

Lifeline

*A Legal Network
in Support of Life*

A PUBLICATION OF THE LIFE LEGAL DEFENSE FOUNDATION

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Katie Short

Games Abortionists Play

“Maybe when you go to the doctor, you shouldn’t tell them how old your boyfriend is.”



“What you need to do is you need to call completely anonymously, and, ya know, talk to someone on our appointment line. And don’t tell us anything about who your partner is, okay?”

“So what I’m saying is we’re not going to ask if you don’t tell us.”

“Well, I’ll be honest with you. By law, because you are 13 years old, we should [report]. But we’ve never reported anybody, okay?”

These are just a few of the responses a caller identifying herself as a 13-year-old girl pregnant by a 22-year-old predator received when she called abortion clinics across the country. With clinic personnel coaching girls before they get to the clinics, and abortionists playing see-no-evil / hear-no-evil / speak-no-evil, statutory rapists and sexual predators can easily arrange “confidential services” for their victims to cover up their crimes.

Where parental involvement laws are in effect, these evasions should be irrelevant. Abortionists may play their games, but Mom or Dad is going to ask questions, demand answers, and put a stop to the abusive relationship—that is, if the clinics comply with their legal duty to notify parents. Planned Parenthood personnel tried to play the ignorance-is-bliss game with

Arizona: A twelve-year-old girl, impregnated by her foster brother, received an abortion at Planned Parenthood. The clinic notified neither parents, police, nor child protective services, but simply returned the girl home, where she was raped and impregnated again.

a young girl in Ohio, but now their only game is defense.

Jane Roe was only 13 years old when her soccer coach, John Haller, began sexually abusing her. She became pregnant, and shortly after her 14th birthday, Haller contacted Planned Parenthood Southwest Ohio Region to schedule an abortion for her. The clinic told him that Jane would have to schedule the abortion herself, and, under pressure from Haller, she did so.

Later, he went to the clinic to pick up the information packet required to be given to abortion patients under Ohio’s informed consent law. Under Ohio law, women

(GAMES CONT. ON PAGE 10)

GENERAL RECAP & UPDATE

People’s Advocate v. Independent Citizen’s Oversight Committee (Calif.)—Suit for declaratory and injunctive relief to prevent expenditure of public funds for research focused on embryonic stem cells and cloning. Adverse ruling from trial court; appeal filed. Oral argument held February 2007. Decision pending.

Roe v. Planned Parenthood (Ohio)—Civil action for damages and injunctive relief filed against PP for performing abortion on 14-year-old girl in violation of Ohio law. Claims on behalf of girl and parents include violation of parental notice and consent statutes, informed consent statute, and law requiring reports in cases of suspected child

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abuse. PP's motion to dismiss four of the claims was overruled, and PP unsuccessfully appealed that decision. Plaintiffs proceeded with discovery seeking redacted records of abortion on other minors. PP objected, but court ruled that records must be produced. PP has appealed that decision. See story on page 1.

Pedigo v. Hershey (Calif.)—Amniocentesis detrimentally used on pre-born child with improper consent. Civil suit filed. Case proceeding in trial court.

O'Toole v. San Diego Community College District—Pro-lifer arrested and held for carrying sign on public college campus; he was released two days later, without having been cited. Claim filed and rejected. Plaintiff and defendants filed writ of petition to 4th District Court of Appeal of California. Court ruled that policy in effect at that time was probably unconstitutional (policy was amended after suit filed), but police officers were immune from liability.

Moreno v. Riverside Community College—Suit against public college for arrest of pro-lifers engaged in free speech activity. Discovery in process.

Logsdon v. Cincinnati Womens' Services—Civil action in Ohio court for defamation and conversion against Cincinnati abortion clinic and clinic owner for interfering with sidewalk counselor's pro-life signs and for false reports to police that led to two arrests. Clinic closed and clinic owner filed for bankruptcy and was granted final bankruptcy discharge. Plaintiff's options under consideration.

Logsdon v. Hains (Ohio)—Federal civil rights lawsuit for damages filed against two Cincinnati police officers for arresting sidewalk counselor at abortion clinic and filing charges against him without probable cause. Police motion to dismiss for failure to state a claim granted. Appeal pending in the Sixth Circuit.

McCullough v. Long Beach Community College—Suit against public college for arrest of pro-lifers engaged in free speech activity. College's motion for summary

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FROM THE EDITOR

Dana Cody

Atlas Shrugs as Our Culture Dies



LLDF was recently invited to U.C. Davis to participate on a panel on the issue of stem cell research which was convened for the members of their California Agricultural Leadership Program. The panel consisted of two opponents of embryonic stem cell research (ESCR) and three proponents. Each panel member was given an opportunity to state their position on ESCR, which was followed by questions from members of the Ag Leadership Program. Membership in the Program includes agriculturalists, environmentalists and private and state personnel who have prominent connections with California Agriculture. I was privileged to represent LLDF as an ESCR opponent.

On the one hand, it was an encouraging day because I found the members of the Ag Leadership program to be a thoughtful and open-minded group of individuals.¹ On the other hand, as I listened to ESCR proponents trying to justify state-funded embryonic stem cell research, their reasoning eerily reflected that of the representatives of the collectivist government portrayed in the book *Atlas Shrugged*. *Atlas Shrugged* was authored by Ayn Rand, a proponent of objectivism. Ms. Rand's writings have as their basic theme the defense of the right of life of each individual.²

The story of *Atlas Shrugged* is the struggle between the individual and the collectivist state, whose agenda requires the surrender of any self-interest by the individual, even when it required death. *Atlas Shrugged* rails against the "looters," the government recipients of tax dollars who benefit from taxes and continually create ways to impose new taxes to justify their existence while the culture around them erodes due to a failed state-sanctioned social agenda which destroys the individual. The novel takes the "looting" to what I believe is its logical conclusion when the government is able to legislate the taking of all personal property, including intellectual property, to be used for the benefit of the "greater good," regardless of

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the toll on the life of the individual.

The panel proponents of ESCR contended, in essence, that funding ESCR research using the tax dollars of individual taxpayers was justifiable because it will benefit the greater good. The greater good, they contend, is to help all those who suffer from disease in our State, even though admittedly there have been no cures. Listening to them, this quote from *Atlas Shrugged* came to mind: "A man that has no right to life has no right to values and will not keep them."³ In my mind, the fiction of *Atlas Shrugged* is now blurred with the reality of the status of the right to life in the United States.

(ATLAS CONT'D ON PAGE 11)

Maureen L. Condic

What We Know About Embryonic Stem Cells

[The following excerpt is from an article “What We Know About Embryonic Stem Cells” originally published in *First Things*, January, 2007 (www.firstthings.com) and is reprinted with permission. This excellent article may be read in its entirety at http://www.firstthings.com/article.php3?id_article=5420 —Ed.]

[...] Experience from multiple laboratories over the past decade confirms that it is extremely difficult to clone any animal. Cloned embryos are generally quite abnormal, with those that are sufficiently normal to survive to live birth typically representing between 0.1 and 2 percent. The problems do not end with the technical difficulty of somatic-cell nuclear transfer itself. Extensive evidence indicates that even the cloned animals that make it to birth are not untarnished success stories.

Following Ian Wilmut’s production of Dolly the sheep, the world’s first cloned mammal, it was almost immediately evident that Dolly was not normal; she experienced a number of medical problems that resulted in her being euthanized, due to poor health, at the age of six years, about half the lifespan of a healthy sheep. Dolly was the only clone to survive to live birth out of the 277 cloned embryos Wilmut’s group generated, yet this success did not prove that cloning can produce a normal sheep. Dolly was merely normal enough to survive to birth.

In the past five years, a number of studies have carefully examined patterns of gene expression in mice and other cloned animals that survived to birth. Not one of these animals is genetically normal, and multiple genes are aberrantly expressed in multiple tissues. Both the severity and the extent of these genetic abnormalities came as a surprise to the cloning field, and yet, in retrospect, they are not surprising at all. The fact that most cloned embryos die at early stages of development is entirely consistent with the conclusion that somatic-cell nuclear transfer does not generate normal embryos, even in the rare cases where clones survive to birth. Thus, the optimistic contention that “therapeutic cloning” would fix the immune problem facing potential embryonic stem cell-based therapies

for humans seems thus far entirely unsupported by the scientific evidence.

The dwindling numbers of therapeutic-cloning supporters defend this procedure by asserting that the genetic abnormalities are only a problem if you are attempting to produce a live birth. Thus, in a 2004 *New York Times* article, George Daley, a stem cell researcher at Children’s Hospital in Boston, acknowledged that cloned animals show multiple genetic abnormalities, yet optimistically asserted, “Cloned tissues are not likely to have the same problems.” In light of the mounting evidence that cloned animals experience severe genetic dysregulation, such tentative reassurance is wearing thin, with even Daley admitting that his optimistic prediction that cloned tissues will prove normal enough for medical purposes has “yet to be proven.”

The question of how normal cloned tissue needs to be is not merely a detail that needs to be worked out. It is, in practice, a fundamentally unanswerable question. If cloned human embryos are to be used as a source of stem cells, we will be faced with this simple question for every single patient: How normal is this particular cloned embryo, the one we are going to use to generate stem cells to treat this particular patient? Without allowing that

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judgment defeated. College sought writ, which was granted. In unpublished 2-1 decision, court held that defendants were entitled to summary judgment.

People v. D’Alessio (Oakland)—Sidewalk counselor charged with interfering with a business by pro-abortion guard at Family Planning Specialist. Victory: Charges dismissed.

Storms, et al. v. CSU Los Angeles—Pro-lifers arrested for remaining on campus after being told they could only hold signs in a deserted area near campus police station. Charges dismissed. Civil rights action filed against university police officers.

Klein, et al. v. San Diego County et al.—Federal challenge to San Diego residential picketing ordinance. Decision pending from Ninth Circuit Court of Appeal.

Mason v. Klaus (Long Beach) —Pro-lifers arrested for free speech activity on Cal State Long Beach campus after being told that they could not hold signs. Case settled.

Buchinger v. Santa Barbara City College—Pro-lifers arrested for remaining on campus and engaging in free speech activity. Complaint filed, motion to dismiss granted. Appeal to Ninth Circuit filed.

Moreno v. Los Gatos (Calif.)—Pro-lifers arrested for picketing and distributing literature on public sidewalk outside high school. Police told them they had to stay 1,000 feet from the school. No charges filed. Complaint for civil rights violation filed. Town has agreed to permanent injunction and payment of attorney fees. Appeal pending re statutory damages for plaintiffs.

FWHC v. Canfield (Chico)—the Feminist Women’s Health Center, an abortion clinic in Chico, obtained a Temporary Restraining Order against defendant James Canfield, based on a false accusation of a threat against the doctor. Hearing on the preliminary injunction was stayed to allow for a writ to be taken on evidentiary issues regarding the clinic’s “unclean hands” vis-à-vis lack of informed consent of women. That writ is now before the California Supreme Court.

(STEM CELLS CONT'D ON PAGE 8)

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Hollins v. Mt. Sinai (Cleveland, Ohio)—LLDF files amicus brief in opposition to the Ohio Supreme Court taking discretionary jurisdiction in the case as it relates to the issue that an attorney may not speak from the perspective of the unborn child in imminent danger of being harmed (e.g., “Please, please nurses. I’m a little baby. I want to play baseball. I want to hug my mother. I want to tell her that I love her. Help me. Please help me to be born.”) Court granted jurisdiction; parties and amici have filed briefs on the merits.

National Tax Limitation Foundation v. Westly (Calif.)—Suit challenging grants for training in embryonic stem cell research made pursuant to Prop 71, a California initiative providing \$3 billion in funding for embryonic stem cell research. Grants violated Prop 71 in that University of California employees were permitted to vote on grants to UC.

Berkeley v. Blythe—Pro-lifer arrested for holding signs and literature on main plaza at UC Berkeley. Court appearance pending.

Rader v. Akins (Calif.)—Pro-lifers arrested from quad area at Riverside Community College.

Mason v. Sullivan (Calif.)—Pro lifers arrested from free speech area at Santa Barbara City College; lower court dismissed case; matter on appeal to Ninth Circuit.

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.

ON THE WEB

www.lldf.org

ASK THE ATTORNEY

An Interview with Rich Ackerman, Esq.

Attorney Rich Ackerman was raised in a pro-life Catholic family, but the issue wasn't a major concern until the day he learned that a girlfriend had aborted his child. In the 17 years since that life-changing moment, he has completed law school, founded two pregnancy centers in southern California, and started a non-profit law firm that works on pro-life causes. He also is a partner in a traditional law firm. He and his wife are the parents of four children.

What inspires your pro-life work?

I grew up Catholic so a pro-life attitude was present in my household. Then I had a relationship with somebody who aborted our child without telling me. I found out after the fact. That was 17 years ago; I am 37 now. Although I doubt I will see *Roe v. Wade* go by the wayside in my lifetime, I do think each of us has to do what we can for life. Legal or illegal, the fallout for families from abortion is the same. It hurts and it ain't good. Even if we can't knock *Roe v. Wade* out, we have a duty to act, a duty to engage in peaceful action, to help the individual.

What influenced you to use your knowledge of law in the cause of life?

Dana Cody and I went to the same law school. She had started the Republican Law Student Association and I joined. We were a minority — the whole five of us. We had to hang together. Later, we kept up with each other's work and have continued to do so.

Given your experience, what do you think of the role of fathers in decisions for or against abortion?

For the first nine months, fathers have no say-so. A man is not deemed a father until the baby is born. Sometimes, once the child is here, the child is used as a pawn. One of the worst things you can do for families is to deprive a father of his chance to be a regular father. If we were more inclusive as a society, we probably would have fewer guys feeling disconnected.

Can you update us on your current case for Life Legal Defense Foundation?

The case against Planned Parenthood involves a former chief financial officer of Planned Parenthood and is on appeal. This is California, and I can't predict where the case will go, but as we have seen in many abortion cases, what is right doesn't really matter. In this case the issue of failure to report suspected abuse of minors is clear: Of 30,000 children treated by Planned Parenthood in Riverside, Los Angeles, and Orange counties, there were no cases of abuse reported. A half-dozen children under six were reported to have had STDs (sexually transmitted diseases). We cross-checked with local law enforcement and found *nothing*. That type of case is required to be reported in triplicate: to the state, to the local law enforcement agency, and to the local department of health and human services. We found nothing. STDs are not airborne. Why were there no reports? Planned Parenthood has lobbied the state legislature to protect privacy to the point that molesters are protected, children continue to be abused, and for that Planned Parenthood defenders are called heroes for allowing 'choice.' Planned Parenthood has got its fingers—strike that—its claws—in everything. The way things are now, a molester can take a child to a Planned Parenthood clinic and the six-year-old child's 'privacy' is protected. That's outrageous. When we argued against that, we were told, 'You are trying to shut down a legitimate business, and

the right of privacy is constitutional.’ That was a pretty dark day, one of the darkest days in my legal career. You realize that in the courtroom we had a judge, a bailiff and others who, if they come across information about a child being abused, are mandatory reporters (people required by law to report that they suspect a child is in danger). But for Planned Parenthood, the rules are different. And the rules remain different for Planned Parenthood even though its eugenics aspect—its disproportionate locations in minority neighborhoods in L.A., for example—is alive and well.

You have been heavily fined and had to turn yourself in to the state bar when ruled against in a pro-life case. Is that level of sacrifice worthwhile to you?

If one less person shows up at Planned Parenthood or one more person chooses life, it is worth it. That is a cliché, but you have to do this one life at a time. Meanwhile, we have to realize that in the current climate we will lose 90 percent of our cases. There is going to be large degree of self-doubt. I am fortunate that my wife is very supportive of me.

What is the most satisfying work you are doing now?

It is our adoption option program, because it is personal. This can be a help to both mothers and fathers when there is a decision to give up the child for adoption. One set of parents gives a great good to others. And through our contacts we are able to help expectant mothers who feel that there is no other option than abortion to see that they have a choice, whether to raise the child or to give the child for adoption. We make choice a very real option. I still remember several years ago when I was consulted by a woman in a crisis pregnancy who wanted adoption services. I called everybody I knew in the southern California area and could not find a single person who did such adoptions *pro bono*. When you have a mom come into the office pregnant and crying and desperate to preserve the life of her child even though her boyfriend has left her for a new girlfriend, that’s as personal as it gets. When you can



Rich Ackerman and family

help with such an adoption, it’s a situation that gets no media, no hype—sort of like the person who prays in the closet unseen—but the effects are immediate and very powerful. I believe we have a duty to engage in peaceful action, to help the individual, sort of as Christ did. When he helped the blind man or a leper, it was interpersonal. We can model ourselves on that. Remember, at that time, the Romans and the Pharisees had the power. Today, I can go out of my way to make myself available on a personal level even if *Roe v. Wade* is the law of the land.

Why do you offer legal assistance for such adoptions?

Putting things in a faith-based context, it is important to offer help with the challenges of a situation, to support pro-life choices with a local source that can take on a case with two or three weeks’ notice. Sometimes a decision for adoption is made very shortly before birth because a mother has been in denial or ashamed, or was thinking about adoption for a while but didn’t see anywhere to go for help. And our faith-based approach has an ecumenical aspect; in doing this work we are able to get along with people of other denominations regardless of differences in faith within Christianity. I would like to work with people of non-Christian faiths also.

How would you respond to an expectant mother who tells you that the circumstances of her case are just too difficult to face?

One of the hardest issues I wrestle with is “I can’t do this.” I would say, “Yes, you can, and is there any way I can help with that?” It is important for us in the pro-life movement to help in practical ways and to help a mother to see what her role is—maybe adoption, maybe moving back in with her own mom, maybe getting married. We have to preserve the value of life. My mom was blind and raised two kids by herself. Anybody who would have come up to her and said, “You can’t do this,” would have been wrong. And I’m awful happy to be here.

Are you hopeful about the future?

I would like to see adoption services available on a much grander scale so that people really do have choices. I am encouraged by the recent addition to our law firm of a young attorney from Trinity Law School who came to us with an excellent resume, and who is among those willing to do his best for the client as a lawyer, whether you win or not, and to be willing to be available on a personal level to someone who needs help. I am encouraged by the ongoing efforts of LLDF and its supporters to defend innocent life.

Do you recommend pro-life work to colleagues?

As lawyers we have been given a powerful gift: to go between the individual and the government and make a difference. Working for life is one of the best possible uses of this gift. To argue, to advocate, to be somebody’s hero—this is all part of being a lawyer. If you are doing your job right, clients do see you as a hero in the truest sense, as somebody responsible for defending the innocent. If you are not in a position to do direct work, there is another important way to help: You can contribute to the support of Life Legal Defense Foundation. That will enable the rest of us to continue defending life.

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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.

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.

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.

EDUCATION

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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 regard 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.

Anthony Wynne

“WHEN ROE FALLS...”: THE 2006 LLDF BANQUET

LLDF held its thirteenth Annual Banquet on November 18, 2006. The venue was the elegant and historic Bellevue Club in Oakland overlooking the moonlit waters of Lake Merritt. Built as an exclusive private city club for women in 1926, the Bellevue Club maintains the look and feel of that era.

LLDF President John Streett welcomed the guests and served as master of ceremonies with his usual grace and wit. Following an invocation by Rev. Lawrence Goode and a pledge of allegiance to the flag led by Col. Ronald Maxson, a live (and lively) auction commenced. Auctioneer — and LLDF attorney — Bruce Miroglio’s humor and persistence brought LLDF top dollar for the donated auction items, which included vacation getaways, rare wines and even a pro golf lesson.

The featured speaker of the evening was Ramesh Ponnuru, senior editor at National Review magazine and author of *The Party of Death: The Democrats, the Media, the Courts and the Disregard for Human Life*. Comparing *Roe v. Wade* to a “crumbling castle”, Mr. Ponnuru discussed its defenses and, more importantly, its weaknesses. While clearly a partisan, he nevertheless presented a dispassionate and rational analysis of an issue about which it is easy to become passionate, in part because so many on the pro-abortion side seem to be impervious to reason.

Crediting Notre Dame Law School Professor Gerard V. Bradley with first using the castle analogy, Mr. Ponnuru pointed out that *Roe* continues to stand because it enjoys both legal and political fortifications. But those fortifications are weak, said Mr. Ponnuru, and “each covers the weaknesses of the other.”

Roe’s status as law is shaky. Wrongly decided to begin with, and considered even by abortion proponents to be bad constitutional law, it must make up what it lacks in intellectual honesty by an appeal to its status as judicial precedent. *Roe*’s political strength, said

While clearly a partisan, he nevertheless presented a dispassionate and rational analysis of an issue about which it is easy to become passionate, in part because so many on the pro-abortion side seem to be impervious to reason.

Mr. Ponnuru, lies in the polls (i.e., public opinion). Mr. Ponnuru gave a comprehensive summary of polling data in this country on abortion in general and on *Roe* in particular. NARAL and its allies have succeeded in establishing a conventional wisdom that there is a “pro-choice majority” in this country. “But that pro-choice majority,” asserted Mr. Ponnuru, “is based on a highly selective reading of the polls.” In fact, “[i]t is undeniable that the public supports a legal regime that is more protective of life than we have now... The abortion lobby has good reason to keep the issue in the courts: It never could count on the public being in its corner.”

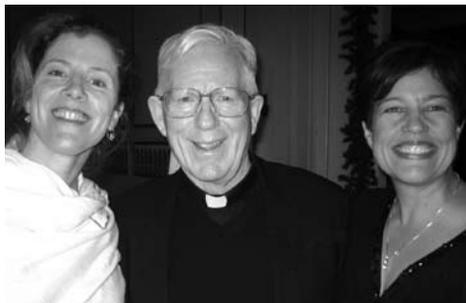
One indication of the progress the pro-life movement has made is the fact that politicians, as well as the abortion lobby itself, have distanced themselves from the word. In 2003,

the leading pro-abortion group actually took the word out of its official name, “NARAL Pro-Choice America”. “Abortion” observed Mr. Ponnuru wryly, “is the right that dare not speak its name.”

Mr. Ponnuru called attention to a shift in emphasis from efforts at sweeping change (i.e., the Human Life Amendment) to a more incrementalist approach, beginning with



National Review editor and speaker, Ramesh Ponnuru



Dolores Meehan, Rev. Lawrence Goode, Mimi Streett

the campaign against partial birth abortion. Acknowledging the controversial nature of the incremental strategy among pro-lifers, Mr. Ponnuru observed that it has nevertheless proven successful. Victories in state legislatures have driven down the number of abortions, and more voters are identifying themselves as “pro-life”.

So what would happen if *Roe* were overturned? Many people would find it unsettling, and nominally pro-life politicians would panic and possibly flip their positions, having lost the cover that *Roe* has provided them. Given the split in Congress on the issue, not to mention its desire to avoid the issue altogether, any attempts at compromise on the federal level

would probably end in a stalemate.

Much of the debate over abortion would shift from Washington, D.C. and the Supreme Court to the state legislatures.

Mr. Ponnuru put it succinctly: “The end of *Roe* would not hand pro-lifers victory in all the political debates over abortion policy. It would give them the right to have those debates in the first place.”



Sue and Pat Arend, long-time LLDF supporters



Jennifer Lahl, National Director, Center for Bioethics and Culture

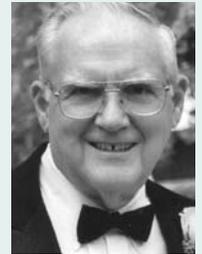
Again, Mr. Ponnuru emphasized, we would have no place to go but up: “It is inconceivable that Americans will support unrestricted abortion on demand for all nine months of pregnancy from sea to shining sea. There is a reason that pro-choicers have invested so heavily in keeping this issue in the courtroom. Outside it, they can only lose ground.”

Mr. Ponnuru gave the banquet guests a vision of what the new political and cultural landscape in this country might be when *Roe v. Wade* is finally overturned—not to mention reason to trust that the day when *Roe* falls is indeed coming.

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ATTORNEY OF THE YEAR (2006)

Robert M. Taylor Jr.



The 2006 Attorney of the year award goes to an individual who has given sacrificially of his time and talents above and beyond the call of duty. He has put in hundreds and hundreds of hours during the past two plus years in defending the smallest and most defenseless among us. The 2006 LLDF Attorney of the Year is Robert M. Taylor Jr.

Bob could be taking a life of ease after retiring from a successful legal career as a highly effective litigator. He has been quoted as saying that, after retiring, his frustration level was far too low so he took up golf. Well, golf raised his frustration to a higher level but it still wasn't high enough so he volunteered to do *pro bono* work for LLDF. No doubt his frustration level is at a sufficiently high level now!

As most of you know, LLDF filed suit in 2005 challenging Proposition 71, the California initiative that authorized \$3 billion of taxpayer's money to destroy human embryos for research. Bob has been the driving force and has been doing all the heavy lifting in this landmark law suit. He has led the effort in discovery, preparing motions and briefs, preparing for trial, arguing at trial and preparing the appellate briefs. Even though the opponents, who are represented by the Attorney General's office and funded by our tax dollars, won at the trial level, they can't issue the \$3 billion in bonds unless they get rid of LLDF's lawsuit and they won't get rid of the law suit until it reaches the California Supreme Court. Bob is now leading the charge in the Court of Appeal and has prepared some excellent briefs.

Bob has both an electrical engineering degree and a law degree and spent his professional career as a patent attorney. He and his wife Toni, who reside in San Juan Capistrano, have a blended family of 13 children and 22 grandchildren. **Congratulations to LLDF's 2006 Attorney of the Year—Bob Taylor!**

(STEM CELLS CONT'D FROM PAGE 3)

embryo to develop and observing precisely how abnormal it proves to be, it is simply impossible to know whether it is normal enough for medical use. Every patient will be an experiment with no quality control. Perhaps the particular cells will be normal enough to cure this particular patient, but then again perhaps they will be so grotesquely abnormal that they will create a condition worse than the one they were intended to treat.

The limitation in our ability to determine which cloned embryos are of sufficient normalcy to generate medically useful replacement tissue is one that no research can address unless scientists develop some kind of test to determine in advance which cloned embryos are normal enough. Developing such a test would almost certainly require the horrific scenario of growing human embryos to a sufficient state of maturity that the normalcy of their developing tissues could be empirically determined. This would mean implanting cloned embryos into surrogate wombs and then aborting them at specific times to examine the embryo's development. Based on this information, it might be possible (although difficult) to identify features of very early embryos that predict whether they are capable of generating therapeutically useful tissue. Whether Americans are willing to accept the unknown (yet potentially large) risk of being treated with stem cells of undetermined (and essentially undeterminable) quality or whether we would prefer to accept the kind of experimentation on human embryos and fetuses that would be required to ensure embryonic stem cell safety are questions of profound social and moral importance.

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[Maureen L. Condit is an associate professor of neurobiology and anatomy at the University of Utah School of Medicine and conducts research on the development and regeneration of the nervous system.

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A WORTHWHILE U.N. INITIATIVE!

Wesley J. Smith

A welcome defense of the disabled from an unlikely organization.



Can anything good come out of the United Nations? Actually, yes. Little noted in December, the General Assembly adopted a “Convention on the Rights of Persons with Disabilities.” If ratified by most member nations, the convention could strengthen protections for many people with disabilities.

This is no trivial matter. In many countries, people with disabilities face significant, sometimes life-threatening discrimination. According to a 1997 study published in the British medical journal *Lancet*, about 8 percent of all infants who die each year in the Netherlands are euthanized by physicians due to severe illness or disability. North Korea has been accused by defectors of killing disabled newborns, a charge made all the more credible by *New York Times* columnist Nicholas D. Kristof's assertion in 2003 that North Korea “systematically” exiles “mentally retarded and disabled people from the capital, so as not to mar its beauty.” The People's Republic of China has legalized certain eugenics policies, while here in the United States, disability-rights activists complain that disabled patients face medical discrimination, such as being pressured into signing do-not-resuscitate orders when they enter the hospital with non-life-threatening conditions.

Of course, it wouldn't be an official action of the United Nations without containing an element of the surreal. Even though the convention focuses on the rights and intrinsic value of people with disabilities, because of the sausage-making process that epitomizes U.N. negotiations, the term “disability” is never defined. “There were two competing approaches to defining disability,” Susan Yoshihara told me. Yoshihara is the executive vice president of the Catholic Family and Human Rights Institute (C-FAM), a conservative nongovernmental organization

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that participated in the negotiations. “Many representatives wanted an objective medical definition. But a few insisted upon a subjective social definition, which would have based disability on attitudinal barriers that some might face.” Unable to reach consensus on the meaning of disability, the U.N. adopted a treaty that does not identify the people it intends to protect.

Still, the convention is a welcome reaffirmation of the principles that are “proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and equal and inalienable rights of all members of the human family.” In a world growing increasingly utilitarian, an international declaration unequivocally affirming that human life has intrinsic moral worth regardless of capacities

and attributes is most welcome.

Toward this noble end, Article 10 of the convention reaffirms that “every human being has the inherent right to life” and, in principal, requires signatory countries to “take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.” This could be very good news for Dutch infants born with serious health problems or disabilities, as the Dutch parliament is well on the path to formally legalizing eugenic infanticide. If the Low Countries ratify the treaty, as expected, Dutch diplomatic representatives should be asked to justify their “compassionate” policy of allowing the killing of disabled babies in the face of this new international convention requiring the lives of disabled people be protected.

Article 25 seeks to guarantee “the highest attainable standard of health without discrimination on the basis of disability.” An important, one might say crucial, provision added to Article 25—thanks in large part to C-FAM and other conservative NGOs—is subsection F, which aims to prevent “discriminatory denial of health care or health services or food and fluids on the basis of disability.”

If the policies enunciated by Article 25 (F) were embodied in our federal and state laws, the disabled would be provided with badly needed protections against discrimination in health care. As described more fully in these pages previously (“‘Futile Care’ and Its Friends,” July 23, 2001), hospitals around the country are promulgating internal bioethical protocols that empower in-house committees to authorize doctors to refuse wanted life-sustaining treatment—including tube-supplied food and water—based on quality-of-life and resource considerations.

The ratification process begins March 7. Of course, well-intended international conventions like this can end up meaning very little in practice. Countries that do sign the convention may not carry out their obligations. And some countries won’t sign on at all.

That latter category will include the United

States. Even though Richard T. Miller, the U.S. representative to the negotiations, “warmly” congratulated “all those involved in this monumental and historic process,” and despite our having been deeply involved in its negotiation, the United States announced, back in 2003, it would not “become party” to the convention. The stated reason was that the United States already has laws—particularly the Americans with Disabilities Act (ADA)—that sufficiently protect the rights of disabled people. There are certainly valid reasons for

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refusing to sign the convention—such as a principled refusal to compromise national sovereignty—but the existence of the ADA is not one of them, since that law omits the explicit protections against medical discrimination that are centerpieces of the U.N. agreement. (The Vatican has stated it, too, will not sign the convention out of fear that vague language about “reproductive health” could promote abortion.)

Regardless of America’s nonparticipation, much good should come from the adoption of the convention. First, the agreement creates an international standard of equal rights for people with disabilities. Since many nations care deeply about the views of the

“international community,” the convention could influence attitudes and legal protections for disabled people around the world. Formal adoption of the convention could also provide a rationale for international court cases being filed to enforce its provisions. Since many nations care deeply about the views of the “international community”—including, we have recently seen, some United States Supreme Court justices—the convention could influence attitudes and legal protections for disabled people around the world.

There is another lesson here. The positive impact that C-FAM and other conservative NGOs had on the terms of the convention—for example, the food and fluids provision—teaches a valuable lesson. Many conservative organizations eschew obtaining NGO status with the United Nations because they loathe internationalism, disdain the U.N., and expect America not to be bound by these agreements.

But such standoffishness is woefully shortsighted. Like it or not, many of the most important social and legal policies of the twenty-first century are going to be materially influenced by international protocols such as this one. These agreements are molded substantially behind the scenes by NGOs—most of which are currently leftist in their political outlooks and relativistic in their social orientation. This makes for a stacked deck. If conservatives hope to influence the moral values of the future, they are going to have to hold their collective noses and get into the game.

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[This article was originally published January 29, 2007, (Vol. 12, No. 19) by *The Weekly Standard* (www.weeklystandard.com) and is here reprinted by the kind permission of the author. Wesley J. Smith (wesleyjsmith.com) is a senior fellow at the Discovery Institute (discovery.org), an attorney for the International Task Force on Euthanasia and Assisted Suicide (iaetf.org), and a special consultant to the Center for Bioethics and Culture (thebc.org). He is the author most recently of *Consumer’s Guide to a Brave New World*. He is currently researching a book on the animal-liberation movement.]

(GAMES CONT'D FROM PAGE 1)

Oregon: An abortion clinic provided an abortion to an eleven-year-old girl, impregnated by her mother's 41-year-old live-in boyfriend. The clinic failed to notify the police as required by state law. The abuse was discovered only because the abortion was incomplete and the girl had to be hospitalized.

seeking abortions must be provided with written information about fetal development and abortion alternatives and must receive information orally from a physician, including the probable gestational age of the child and the medical risks of the abortion. In the case of 14-year-old Jane, she says, Planned Parenthood simply handed the packet of materials to the man who was responsible for her pregnancy and was pressuring her to abort.

Haller then brought Jane to the clinic and paid for the abortion, claiming he was her stepbrother. Jane had provided the clinic with her father's name and address for notification purposes, but used Haller's cell phone number. The abortion doctor, Roslyn Kade, then called Haller and gave him "actual notice" of the abortion he had arranged. With that formality out of the way, Kade proceeded to abort Jane's child.

Further demonstrating what a caring, responsible person he was, Haller paid for Jane to have an injection of Depo-Provera, a long-lasting contraceptive with a questionable safety record, before they left. Planned Parenthood personnel obligingly provided the shot to the 14-year-old.

Shortly after the abortion, Haller broke off the relationship, and Jane began a downward emotional spiral. Her parents observed the change in her with deep concern but no idea of the cause. Some weeks after the abortion, a teacher at Jane's school overheard some

other students talking about the relationship between Jane and Haller, and brought it to the attention of school authorities, who then notified the police. The police began an investigation, which led to Haller's conviction and imprisonment on multiple counts of sexual battery on a minor.

During that investigation, Jane's distraught parents first learned of her pregnancy and abortion and the role Planned Parenthood had played in killing their grandchild and covering up the victimization of their daughter. They contacted veteran LLDF volunteer attorney Tom Condit, who filed suit against Planned Parenthood. The complaint alleges violation of not only of the parental involvement laws,¹ but also the state's informed consent and mandatory reporting of abuse laws.

As the case progressed, Condit was grateful for the legal expertise of Brian Hurley and Kathy Hidy of the Cincinnati firm of Crabbe, Brown and James. Hurley had been aware of the case and was watching its progress with growing interest—and outrage. The last straw was when, after its unsuccessful attempts to get the case dismissed, Planned Parenthood cross-complained against Jane for fraud. When that happened, Hurley and Hidy jumped into the fray. They were later joined by Todd Wilkowski

Texas: A twelve-year-old mentally challenged girl was repeatedly sexually assaulted by her mother's live-in boyfriend. Twice these assaults resulted in the girl becoming pregnant. Both times, the perpetrator forced her to have an abortion. Although both abortions took place at the same clinic, the clinic did not report the abuse until after the second abortion took place.

Alaska: Testimony of abortionist Jan Whitefield in the trial concerning parental consent law:

Q. And isn't it true, Doctor, that when a girl 16 and under comes to your clinic, you don't ask her the age of the father who impregnated her, do you?

A. We do not.

Q. In fact, if she's brought to the clinic by an adult male, you don't even bother to ask her what the relationship she has with that adult male, do you?

A. No.

of Keating, Muething and Klekamp and Nick Bunch of White, Getgey and Meyer.

One of the first things Hurley and Hidy did was to raise the issue of a conflict between Planned Parenthood and its attorney, Alphonse Gerhardstein, a long-time abortion advocate. The conflict arose because Planned Parenthood alleged advice of counsel as an affirmative defense in its answer. When Hurley made it clear that he would delve into the exact nature of that advice, Gerhardstein withdrew, and Planned Parenthood was forced to retain other counsel.

The legal team then decided to seek Planned Parenthood's records concerning abortions on minors to determine whether the abortion business had a practice of violating the state laws requiring parental notification and the reporting of suspected child abuse. The defendants then rolled out the big guns, calling in attorneys from Planned Parenthood Federation in New York to support their local attorneys. Violation of privacy, they cried, despite the fact that all identifying information would be redacted from the patient records (and despite the fact that Planned Parenthood itself had deliberately

revealed Jane's true name in public court documents.) Conspiracy, they yelled, alleging that "anti-abortion groups are ready to pounce on 'non-identifying information' to deduce the identities of the patients."

Fortunately, despite the legal firepower arrayed against Jane's lawyers, the judge ruled that Planned Parenthood must produce the redacted records. The defendants immediately filed an appeal, which is now pending. They are arguing, as they did in the lower court, that the production of redacted, non-identifying information about minor patients places an "undue burden on a woman's fundamental right to terminate her pregnancy." In their brief, the plaintiffs responded: "Taken to its logical conclusion, Appellants' argument is that,

(ATLAS CONT'D FROM PAGE 2)

We've watched the sanctity of human life erode as abortion became legal, and progressed to abortion on demand throughout the entire nine months of pregnancy. Now the erosion manifests itself in the desire to create embryos to use for research and ultimately to destroy.

Since 1973 the unborn have had no right to life in the United States. We've watched the sanctity of human life erode as abortion became legal, and progressed to abortion on demand throughout the entire nine months of pregnancy. Now the erosion manifests itself in the desire to create embryos to use for research and ultimately to destroy. The values our nation once stood for, protecting the right to life of the weakest and most vulnerable among us, have diminished and seemingly been set aside. The natural progression of death by abortion has become death on demand for the elderly, chronically ill and disabled, who are among the weakest and most vulnerable of our culture.

Again, *Atlas Shrugged* is almost prophetic: "A viler evil than to murder a man, is to sell him suicide as an act of virtue."⁴

The concluding questions of the day were asked of the ESCR proponents on the panel by a member of the audience: 1) How much government money is enough?; and, 2) We've heard the opponents' ethics today. What are your ethics?

There was no definitive answer to either question. With regard to ethics the answer was, "I just want to help the children."

Should our government fund abortion, embryonic stem cell research, and as we have seen in Oregon, physician-assisted suicide as one of the treatment options funded by the State? Objectivism by Ayn Rand answers: "The only purpose of a government is to protect a man's rights, which means to protect him from physical violence. A proper government is only a policeman, acting as an agent of man's self-defense..."⁵

While the reader may or may not agree with Ms. Rand's brand of philosophy, she certainly makes a point. Death on demand funded by our tax dollars does not serve the proper role of government.

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¹I have received several thank-you notes from the members of the Ag Leadership Program. One especially encouraging note read in part, "You did an outstanding job... at reshaping my views as well as solidifying and clarifying my various thoughts on stem cell research."

²One of the issues in the Proposition 71 controversy, which ushered in taxpayer funding of ESCR in California, is who will benefit from the intellectual property of the stem cell researchers, the researchers whose intellect created the property or the State?

³*Atlas Shrugged*, Ayn Rand. (First Plume Printing, 1999, p. 1055).

⁴*ibid.*, 455.

⁵*ibid.*, 1062.

California: CALLER: I'm just really scared because my friend told me that, well, I'll be 14 in March, and she said that my parents would have to know. But my boyfriend's 22. Could he just sign whatever, and you guys wouldn't have to tell anybody?
CLINIC: Well, we don't need to know how old your boyfriend is first of all.
CALLER: Oh, okay.
CLINIC: — because it sounds like we would have to report it.
CALLER: What do you mean report it? Who would you have to report it to?
CLINIC: Because he's over 18 and you're 14. So as long as you don't tell us, everything's fine.

(GAMES CONT'D ON PAGE 12)

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because they are abortion providers, neither the State of Ohio, in criminal actions, nor citizens, in civil actions, may ever access information necessary to establish that Appellants have breached their statutory duty.”

Indeed, as Hurley further notes: “To preclude this type of inquiry would, in essence, permit abortion providers to be completely self-regulating and force plaintiffs and states to rely entirely on the self-serving representations of abortion providers that they are complying with the law.”

LLDF continues to support Jane’s parents and lawyers in their efforts to hold Planned Parenthood accountable for their callous disregard of the rights of Jane, her parents, and her child. “We’re in this for the long haul” Hurley says, “but so is Planned Parenthood. Without the support of LLDF and others who are outraged by what happened to Jane, Planned Parenthood would make it prohibitively expensive for Jane and other girls like her to pursue their claims

that Planned Parenthood has breached its duties with respect to notification of parents and law enforcement, as well as to obtain informed consent. We should make it more, not less, difficult for sexual predators such as Jane’s coach to use secret abortions to conceal their crimes.”

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¹Ohio’s parental consent law (Ohio R.S. §2919.121) was challenged shortly after its passage in 1998, and the state attorney general agreed to a preliminary injunction prohibiting enforcement of its criminal provisions. This left only the state’s pre-existing notification law (R.S. §2919.12) in effect as to criminal liability while the other challenge was pending. However, the stipulated injunction with the state could not and did not bind third parties such as Jane’s parents, who were not parties to that suit. Therefore, Jane’s parents may sue under the civil liability provisions of both the enjoined consent law and the notification law. In 2005, a federal court ruled that the consent law was constitutional, and lifted the injunction against the state enforcement. This ruling was affirmed in *Cincinnati Women’s Service, Inc. v. Taft*, 468 F.3d 361 (6th Cir. 2006).