence Wendland, his sister, Rebekah Vinson, as well as for Janie Hickok Siess, who sacrificed so much time and energy on this case. **L**

(RECAP CONT. FROM PAGE 7)

**Catholic Charities v. Sacramento Superior Court**—LLDF has joined in an amicus curiae ("friend of the court") brief on behalf of Catholic Charities in its suit challenging the 1999 Women's Contraceptive Equity Act. The Act requires health care insurance packages to provide coverage of Food and Drug Administration – approved prescription contraceptive methods. The list of FDA-approved drugs includes both contraceptive and abortifacient drugs such as Preven. On July 3, the court of appeal denied Catholic Charities' petition for writ, ruling that the ACT did not interfere with CC's religious freedom. See article p. 5.

**San Bernardino v. Martina and Newman**—Pro-lifers arrested for displaying signs on sidewalk and cars in violation of constitutionally flawed sign ordinance. Trial scheduled for August. **L**

(GOOD NEWS CONT. FROM PAGE 3)

obtained cow heart tissue by reprogramming adult cow skin tissue back into its primordial stem cell state and thence to cardiac cells. The exciting HIV experiments were conducted using stem cells found in the patients' own bone marrow, spleen, or blood.

The opportunities for developing successful therapies from stem cells that do not require the destruction of human embryos should be very big news. But where are the headlines? These and other successful experiments have been all but drowned out by breathless stories extolling the miraculous potential of embryonic stem cell research. How many readers are aware, for example, that French doctors recently transformed a heart patient's own thigh muscle into contracting muscle cells? When these cells were injected into the patient's damaged heart, they thrived and, in association with bypass surgery, substantially improved the patient's heartbeat. Such research is now on the fast track, offering great hope for cardiac patients everywhere.

With all of the hype surrounding embryo research, it is important to note that embryo stem cell research—and its first cousin, fetal tissue experiments—may not actually produce the therapeutic benefits its supporters have told us to anticipate. Such worries are not mere speculation. The March 8, 2001, *New England Journal of Medicine* reported tragic side effects from an experiment involving the insertion of fetal brain cells into the brains of Parkinson's disease patients. The patients thus treated showed modest if any overall benefits by comparison with a control group who underwent "sham surgeries" without receiving fetal tissue. But over time, some 15 percent of the patients who had received the transplants experienced dramatic over-production of a chemical in the brain that controls movement. The results, in the words of one disheartened researcher, were "utterly devastating," with the unfortunate patients exhibiting permanent uncontrollable movements: writhing, twisting, head-jerking, arm flailing, and constant chewing. One man was so badly affected he no longer can eat, requiring the insertion of a feeding tube.

While some studies using stem cells culled from embryos to treat Parkinson's type symptoms in mice have been encouraging, grafts of fetal and embryonic tissue may provoke the body's immune response, leading to rejection of the tissue and potentially death, since once the cells are injected they cannot be extracted. Even more alarming, a May 1996 *Neurology* article disclosed a patient's death caused by an experiment in China in which fetal nerve cells and embryo cells were transplanted into a human Parkinson's patient. After briefly

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*The opportunities for developing successful therapies from stem cells that do not require the destruction of human embryos should be very big news. But where are the headlines?*

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improving, the patient died unexpectedly. His autopsy showed that the tissue graft had failed to generate new nerve cells to treat his disease as had been hoped. Worse, the man's death was caused by the unexpected growth of bone, skin, and hair in his brain, material the authors theorized resulted from the transformation of undifferentiated stem cells into non-neural, and therefore deadly, tissues.

Even some of the most enthusiastic boosters of embryo stem cell research see trouble ahead. For example, University of Pennsylvania bioethicist Glenn McGee admitted to *Technology Review*, a Massachusetts Institute of Technology publication, "The emerging truth in the lab is that

pluripotent stem cells are hard to rein in. The potential that they would explode into a cancerous mass after a stem cell transplant might turn out to be the Pandora's box of stem cell research." Thus, it could be that adult tissue-specific stem cells are actually safer than their counterparts culled from embryos since, being extracted from mature cells, they may not exhibit the propensity for uncontrolled differentiation.

These concerns arise just as the long-time ban on using federal funds for research that destroys human embryos is under renewed scrutiny. That longstanding ban was effectively reinterpreted out of existence in the waning months of the Clinton administration, and the National Institutes of Health are currently accepting grant proposals for research using embryos originally created for in vitro fertilization but now deemed "in excess of clinical need." The new administration is taking a long, hard look at the policy; during the campaign, George W. Bush declared his opposition to research that involved destroying human embryos.

All of this raises intriguing questions: Why is federal funding for embryo and fetal research pushed so hard and so publicly — while adult stem cell and other alternative therapies are damned with faint praise? Why do the media applaud fetal stem cell experiments and provide klieg-light coverage of stories promoting the use of embryos, while they mention uncontroversial research not requiring the destruction of human life as an afterthought, if that? Indeed, why do some scientists assert that alternative stem cell research offers but uncertain hope, while they promote embryo and fetal tissue research as the keys to the Promised Land?

I suggest three answers: celebrities, abortion, and eugenics.

In a society that has often denigrated its true heroes, the only people who now stand head above the clouds are figures from the world of entertainment. Increasingly, these celebrities are using their power to promote public policies. They know that their participation can define issues and shape the debate by attracting media

(GOOD NEWS CONT. ON PAGE 11)

(GOOD NEWS CONT. FROM PAGE 10)

coverage, generating fan support, and, most important, stimulating a Pavlovian response in politicians.

Three high-powered celebrities have weighed in recently in the stem cell controversy, each promoting full federal funding of embryo research: the popular Michael J. Fox, stricken at a tragically young age with Parkinson's disease; the television icon Mary Tyler Moore, a diabetes patient; and actor Christopher Reeve, paralyzed from the neck down in an equestrian accident. With such kiloton star power favoring federal

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*These and other successful experiments have been all but drowned out by breathless stories extolling the miraculous potential of embryonic stem cell research.*

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funding of embryo research, promoters of research relying on adult stem cells and other alternative sources, along with those opposed to the destruction of embryos on ethical grounds, have been reduced to background noise or, worse, made to look heartless by denying these celebrities medical breakthroughs they need.

At a deeper level, just as in the nineteenth century many national issues led back to slavery, today numerous public policy disputes lead ultimately to abortion. The controversy over destroying human embryos to obtain their stem cells has brought an outcry from the pro-life movement, which views human life as sacred from the moment of conception. This has led to reflexive support for embryo research by many pro-

choicers, who have seized on the issue as a way to further their depiction of pro-life forces as caring little about people once they are born. Thus the embryo stem cell debate offers abortion rights advocates a “two-fer”: It furthers their primary political goal of isolating and marginalizing pro-lifers, and it enables them to seize the PR high ground by “compassionately” pressing for research that offers hope against debilitating diseases. To acknowledge the tremendous potential of adult stem cell research would interfere with this political pincer movement.

Finally, in my view, the ultimate purpose of promoting federal funding for embryo experiments over adult stem cell research — particularly among many in the bioethics movement — is to open the door to the eugenic manipulation of the human genome. Once embryos can be exploited for their stem cells to promote human welfare, what is to stop scientists from manipulating embryos to control and direct human evolution — equally for the purpose of improving the human future?

Indeed, some of those who signed a recent open letter to President Bush urging an end to the ban on federal funding for human embryo research were scientists and bioethicists well known as favoring eugenics. For example, James D. Watson, a co-discoverer of the DNA helix, has written that newborns should not be considered “alive” for three days, to permit genetic screening. Newborns who fail to pass genetic muster should be discarded—much as the ancient Romans left unwanted babies outdoors to die of exposure. Another co-author of this letter, Michael West, head of the for-profit research company Advanced Cell Technology, proposes permitting human cloning as a way to obtain genetically matched stem cells for transplants, which might overcome the problem of tissue rejection in embryo stem cell therapy. Not coincidentally, many neo-eugenicists in the bioethics and science communities view cloning as a prime vehicle for directing the eugenic manipulation of human evolution.

All of this will come to a head in the coming

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*At a deeper level, just as in the nineteenth century many national issues led back to slavery, today numerous public policy disputes lead ultimately to abortion.*

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weeks and months. Some recent news stories indicate that Health and Human Services secretary Tommy Thompson may be troubled by a federal ban on embryo stem cell research and thus inclined to retain the Clinton administration's funding policy. But why go down that controversial path, when adult stem cells and alternative sources offer such tremendous hope for treating every malady that research using embryos and fetal tissue seeks to ameliorate? Instead of turning this important field of medical research into another battlefield in America's never-ending culture war (the first lawsuit has already been filed to prevent federal funding), why not focus our public resources with laser-like intensity on the incredible potential of adult and alternative sources of stem cells?

[Wesley J. Smith, a frequent contributor to *The Weekly Standard*, is the author of *Culture of Death: The Assault on Medical Ethics in America*, recently published by Encounter Books ([www.encounterbooks.com](http://www.encounterbooks.com)).] **L**

## DUPLICATES

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## ON THE WEB

[www.lldf.org](http://www.lldf.org)

*[I]f the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal.*

—Abraham Lincoln  
First Inaugural Address  
(1861)

(POISON CONT. FROM PAGE 5)

moronic. Discrimination isn't always a bad thing — only unfair discrimination is.

Discrimination is what insurance is all about: those with a worse claim history and/or a higher likelihood of future claims are going to pay more than those with no past claims and/or a lower likelihood of future loss. Sounds fair to me.

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*Catholic Charities of Sacramento, Inc., as well as other religious employers in California, both private and institutional, must decline to swallow the Legislature's poison pill*

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And don't forget that this purported "elimination of discrimination against women" has a flip side. What about the discrimination against women who don't use contraceptives, who must pay higher premiums because of the voluntary lifestyle choices of women who do use them? This isn't risk-spreading — it's subsidizing. Planned Parenthood tells us that the state should not interfere in people's "private" choices. However, with this Planned Parenthood-backed law, the state, in the interest of "fairness," now requires all employers and employees to subsidize the "private" choices of some couples (not just women.)

As interested as the court was in preventing discrimination against women in healthcare insurance, it could not find any discrimination against Catholicism or Catholic Charities in the law itself. The court acknowledged Catholic Charities' argument that Catholicism is the only religion that prohibits artificial contraception. However,

the court pointed out, it is for that very reason the only religion which benefits from the "religious employer exemption" which is a part of the WCEA. (Catholic Charities does not meet any of the four criteria required to fall under this narrow exemption.) Therefore, the court concluded, the statute is not an attempt to target Catholic religious practices for unfavorable treatment.

Let's see if we can apply this logic to the discrimination against women problem. If Catholic Charities should agree to an exception, say, to provide prescription contraceptive coverage to women over 50, then we could say that while women are the only group burdened by the failure to provide prescription contraceptive coverage, they are also the only group to benefit from the exception. Ergo, no unfair treatment.

The most important thing to remember about this case is that the WCEA does not require California employers — Catholic Charities or anyone else — to provide prescription contraceptive coverage to their employees. They must do so only if the health plan provides outpatient prescription drug benefits. Therefore, the obvious solution is: don't provide outpatient prescription drug benefits.

Catholic Charities of Sacramento, Inc., as well as other religious employers in California, both private and institutional, must decline to swallow the Legislature's poison pill. Whatever Catholic social teaching says about a fair wage, it does not countenance complicity in the distribution and use of contraceptives, including abortifacient drugs and devices. When the complaints and cries of outrage come pouring in from employees whose prescription drug coverage has been terminated, their employers should refer them to those who made the pill and slipped it into their benefits packages — the lawmakers. And maybe the employees will remember in November, and we won't be faced with the "Women's Surgical Abortion Equity" Act next time. **L**

[Anthony Wynne, J.D., C.P.C.U., is a member of LLDF's board of directors.]

(BOOK CONT. FROM PAGE 7)

In order to protect the blessings of equality, liberty, and democracy conferred by the existence of slavery, it was necessary to reject these petitions. They should be stopped at the door, and, if it had been in Congress's power to do so, shoved back in the faces of the petitioners. Thus was born the gag rule, a resolution adopted in the Twenty-fourth Congress, and made a permanent rule of the House in the Twenty-sixth Congress: "No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any State or Territory, or the slave trade between the States or Territories of the United States in which it now exists, shall be received by this House, or entertained in any way whatever."

Miller notes that this rule, Rule 21, nestled among parliamentary rules about motions and seconds and orders of the day, "jumps off the page" at the reader. In much the same way, a hundred years from now, bubble-zone laws and other restrictions on speech at "health care facilities" will jump out from the background of leash laws and zoning variances at someone perusing various municipal codes. If one didn't know about abortion, one would read these convoluted ordinances about "access areas" and "requests to withdraw" and "protest, education, and counseling," and wonder what that was all about.

Even during the 1830s, some argued that the right to petition was anachronistic and unnecessary in a republican form of government, in which the people elect their leaders. However, for those who did not have the right to vote, including women and many free Negroes, petitioning Congress was their only avenue of participation in the political process. They couldn't elect their representatives, but at least they could petition them.

Pro-lifers today are in a somewhat analogous situation. Because of the hegemony of the courts, both state and federal, over abortion, we are in large part disenfranchised on this issue. Almost thirty years ago, the U.S. Supreme Court struck down the abortion laws of all fifty states; just last year, it effectively struck down partial birth abortion laws passed in over half the states. In California, our state supreme court stands ready to strike down any restrictions on abortion or abortion funding that might slip past the U.S. Supreme Court. It is hardly surprising that many pro-lifers choose to devote more energy to education and protest than to the political arena.

Nor is it surprising that, just as representatives of the slave power sought to choke off the right to petition as an outlet of anti-slavery sentiment, today's representatives of the pro-abortion status quo are intent on carving out anti-abortion speech as an exception to the First Amendment's guarantee of freedom of speech. And, like the slaveholders of the 19th century, they anchor their position on the rock of individual rights: This speech must be suppressed because allowing people to agitate against [slavery/abortion] threatens our constitutional right to practice it. In making this argument, they tacitly admit that their "constitutional right" might not survive under the spotlight of truth.

Because the Supreme Court today frowns on blatantly viewpoint-based restrictions on speech, abortion advocates have to be a little more nuanced than the Twenty-sixth Congress in squelching pro-life speech. But the effect they are trying for is the same, and to the extent they succeed, *Arguing About Slavery* provides much food for thought.

One technique that Adams and others used to evade the gag rule was, in effect, to make the defenders of slavery condemn themselves out of their own mouths. For example, one congressman introduced a resolution stating that on a certain recent date, about fifty men, women, and children chained together had been seen being driven down the street, right past the doors of the Capitol. His resolution asked for the appointment of a committee to investigate the incident to determine whether these men, women, and children had committed any crime, where were they being taken, etc. The resolution was voted down. Another congressman introduced a petition asking for the appointment of a committee to investigate the laws of the District of Columbia and the territories, and to repeal all laws not consistent with the Declaration of Independence and the Golden Rule. That petition was rejected at the door. (Cf. the pro-abortion response to the Unborn Victims of Violence Act and the *Born Alive Infants Protection Act*.)

Although they had the votes to easily defeat these and other impertinent resolutions and petitions, one can imagine the discomfiture of these congressmen being forced time and again to vote against appeals to common principles of justice and humanity when those appeals arose in the context of their "peculiar institution." Indeed, that is the theme running through this book, that the basic inconsistency between slavery and a government committed to republican principles of liberty and equality would necessarily be exposed, *as long as the topic could be addressed*. Slavery was truly in the ascendancy not when a particular abolition petition was tabled or a resolution voted down, but when the debate was silenced.

I've read this book three times in the past four years, and each time I have found it not only enlightening but entertaining. Miller, a professor at the University of Virginia, has obviously had years of experience holding the wandering attention of students, as well as communicating to them some of the energy and emotion which invigorated the great debates of bygone eras. He springs the occasional anachronism on the reader, such as describing one rancorous debate as "using up all the shopping days before Christmas." After relating the debate over granting statehood to Arkansas (whose constitution guaranteed a right of slavery in perpetuity), Miller wryly notes, "Let it be recorded, for whatever interest it might have in 1996, that John Quincy Adams voted against the admission of Arkansas to the Union."

Again, if you are looking for a book to take your mind off the abortion battles, this isn't it. But for providing perspective on where the pro-life movement fits into our country's history of dealing with challenges to the status quo on an issue of fundamental human rights, *Arguing About Slavery* is invaluable. **L**

– Katie Short

(INTERVIEW CONT. FROM PAGE 8)

to exercise her considerable energy and organizational skills. She coined the name "Life Legal Defense Foundation" and literally set up the beginnings of what we now know as LLDF. Mimi's husband, John Streett, remains the Chairman of the Board of Life Legal.

I was the full-time and unpaid Executive Director of Life Legal for the first three years of its existence, setting up policies and procedures and recruiting talented people like Kelly Connelly, Rose Grimm, Mary Riley, and Anne Starr. I was responsible for such things as the format of *Lifeline* and, through my strategic planning process, the decisions to focus solely on life issues and to be a line of defense for any pro-lifer who is brought into the legal system, no matter how small the case. Once I felt the organization was established on a strong foundation, I pulled back in order to involve others in its mission and so that I could work more strategically. I continue to serve on the board in this capacity.

**What do you see as LLDF's contributions to the pro-life movement? How do you think it has changed over the years, and how do you see its future?**

LLDF has gone way beyond its Operation Rescue origins to become truly a full-service pro-life legal organization, serving sidewalk counselors, prayers, and demonstrators, crisis pregnancy centers, those who exhibit graphic abortion pictures, post-abortive victims, both women and men, members of the medical profession, end of life situations, wrongful termination, pro-life free-speech issues in the workplace and on campus, and much more. LLDF exists as a line of defense for any pro-lifer who is brought into the legal system as a direct result of expressing pro-life views and/or carrying out pro-life actions. There are other legal organizations that assist in the pro-life area, but none as focused on beginning and end of life issues as Life Legal. Very early on we felt that other non-profit legal organizations were better suited to handle religious liberty cases for example. Our area was, and is, abortion and euthanasia, and in the future is expected to involve issues associated with embryo harvesting, destruction, and cloning. I think that without Life Legal, or an organization like Life Legal, our culture, our society, within the State of California, nationally, and internationally, would be an even

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(CALFACE CONT. FROM PAGE 4)

Additionally, SB 780 requires the police and other law enforcement agencies to be trained to recognize and address "anti-reproductive rights crimes" in conjunction with "antigovernment extremist crimes and certain hate crimes motivated by hostility to real or perceived ethnic background or sexual orientation," because the latter crimes are "commonly committed" by the same persons who commit the former. The bill states that it is not intended to "stigmatize anyone solely because of his or her political or religious" beliefs, advocacy, or speech. Nonetheless, just to be on the safe side, the bill directs the Attorney General to "collect and analyze information relating to anti-reproductive rights crimes, including . . . persons suspected of committing these crimes or making these threats."

Did the Legislature have anyone specific in mind? A report [<http://www.sen.ca.gov/sor/reprocrimes.htm>] by Gregory deGiere of the Senate Office of Research provides some indication of how this information-gathering would proceed. The report, which was the basis for most of the recent hysterical news accounts about violence at clinics, makes the sweeping claim, inter alia, that "there are six anti-abortion organizations in California known to advocate, condone, or practice actions such as violence, vandalism, obstruction, and stalking, or that openly cooperate with national organizations that do so." A footnote identifies these groups as Operation Rescue West; California Life Coalition; Voice for Life/Life Savers Ministries; Cherish And Respect Everyone (CARE); Operation Save America; Missionaries to the Preborn, and for good measure, The Sanctity of Human Life Network (SOHL-NET). Quite a rogue's gallery.

The only sources cited for this defamatory allegation against these organizations are the security director for the National Abortion Federation, a video produced by something called Pink Noise Studios, and the various organizations' own web sites. Indeed, the entire report by Mr. deGiere relies heavily on the Internet as source of information. As Mr. deGiere's work is protected by the legislative privilege, he can repeat, report, distort, or even

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*Had Mr. deGiere logged  
onto a news web site,  
he might have wondered  
why none of these 111  
[imaginary] blockades  
ever rated even a line  
of news print.*

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make up any allegations he wants to without fear of a lawsuit.

In early June, as SB780 was making its way through the state senate, LLDF sent a letter to all the senators objecting to the one-sided provisions of the bill, which are clearly intended to stigmatize pro-life activists as potential criminals, and to deny them equal protection of the law. The letter also sharply criticized both the methodology and the conclusions of Mr. deGiere's report. Inter alia, the report relied on a survey of abortion providers about "anti-reproductive rights crimes" to come up with such howlers as the claim that there have been 111 blockades of abortion clinics in California since 1995. Had Mr. deGiere logged onto a news web site, he might have wondered why none of these 111 [imaginary] blockades ever rated even a line of news print. SB 780 passed the Senate and is now in the Assembly. Meanwhile, Mr. deGiere decided to widen the scope of his investigation into groups which "openly cooperate" with nefarious organizations such as CARE and SOHL-NET. In late July, Mr. deGiere logged onto LLDF's web site and asked to be added to our mailing list. Apparently, Mr. deGiere did not take our criticism of his opus well, and now has LLDF in his sights for his next round of defamatory accusations and maybe even investigation by the Attorney General if SB 780 is enacted.

On behalf of everyone here in the vast right-wing conspiracy, welcome, Gregory deGiere! **L**

(SUPREME COURT CONT. FROM PAGE 2)

confused, unable to give any suitable answer as to why Robert’s life should be ended based on an educated guess rather than by the clear and convincing standard required in analogous situations.

It was obvious by the court’s questioning that the justices understand that if Robert’s feeding tube was removed a conscious, interactive human being would die by starvation and dehydration. For example, when Rose Wendland’s attorney stated that Robert could not communicate, Chief Justice George corrected the assertion by stating that the record shows clearly that Robert can communicate. It appeared that only Justice Kennard fell for the absurd line of reasoning that Robert is “minimally conscious,”—that there are different levels of consciousness and Robert’s level was minimal. During oral argument she posited that perhaps Robert may be less conscious than you or I.

Robert may have had a minimal level of understanding due to his cognitive disability but he was just as conscious as you or I, or an infant, or someone with Alzheimers. As we in the pro-life movement know, you cannot be just a little pregnant. You either are or you are not. It’s time we learn the same about consciousness!

(INTERVIEW CONT. FROM PAGE 14)

darker place than it currently is. So long as LLDF is viable, pro-lifers can act according to their consciences knowing that, if needed, they will have a strong, trained, experienced defense that will not back down under any circumstance. It is my fervent hope that Life Legal will no longer be needed within the next generation or less.

Life Legal is just beginning to become more pro-active, not only defensive, seeking out funding, pro-life legal projects, and cases that can actually turn the tide of and challenge the pro-abortion laws of our nation. Imagine if

Hopefully oral argument is an indication of what the court’s opinion will hold, that [those like] Robert Wendland will not be allowed to die by starvation and dehydration absent clear and convincing evidence, otherwise the law jeopardizes the fundamental right to life. Please pray that the court will hold that the California probate code provisions related to this case unconstitutional, or at the very least will value life rather than political correctness. Any other holding will jeopardize the right to life of the most vulnerable members of our society, the elderly, disabled, and chronically ill.

Please rest assured that your ongoing support of LLDF has proven to be an invaluable resource in the fight to save the life of those in Robert’s situation by setting precedent that will translate into many lives saved. Any other result will mean an appeal to the United States Supreme Court.

To Life!

Dana Cody  
Executive Director

every pro-life litigation attorney, backed up by a pro-life research transactional attorney, would make the decision to take on a minimum of one pro-life case per year, where LLDF assists with research, court costs, coordination, etc., a sort of pro-life ACLU if you will.

Overnight the pro-death forces would be put off balance and probably would never recover. But it would require that many pro-life attorneys no longer see just the abstraction and that they be willing to give of themselves and to act as they believe in defense of the innocent and helpless. **L**

WANTED

LLDF is receiving calls from people whose loved ones are being denied necessary medical treatment. We need local attorneys to assist us in these matters. LLDF is currently compiling model briefs, petitions and other forms for use in these cases.

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Please consider making a tax-deductible contribution today. Your generosity allows LLDF to fulfill its mission to provide a trained and committed voice in the courtroom so that pro-lifers can continue their life-saving work.

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If you have stock that gives you more tax trouble than earnings, please consider donating it to LLDF. You can deduct the full value of the stock at the time of donation (no need to determine the basis). Thus, what may be a burden to you can be turned directly into support for the defenders of the defenders of life.

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LIFELINE MISSION STATEMENT

The mission of Life Legal Defense Foundation is to give innocent and helpless human beings of any age, and particularly unborn children, a trained and committed defense against the threat of death, and to support their advocates in the courtrooms of our nation.

The purpose of LLDF is set forth in our mission statement above. To that end, *Lifeline* welcomes all ideas, opinions, research and comments, and all religious and political points of view, so long as not seen to be clearly divisive, and so long as fundamentally based upon the twin pillars of truth and charity.

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Nat Hentoff, columnist for the *Village Voice* (New York) and the Washington Post, a tireless defender of life and liberty, and a noted

expert on and champion of the First Amendment will speak at LLDF's Fall Banquet. November 3, 2001, Oakland, Calif. For tickets or further information, please contact the LLDF office (invitations will be coming by mail.)

Nat Hentoff is a prolific author. He has written many articles and books, many

dealing with free speech and other civil rights, politics and jazz. He has also written novels and novels for children. Mr. Hentoff's more recent books include *Speaking Freely: A Memoir*, and *Living The Bill of Rights: Knowing How to Be an Authentic American*, University of California Press, 1999.

Some of Mr. Hentoff's recent articles, including a description of denial of due process in proceedings at Columbia University as well as a thoughtful and provocative article about the recent reporting of Sen. Bob Kerrey's involvement in the Thanh Phong massacre are available online at [www.villagevoice.com](http://www.villagevoice.com).