



VOICE OF REASON

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The Newsletter of Americans for Religious Liberty

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A Letter to Pope John Paul II

from Dr. Henry Morgentaler

Henry Morgentaler, a survivor of the Auschwitz and Dachau Nazi death camps, is the distinguished Canadian physician who personally led the struggle for abortion rights in Canada. He is one of the physicians featured in the new book, Doctors of Conscience, by Carole Joffe (Beacon Press), reviewed elsewhere in this issue.

No doubt you will be surprised to receive a letter from a secular humanist who does not share your religious views but who subscribes to our common goals of peaceful resolution of conflicts and peace and goodwill to all people regardless of gender, race, ethnic origin, religious beliefs, or philosophical views on life.

Although I meant to write you for some time, the immediate reason I am writing you *now* is the assassination of Prime Minister of Israel Yitzhak Rabin and the relationship between verbal violence and violent acts.

I am writing you this letter as a secular humanist who has become famous in Canada for his defense of women's right to abortion, in particular the *Morgentaler* decision of the Supreme Court of Canada which removed abortion from the Criminal Code. I am also honorary president of the Humanist Association of Canada, a man of your generation, born in Poland in 1923, a survivor of Auschwitz and Dachau. I personally have been a target of violence that is a result of hate propaganda against abortion. When I opened an abortion clinic in Toronto in 1984, Emmett Cardinal Carter, the archbishop of Toronto, had a letter read in all the churches of his diocese in which he called upon Christians to "stop this abomination." As a result of this letter, violent protests against the clinic continued for years, culminating in its destruction by firebombing in 1992. When I opened a clinic in St. John's, Newfoundland, in November 1990, a mob directed by Archbishop Alfonsus Penney physically attacked and almost lynched me. As a medical doctor specializing in safe abortion techniques, I have had my life repeatedly threatened by opponents of abortion, and these innumerable death threats have targeted my family as well.

This is why I am writing to you now. As you may know, several doctors and other clinic workers in the United States have been murdered by anti-abortion fanatics, and two doctors in Canada have been shot and wounded—the latest incident on November 10, 1995. In the United States, a young man with the intention of becoming a Catholic priest, John Salvi, killed two young women and wounded five others just because they worked in an abortion clinic or were present there.

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Editorials

Clinton's Veto

On April 10 President Clinton vetoed H.R. 1833, a bill that would have imposed a nationwide ban on an abortion technique known as dilation and extraction (D & X), which is used primarily to terminate pregnancies after 20 weeks when a woman's life or health are at risk.

Following the veto Clinton held a press conference during which several women who had undergone the procedure told their personal stories to show the potentially damaging effects H.R. 1833 would have had.

In his veto message to Congress, Clinton said he would not sign such a measure unless it contained an exception allowing the procedure when necessary to protect a woman's health. The bill, passed by the House 286 to 129 and the Senate by a much narrower 54 to 44, was a largely Republican attempt to carve out a political issue in an election year. Clinton is pro-choice, while the Republican Party is officially anti-choice, a difference that has contributed to Clinton's strong poll lead over Senator Bob Dole among women voters. Anti-choice forces lobbied a compliant Congress to pass the ban on so-called "partial birth" abortions, which is not a medical term, apparently to keep the abortion issue before the public.

The D & X procedure is used only about 600 times per year and is generally done because alternate procedures are riskier to the woman's health.

Following the veto, all public relations hell broke loose. U.S. Catholic cardinals denounced the veto and said the procedure is "more akin to infanticide than abortion." The Vatican added its condemnation and said it supported efforts to have Congress overturn the veto. Evangelist Billy Graham criticized the veto in a CNBC interview with ultraconservative columnist Cal Thomas, shortly after meeting personally with Clinton, a supporter of Graham since he was a child. The usual anti-choice groups went ballistic and hope to use the issue to club President Clinton during the upcoming campaign.

But while presidential aspirant Bob Dole was slamming Clinton as an extremist, New Jersey's Republican Governor,
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Christie Whitman, spoke for many pro-choice people in her party when she publicly supported Clinton's veto.

Religious leaders representing the Episcopal, Presbyterian, United Methodist, Jewish, United Church of Christ, Unitarian Universalist, and Humanist traditions expressed support for Clinton's veto and urged Congress not to override it.

The Rev. Katherine Hancock Ragsdale, Episcopal priest and president of the Religious Coalition for Reproductive Choice, said, "What we find beyond comprehension is how anyone, but especially religious leaders like the Cardinals, could stoop to endangering women's lives and exploiting their personal tragedies simply to make mileage in their efforts to stop all abortions."

Rabbi Lynn Landsberg, director of the Mid-Atlantic Council of the Union of American Hebrew Congregations, commented, "The general tenor of religious opposition to late-term abortion has grown increasingly callous and cynical."

The Rev. Walter Fauntroy, Baptist minister and former Delegate to Congress from the District of Columbia, added, "The issue [of late-term] abortion is another example of people who ought to know better, to convert the distortion of a basic moral imperative to their political advantage in pursuit of another goal."

In a statement to President Clinton, the Religious Coalition stated, "We fully support your action in standing with women and their families who face tragic, untenable pregnancies. . . . We are convinced that each woman who is faced with such difficult moral decisions must be free to decide how to respond, in consultation with her doctor, her family, and her God. Neither we as religious leaders, nor you the President, nor the Congress—none of us can discern God's will as well as the woman herself, and that is where we believe the decision must remain."

Medical opinion also supported Clinton's veto. The American College of Obstetricians and Gynecologists fought the bill. Writing on the subject in *The New York Times*, Dr. Allan Rosenfield, professor of public health, obstetrics, and gynecology at Columbia, said, "Medical decisions should be based on scientific evidence gleaned from laboratories and clinical evaluation. Procedures should be judged on safety, effectiveness,

Flynn's Dissent

U.S. Ambassador to the Holy See (Vatican) Raymond I. Flynn publicly sided with Pope John Paul II's criticism of President Clinton's veto of H.R. 1833.

A serving ambassador is not supposed to publicly disagree with American policy. The proper course for Mr. Flynn to follow would be to resign his post. He is not likely to be fired.

Several months ago Flynn was reprimanded for criticizing Republican leaders in Congress for cutbacks in social programs.

Mr. Flynn, a Democrat, was a popular mayor of Boston, but he has not quite mastered the protocol of the diplomatic corps.

Then, too, why does the U.S. even have diplomatic relations with one church when it does not accord similar treatment to any others? President Reagan blundered into that special arrangement more than a decade ago. Unfortunately, the Supreme Court declined an opportunity to rule on the constitutionality of the arrangement.

availability and affordability. Such decisions should not fall within the purview of ideology and politics. In considering abortion, doctors examine the best data available, consider the patient's specific medical circumstances and, in consultation with the fully informed patient, decide on the best procedure. In declaring illegal the so-called partial birth abortion procedure, the House and Senate trampled on these criteria."

What political effect will the Clinton veto have? A *Los Angeles Times* poll found that a third of those polled would be more likely to vote for Clinton, a third would be less likely, and a third said it would make no difference—in other words, it's a wash. Although liberal columnist Mary McGrory thinks the veto will hurt Clinton with Catholic voters, Catholics for a Free Choice president Frances Kissling disagrees, citing polls that show only

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Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$25 for individuals, \$30 for families, \$10 for students and limited income.

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a small minority of Catholics agreeing with the Vatican's rigid anti-choice position.

As ARL executive director Edd Doerr pointed out in *The Washington Post* on April 30, Clinton's veto "blocked political interference with medical judgment, defended the fundamental right of women to reproductive choice, and protected women from riskier alternate medical procedures." The veto, he concluded, "will be seen as a courageous, if a bit politically risky, act of principle." ■

Scalia's Chutzpah

Supreme Court Justice Antonin Scalia is rather like the fellow convicted of murdering his parents who then asked the sentencing judge to show mercy to an orphan.

On April 19, speaking at a meeting sponsored by the Christian Legal Society at the Mississippi College School of Law, a Southern Baptist institution, Scalia complained that the modern world is unfriendly to "traditional" Christians and regards them as "simple-minded." The "worldly wise," he added, "just will not have anything to do with miracles." He went on, "We are fools for Christ's sake" and "We must pray for the courage to endure the scorn of the sophisticated world."

Columnist Colman McCarthy, a Catholic like Scalia, reacted strongly: "This was less a speech than an outburst. Scalia refuses to release the full text of his comments. But enough excerpts have been reported to confirm that he has joined the ranks of those Christians who, in hunkered poses, fantasize that secular society is persecuting them. . . . By declaring himself and his prayer breakfast audience 'fools for Christ's sake,' Scalia can further advance his martyr complex when critics dissent from his opinion: Scorn of his views equals bias against religion."

Said James Dunn, director of the Baptist Joint Committee in Washington, "This is becoming a modern myth that religion is somehow persecuted in American life. It's a right-wing litmus test. If you don't say religion is being beat up on, then you aren't politically correct. Everyone is competing to see who can whine the loudest."

Scalia has raised hypocrisy to an art form. It was Scalia who wrote the 5-4 ruling in *Employment Division v. Smith* in 1990 denying application of the Free Exercise clause to a couple of Native Americans in Oregon. Pontificated Scalia, "We cannot afford the luxury of deeming presumptively invalid, as applied to the religious objector, every regulation of conduct that does not protect an interest of the highest order." Thus did Scalia's bare majority on the Court sweep away the Court's precedents requiring a governmental "compelling interest" to override free exercise claims. Scalia's ruling so alarmed civil libertarians and the religious spectrum from left to right that a broad coalition (including Americans for Religious Liberty) got Congress to enact the Religious Freedom Restoration Act to correct his mistake.

Scalia whines about persecution, yet he has worked overtime to tear down the constitutional wall of separation between church and state that is religious freedom's best protection. In his relevant Court opinions, most of them happily still dissents, he has favored government-sponsored devotions in public schools, coercing taxpayers to fund sectarian private schools, and the intrusion of the fundamentalist doctrine of creationism in public school science classes, while opposing the freedom of conscience of women in dealing with problem pregnancies.

Mr. Scalia's presence on the Court, appointed by Ronald Reagan, underscores the importance of the presidential power to appoint Supreme Court justices. ■

Private: Keep Out!

If the ultraconservative Heritage Foundation has its way, Congress will "begin a new national debate to help renew the role of religion in American life," pass a resolution "that data on religious practice are useful for policy makers and researchers as part of the public policy debate," "commission research on the relationship between regular church attendance and social issues," and "mandate a census question on religious practice." Congress will also "fund federal experiments with school choice that include religiously affiliated schools."

The President of the United States, the Heritage Foundation insists, should "appoint judges who are more sensitive to the role of religion in public life," "direct the Bureau of the Census to record levels of religious practice in the census for the year 2000," and "issue a directive to all federal agencies making clear that cooperation between government entities and the social, medical, and educational services of faith-based organizations does not violate separation of church and state."

The Supreme Court, recommends Heritage, "should review the decisions in which it has changed the laws of the land by changing commonly held beliefs regarding the Constitution and religion and send to Congress those that should have been the object of legislative action rather than judicial reinterpretation."

These startling public policy recommendations are the heart of a 29-page "backgrounder" titled, "Why Religion Matters: The Impact of Religious Practice on Social Stability," issued January 25 by the Heritage Foundation, a right-wing think tank founded by Radical Right theoretician and activist Paul Weyrich. They purport to be based on surveys of social science literature that reportedly find a positive correlation between religious belief and/or practice and family strength, family economic advancement, "sound moral judgment," mental and physical health, and other benefits. While the Heritage conclusions are not nuanced and do not begin to suggest the complexities of myriad forms of religious belief and practice and their varied effects, positive and negative and neutral, on the lives of individuals, families, and communities, these issues are certainly suitable subjects for research, but not by government.

Thanks to the wisdom and foresight of this country's founders, all levels of government are required by the U.S. Constitution and the state constitutions to be religiously neutral. Religion is a private matter, off limits to government. Government needs to know only enough about religion to avoid becoming entangled with it, to avoid using public funds to support it, to avoid favoring some religions and disfavoring others. The last thing this country needs is to have government, which has enough difficulty trying to carry out the purely secular functions delegated to it in the federal and state constitutions, to grab the tar baby of religion and jump into the bramble bush of sectarian controversy.

Thus the Heritage Foundation's public policy recommendations are dangerous, are bad public policy, and pose serious threats to our constitutional arrangement of church-state separation. Let's look at the details.

Should Congress "begin a new national debate to help renew the role of religion in American life"? If religion flourishes in the U.S. under our church-state separation arrangement while

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languishing in countries with greater or lesser degrees of church-state union, why would religion even want government help or involvement? As Congress has no authority to legislate regarding religion, where does it get the authority to "begin a national debate to help renew the role of religion"? The Heritage folks seem not to agree with Ben Franklin's dictum: "When a religion is good, I conceive it will support itself; and when it does not do so, and God chooses not to do so, so that its professors are obliged to call for the help of the civil power, 'tis a sign, I apprehend, of its being a bad one."

Should Congress pass resolutions about religious practice and "commission research on the relationship between regular church attendance and social issues"? No. Again, such action would exceed its constitutional authority, violate the First Amendment, and plunge lawmakers into religious controversies.

Should Congress and/or the President require the Census Bureau to ask questions about religious practice? Absolutely not. While such information might be useful to social scientists, government has no business compelling citizens to answer questions about religion. Let private researchers do it. Further, as much polling about religion and religious practice tends to be

simplistic and superficial, would Census Bureau questions likely be any better?

Should Congress "fund federal experiments with school choice that include religiously affiliated schools"? Between 1965 and 1993 voters from coast to coast in 20 statewide referenda voted with a cumulative total vote of 66.9% to 33.1% to oppose any diversion of public funds to nonpublic schools, the vast majority of which are pervasively sectarian. The U.S. Senate defeated such a measure sponsored by Senators Dole, Coats, and Lieberman in 1994, and in March of 1996 Senate Democrats, augmented by a couple of Republicans, blocked Republican efforts to impose a voucher "experiment" on the District of Columbia, our last colony. (If you want to see all the reasons why choice/voucher plans should be opposed, read *The Case Against School Vouchers*, by Edd Doerr, Al Menendez, and John Swomley, available for \$10.00 from ARL.)

Should the President "appoint judges who are more sensitive to the role of religion in public life"? Does Heritage mean more judges like William Rehnquist and Antonin Scalia, who would tear down Jefferson's and Madison's wall of separation, or judges like William Brennan and Thurgood Marshall, who understood, appreciated, and strove to protect religious freedom? I think we know the answer.

Should the Supreme Court "review the decisions . . ."? Go back and reread paragraph three. It is generally only ultraconservative religio-political extremists who disagree with the Supreme Court's long line of rulings upholding church-state separation. The Heritage Foundation folks seem not to grasp that the Bill of Rights was/is intended as a brake on majoritarian attempts to weaken or take away the rights of individuals and minorities. The America that the Heritage Foundation envisions is the cramped and dismal little world of Pat Robertson, Jerry Falwell, James Dobson, D. James Kennedy, the extremist minority within the Catholic tradition, and their followers and fellow travelers.

This is a watershed political year. If the extremists who are consolidating their takeover of the Republican Party succeed in capturing the White House and tightening their grip on Congress, Census Bureau prying into the religious beliefs and practices of all citizens will be the least of our worries.

Finally, is it not strange that the folks who decry "big government" want to expand the power of government over our private lives and compel us to pay taxes to support sectarian institutions? ■

The U.S. Census and Religion

The Heritage Foundation's recommendations that Congress "mandate a census question on religious practice" and that the President "direct the Bureau of the Census to record levels of religious practice in the census for the year 2000" are not only absurd, but indicate a substantial misunderstanding of the constitutionally limited role of government in the religious life of the people of this nation.

One of the primary purposes of the First Amendment was to limit governmental involvement in religious activity, something that the founding fathers found abhorrent. Why should Congress "know the level and intensity of religious practice in America?" as *The Heritage Report* urged. Congress is not permitted to

THE WHITE HOUSE
WASHINGTON

April 24, 1996

Mr. Edd Doerr
Executive Director
Americans for Religious Liberty
Post Office Box 6656
Silver Spring, Maryland 20916

Dear Edd:

Thank you for sharing your concerns about the appropriations bill for the District of Columbia.

As you know, my Administration has consistently opposed any action that seeks to provide public tax dollars in the form of vouchers to be used at private or religious schools. I remain committed to ensuring that every child attending a public school receives the best possible education, and my Administration has long supported state and local initiatives such as public school choice and charter schools. However, I do not believe that diverting public funds to private providers is the answer to our educational challenges.

I appreciate your involvement with this important issue and your continued dedication to improving education in America.

Sincerely,

Bill Clinton

discriminate for or against individuals on the basis of their religious convictions or practices, let alone the degree to which individuals may chose to practice their religions. The recommendations raise serious constitutional problems. Warning signals should immediately be activated when proposals like these are advocated. What will Congress do with this kind of information? Will the taxes of religiously observant people be lowered, to reward them for their fealty? Will sanctions be placed on the nonreligious or the mildly religious? Will contributions to religious charities be treated differently in the tax code from other kinds of charities? One can only ponder the mischievous ways in which such information could be misused.

And what happens if individuals refuse to answer census questions about religion? Will they be fined or imprisoned? Will the data thus attained be skewed by nonparticipation and noncompliance?

This proposal is an insidious one. It may please religious sociologists and demographers who might have easier access to a mass of new religious data, but it will not please those who place constitutional principles at the forefront of American life.

Furthermore, there are already a host of social science and public opinion organizations which routinely gather data on the religious beliefs and practices of the American people *without government involvement or encouragement*. There is the Princeton Religion Research Center (PRRC), a branch of the Gallup Organization, in Princeton, New Jersey, which exists for the sole purpose of gathering, analyzing and disseminating data on U.S. religious practice. The National Opinion Research Center (NORC) at the University of Chicago has been gathering religious data as part of the General Social Surveys for two decades. The Barna Research Group in California annually surveys religious opinion, belief, activity and practice. So do numerous other university research centers. The National Survey of Religious Identification (NSRI) conducted in 1990 by the Graduate School of the City University of New York, produced a wealth of data on American religion. A replication is planned for the year 2000. The Glenmary Research Center in Atlanta, in conjunction with the National Council of Churches, has published comprehensive and detailed volumes on American religious group membership since 1971. Do we really need any more? Americans may rightly claim to be over polled and over researched. But these nongovernmental agencies rely on voluntary participation. An official U.S. Census question, or questions, about religion would presumably be compulsory in nature.

Previous government censuses of religion (1890, 1906, 1916, 1926, and 1936) provided some useful information, but social scientists have long been divided as to their overall merit and value. Even they were based solely on data provided by the religious groups themselves, not by individual citizens.

In a nation that is arguably more sensitive to religious liberty and church-state separation today than six or seven decades ago, a religious census question would undoubtedly provoke strong opposition and massive resistance. This is not an idea whose time has come; it is an idea whose time has long passed. ■

Moving?

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Assisted Suicide

On March 6 the Ninth Circuit U.S. Court of Appeals ruled that physician-assisted suicide is a fundamental right protected by the Fourteenth Amendment. Said the court, citing the Supreme Court's 1973 *Roe v. Wade* ruling, "The decision how and when to die is one of the most intimate and personal choices a person may make in a lifetime, a choice central to personal dignity and autonomy."

Less than a month later the Second U.S. Court of Appeals invalidated a New York State law making it a crime for a physician to assist in a suicide. The court held that there was no difference between a patient's refusing unwanted treatment and actively hastening death by the use of drugs. It is not known at this time whether the issue will come before the Supreme Court.

On balance, we believe that these rulings enhance individual freedom of conscience and religious liberty.

We do not agree with such critics of the rulings as Charles Krauthammer, who wrote that the Ninth Circuit ruling was a case of imperial jurists depriving a democratic people of the right to decide the issue themselves. They have it backwards. The ruling recognized the right of individuals to make their own intimate moral decisions without political, governmental, or majoritarian interference.

While the decisions are correct, they highlight the importance of developing adequate legal safeguards to prevent abuses. The decisions should be fully voluntary and made by persons of sound mind. Greedy relatives or economic pressures should not be allowed to influence such decisions, and the patient should be guaranteed sufficient time for reflection. State legislatures need to address these questions. Further, Congress, state legislatures, medical organizations, and citizen groups must address the complex questions of how to provide adequate medical care for all.

Finally, legislation to protect patient rights and autonomy and health care must also protect the rights of conscience of medical providers. ■

Con-Con Redux

Though legislative term limits are popular and have been enacted by a number of states, the Supreme Court held in 1995 that states may not constitutionally limit congressional terms. And Congress has also declined to limit its own terms.

(ARL has taken no position on term limits as they are not a church-state issue *per se*. We note, however, that the country already has a term limits mechanism: it's called elections. We also note that limiting lawmakers' terms does not lessen, and probably increases, the influence of money in the political process.)

Out of frustration, U.S. Term Limits, largest of the term limits groups, plans over the next two years to use a new tactic, getting state legislatures to call for a national constitutional convention. The Constitution provides mechanisms for its revision: proposal of amendments by two-thirds majorities in each house of Congress followed by ratification by three-fourths of the states, the method always used until now, or proposal of amendments by a convention called at the request of the legislatures of two-thirds of the states, a method never used.

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The problem with a new constitutional convention, or Con-Con, as we pointed out several years ago when there was a move to use the Con-Con method to add a balanced budget amendment to the Constitution, is that a Con-Con could be very much of a loose cannon. It could not be held to the issue for which it was called. After all, the Con-Con that proposed our original, and present, Constitution in 1787 exceeded its mandate. Further, Article V of the Constitution speaks of a convention for proposing amendments (plural, not singular).

The very real fear, then, is of a Con-Con that would not only propose a term limits amendment but also amendments authorizing tax aid for sectarian schools, government-sponsored devotions in public schools, restricting freedom of conscience on abortion, limiting Supreme Court jurisdiction, and other items in televangelist Pat Robertson's agenda. There are no set procedures for electing a Con-Con, so it is conceivable that the process could be dominated by the Religious Right, either openly or through some sort of stealth campaign (as happened in New York State in 1967 when that state had a Con-Con: Details in Edd Doerr's 1968 book, *The Conspiracy That Failed*).

Is there anyone alive who really believes that our country could have a Con-Con in the 1990s with delegates anywhere near the calibre of James Madison, George Washington, and the others who made up the 1787 Convention? After watching Congress in action, is there anyone willing to trust the future of the Constitution and Bill of Rights to a Convention elected in the current political climate?

Of course, constitutional amendments have to be ratified by three-fourths of the states. But it is theoretically possible for amendments to be proposed and ratified by states representing fewer than half the people in the United States.

Think about it. ■

ARL Publishes Swomley's Myths About Public School Prayer

ARL president John M. Swomley's article, "Myths About Public School Prayer," recently published in *The Washburn Law Review*, has been released in book form by ARL (58 pp., \$10). With Congress set to hold hearings on proposed new constitutional amendments to authorize government-sponsored devotions, Swomley's work is timely. He shows that public school prayer campaigns have more to do with political power and religious triumphalism than with real religious feeling.

Swomley, both a political scientist and a seminary professor emeritus of ethics, explores and explodes the myths purveyed by prayer amendment backers, and shows why mainstream religious leaders have generally not supported such amendments.

Appendices to the work include Senator (and Episcopal priest) John Danforth's (R-MO) 1984 Senate speech against school prayer amendments, the statement released in April 1995 on "Religion in the Public Schools" which was the basis of President Clinton's speech on the subject last July, and Swomley's article on school prayer published in 1994 in the United Methodist publication, *Christian Social Action*.

Like the assassination of Prime Minister Rabin, violence against medical workers who perform abortions implicates the violent language in which some religious leaders condemn them. You speak of abortion as "murder," "crimes which no human can claim to legitimize," "careless destroy[ing]," "the killing of an innocent and defenseless human being," etc. Continuous exhortations in such terms inevitably incite unbalanced and impressionable minds. Spurred on by religious leaders, among whom you are the foremost, these people direct their hatred and violence against people like me who not only provide abortion services to women but also believe abortion to be a woman's right. Those who are inflamed by violent rhetoric strike out against those of us who believe that, by offering safe medical abortions, we not only protect the women involved against death, injury, and loss of fertility but we also make it possible for children to be born when they can be welcomed and treated with love and affection.

I would like to point out to you that many people, including liberal-minded Catholic theologians and other Christians, believe that abortion is a difficult moral dilemma and that the decision whether or not to abort should be left to the individual conscience. When such a decision has been made, it should be, in my opinion, the duty of the state to honor it and the duty of the medical profession to provide it under the best conditions to ensure safety and dignity for women.

Unfortunately, in countries dominated by the Catholic church, abortion is illegal and unavailable under good medical conditions. The result is a veritable carnage of young women who fall victim to incompetent abortionists or to self-induced abortions. It is estimated by the World Health Organization that 200,000 women die each year as a result of such abortions. Arthur Koestler once coined the memorable phrase *statistics don't bleed*; the women who die, usually after horrible suffering, are all persons with potential cut down in the prime of their lives, often leaving orphans in their wake.

It is clear that many of these deaths and injuries could be averted if the laws in those countries allowed safe medical abortions. In our native Poland, abortion has been made illegal again, at the urging of the Catholic church, and Polish women are again subject to death or injury; the only ones to escape are those rich enough to travel to neighboring countries. The government has reported a sharp increase in the number of babies abandoned, usually to die. Even in Toronto, a young Polish-Canadian woman died in 1991 of a self-induced abortion because she was afraid to face the violent picketers in front of my clinic.

I cannot imagine how you avoid reflecting on the question of both personal and institutional culpability for all the thousands of avoidable deaths of young women worldwide, as well as the impact on the children they leave motherless.

I appeal to you to issue an unequivocal condemnation of violence against health-care workers who provide abortion. I appeal to you to reexamine your attitudes and statements about abortion, in the interest of saving the lives of women across the world who might die needlessly and also of minimizing the real and continuing threat of violence by abortion opponents. I appeal to you to stop using murder, crime, the killing of the innocent, and similar inflammatory terms which incite indignation, anger, hate, and violence. Please refrain from comparing abortion to the Holocaust. As a survivor of the Holocaust, I

personally find such a comparison gratuitous, insulting, and obscene. Many people—in particular Jews—share my feelings about this.

How can you compare the willful, deliberate genocide of Jews by the German state, directed by a hate-filled psychopath, to individual decisions by women to choose abortion when they find themselves unable to assume the obligations and duties of motherhood—decisions which many people consider ethical, moral, and responsible? How can you compare pre-cerebral embryos and fetuses to real live people as if they had the same value? Is it not possible for you to distinguish between potential life—which is present in billions of spermatozoa and ova, which is present in billions of early embryos—and the actual life of a person? Are you aware that about half of all embryos are spontaneously shed in what is called miscarriage or spontaneous abortion?

If spontaneous abortions are “an act of God”—to use the common expression—is it not strange that God has so little concern for fetal life that he allows so much of it to go to waste without intervening? Is it not possible to then conclude that God does not mind or object to spontaneous abortions? Why is it that the Catholic church has nothing to say about, has no ritual to mark, the abortion of so much fetal life when it occurs spontaneously, yet becomes so vociferous and condemnatory when it is a conscious decision by a woman or couple?

You are the spiritual leader of millions of Catholics around the world. Although many of them do not follow all of what you preach, they have a profound admiration and veneration for you and believe that what you say is important. For many, your word is gospel. In view of the enormous moral influence you wield, an appeal on your part to moderation would go a long way to diminish violence against abortion providers. Should you be able

to modulate your views and teaching on abortion—or at least to moderate your condemnation and exhortations to the faithful to follow your position—it could possibly save lives.

I believe that the most significant beneficial change in the twentieth century—a century marked by genocide and conflict—has been the rise of the feminist movement, the drive by women to remove the shackles of oppression imposed by patriarchal societies and to achieve emancipation, equality, and dignity. Much progress has been achieved in that regard in Western democratic societies, and the trend shows promise of spreading to the rest of the world. Unfortunately, most of the opposition to the rights of women to achieve equality and dignity has come from traditional religious groups. Recently you offered a belated acknowledgement of the legitimacy of the striving of women for emancipation. I see this as a hopeful sign that maybe you could still change some of your attitudes regarding the teachings of the church on birth control and abortion.

Some time ago, I attended a dialogue in New York City between Catholic theologians and secular humanist leaders. We sat around a table and discussed issues of morality and ethics and compared our respective positions. My impression was that the exchange was fruitful mainly in that it did not allow for the demonization of the enemy, and it was clear to all that well-meaning people from different philosophical backgrounds can treat each other with politeness, deference, and respect. I feel that secular humanists and providers of abortion services alike have been demonized by religious conservatives, and I fear the violence that has been unleashed. Maybe a resumption of dialogues across religious, philosophical, and ideological lines would be helpful in preventing such demonization. ■

Update

Vouchers: Down, But Not Out

Wisconsin's Supreme Court deadlocked 3-3 on March 29 on whether the state voucher plan for Milwaukee would violate the state constitution by providing tax aid to sectarian schools. The court remanded the case for trial, which leaves in place an injunction banning religious schools from the plan.

On the same day the state's highest court ruled unanimously against the attempt by Gov. Tommy Thompson, the main pusher of the voucher plan, to strip power from the elected state superintendent of schools.

Meanwhile, two Milwaukee private schools that collected nearly \$600,000 in public funds since the beginning of the school year, Milwaukee Preparatory School and Exito Education Center, closed in February after a state audit showed they had misrepresented their enrollment figures. The closings left about 350 students high and dry.

Ohio's voucher plan, applicable only to the city of Cleveland (whose school board didn't want it in the first place) is being challenged in a state court in Columbus. Of the 54 private schools slated to receive voucher funding under the new law, 44 are sectarian. The plan will divert about \$5 million from Cleveland public schools. ARL is participating in the challenge through the National Committee for Public Education and Religious Liberty (PEARL).

After months of intense effort, Republican congressional

leaders had to give up on attaching a voucher “experiment” to the appropriations bill for the District of Columbia. D.C. voters had defeated a similar plan at the polls in 1981 by a margin of 89% to 11%, and the D.C. school board opposed efforts in Congress to have a voucher plan foisted on the U.S.’ “last colony.”

In the states: The Minnesota legislature rejected Republican Governor Arne Carlson's voucher plan in March. California Governor Pete Wilson (R) is pushing a voucher plan in his state that would cost \$625 million per year (250,000 vouchers at \$2,600 each). In Connecticut, the Republican governor and GOP leaders withdrew a voucher plan as opposition to it mounted. The Florida legislature is considering a voucher plan.

In other developments, Ohio Governor Voinovitch (R) has gotten \$30 million added to the annual allotment for nonpublic schools. Voters in Peterborough, NH, voted 417-119 in April to reject a plan for a tax paid charter school that would teach transcendental meditation. (ARL's Edd Doerr and Al Menendez helped set up a lawsuit in New Jersey in the 1970s that resulted in a Third Circuit U.S. Court of Appeals ruling that tax support for transcendental meditation would violate the First Amendment.)

Abortion Rights

The Supreme Court on April 29 declined to review a lower federal court ruling invalidating a South Dakota law that required teenagers to notify a parent before having an abortion.

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The law's main defect was that it did not allow a judge to waive the notification requirement in the case of a minor in a dysfunctional family subject to physical or emotional abuse. As expected, Justice Antonin Scalia dissented on behalf of Justices Rehnquist and Thomas, calling the denial of review a "stealthy" way of nullifying state laws. Although the Court has allowed states some latitude for anti-choice legislation, the April 29 non-action appears to put some limits on state action and to shore up its 1992 ruling in *Casey* that the right to choose is a fundamental right.

Other developments in the courts: the Supreme Court agreed on March 18 to review a lower federal court ruling upholding a New York court order banning demonstrations within 15 feet of a clinic or persons or vehicles entering or leaving the facility. On March 25 the Supreme Court rejected a Louisiana challenge to a lower court ruling that states participating in the Medicaid program must cover all abortions for which federal funding is available. On April 2 U.S. District Judge Robert Potter ruled unconstitutional the federal Freedom of Access to Clinic Entrances Act (FACE), despite the fact that the law has been upheld by four federal appellate and ten federal district courts.

Harassment of abortion providers (death threats, stalking, blockades, invasions) have declined somewhat since the five murders of physicians and other clinic personnel in Pensacola, Florida, and Boston in 1993 and 1994. The decline is attributed to passage by Congress in 1994 of the Freedom of Access to Clinic Entrances Act (FACE) and a 1994 Supreme Court ruling upholding "buffer zones" to keep protesters away from clinics. Still, anti-choice harassment has forced a Florida physician

to quit serving on a clinic staff in Melbourne, while in Muscogee, Oklahoma, in April two men and a woman were convicted of plotting to use fertilizer bombs to attack abortion clinics, government offices, and organizations that track right-wing hate groups. In March a federal grand jury indicted two people for arson and conspiracy to commit arson at clinics in Virginia.

Anti-choice activists are using a new strategy to scare women away from having abortions: pushing bills in state legislatures to require providers to provide women with misleading information about links between abortion and breast cancer. In the past three years, the National Cancer Institute, the American College of Obstetricians and Gynecologists, and the American Cancer Society have all concluded that there is insufficient evidence to support a link between breast cancer and abortion.

The Population Council, which holds patent rights to the French abortion pill RU-486, has filed an application asking the Federal Food and Drug Administration to approve the drug for use in the U.S. Some Planned Parenthood clinics expect to soon begin using two drugs already approved for other uses, methotrexate and misoprostol, to induce nonsurgical abortions before the ninth week of gestation.

D.C. School Prayer Nixed

District of Columbia Superior Court Judge Geoffrey Alprin ruled on April 3 that a ballot initiative to authorize organized prayer in public schools was "patently unconstitutional" and therefore could be barred from the November ballot. The proposal would have allowed "non-sectarian, non-proselytizing student-initiated volunteer prayer invocations, and/or benedictions" during "compulsory or non-compulsory school-related student assemblies, school-related sporting events, school-related graduation or commencement ceremonies, and other school-related events." Judge Alprin held that the measure would violate all three prongs of the Lemon test for constitutionality.

The suit was brought by the ACLU of the National Capital Area and People for the American Way on behalf of local parents, clergy, and school board members.

Boy Scout Religious Discrimination

After a four-year investigation, the Pennsylvania Human Relations Commission (PHRC) in January found "probable cause" in the claim by Margaret Downey and her son that the Chester County Boy Scouts of America (BSA) practiced illegal religious discrimination in admissions and ordered a reconciliation meeting on February 29. Although the PHRC requested the BSA to end religious tests for membership, BSA lawyers refused and insisted that the BSA is a religious organization not bound by anti-discrimination laws. BSA lawyer Karla Kerr said the BSA is "like every other religious organization in that they want only members of their religious thinking to be members."

The legal challenge to BSA bias in Pennsylvania continues. Meanwhile, the California Supreme Court is considering a similar and so far successful challenge to Scout discrimination.

Creationism's Resurgence

The Tennessee Senate voted 20-13 in March to defeat a bill that would have allowed local school districts to fire teachers who teach evolution as fact. The bill, had it passed, would have

ARL in Action

Since our last report ARL president John M. Swomley has met with church officials in Denver and has addressed university, United Methodist, Lutheran, and other audiences in Kansas, Arizona, California, and Missouri, and was a guest on a radio talk show in Kansas City.

ARL has just published Swomley's *Myths About Public School Prayer* (see box on page 6.)

Executive director Edd Doerr has spoken since December at conferences, meetings, and church and synagogue services in Rockville, Columbia, and Frederick, MD, Cocoa, Melbourne, Clearwater, St. Petersburg, and Brooksville, FL, Atlanta and Marietta, GA, San Antonio, TX, and Lancaster, PA. He was also a guest on radio and TV talk shows in West Palm Beach and Clearwater, FL, and Washington, DC. He was also a special guest on a Spanish language interview and talk show broadcast to Latin America on Worldnet (Doerr is a former teacher of Spanish and history). He also testified against vouchers at a Maryland legislative hearing.

Research director Al Menendez' new book, *The Perot Voters and the Future of American Politics* has just been published by Prometheus Books (see "Books"), bringing the total number of his published books to over 30. Al and wife Shirley are authors of the recently published *South Carolina Trivia* (Rutledge Hill Press, \$6.95).

faced legal challenges and would have required a \$2 million expenditure to change existing science textbooks. The bill, pushed primarily by Phyllis Schlafly's Eagle Forum, had been branded unconstitutional by the state's attorney general.

Alabama Governor Fob James has purchased 900 copies of a book attacking evolution, Phillip Johnson's *Darwin on Trial*, to distribute to the state's high school biology teachers. Last November the Alabama State Board of Education ordered a statement placed in all new biology textbooks stating, "This textbook discusses evolution, a controversial theory some scientists present as a scientific explanation for the origin of living things, such as plants, animals, and humans." The full statement is clearly intended to cast doubt on the virtually universal consensus among scientists that evolution is a fact.

'Good Friday' Law Struck

Wisconsin's 1945 law mandating that "On Good Friday, the period from 11:00 a.m. to 3:00 p.m. shall uniformly be observed for the purpose of worship" was ruled unconstitutional on February 24 by U.S. District Court Judge John Shabaz. The court ruled in *Freedom From Religion Foundation v. Thompson* that the law has an effect and a primary purpose that clearly violate the First Amendment's establishment clause. Judge Shabaz rejected the defendant's "lame attempt to demonstrate that Good Friday has become a secular celebration in Wisconsin."

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Myths About Public School Prayer

John M. Swomley \$10.00

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Marvin E. Frankel \$7.95

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Edd Doerr, Albert J. Menendez, and John M. Swomley \$10.00

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Order from: Americans for Religious Liberty, PO Box 6656, Silver Spring, MD 20916. (Please add \$1.50 for postage and handling.)

Teacher Fired: Wrong Religion

St. Joseph's High School in South Bend, Indiana, fired popular business teacher and coach Jody Martinez at the request of the Catholic diocese when it was discovered that he had converted from Catholicism to the Baptist faith two years before he was hired three years ago. St. Joseph students staged a protest walkout on April 26. One student said Martinez was "one of the few teachers at St. Joe that the students can connect with."

Bishop John D'Arcy said at a news conference that Martinez' having married a Baptist and converting to the Baptist faith "represents a counterwitness to the reason this school exists. They are also a rejection of Catholic teaching and Catholic practice."

Commented ARL executive director Edd Doerr: "Martinez' firing is the very opposite of the sort of lesson in tolerance and charity that should be taught in a denominational private school. It also highlights one of the many reasons why denominational private schools should not get coerced tax support through vouchers."

Supreme Court on Church-State

On April 15 the Supreme Court declined to hear three cases involving religious liberty claims. The Court left standing lower court rulings that:

Chicago officials did not violate free exercise rights of a congregation by refusing to permit worship services in a commercially zoned area. An Illinois court had held that the church failed to show that its free exercise was substantially burdened.

Ohio's exemption of religious organizations from a charitable solicitation law did not violate the First Amendment ban on government advancement of religion.

The First Amendment prevented courts from hearing a Texas Pentecostal minister's lawsuit challenging the cancellation of his minister's license. (BJC)

In other developments, the California Supreme Court ruled 4 to 3 in April that a landlord's free exercise claims cannot justify exemption from a state law prohibiting rental discrimination based on marital status.

U.K. School Choice Criticized

While American education could learn a few lessons about improving schools from the British (with regard to national education goals, statewide standards and accountability systems, and individual school control over budgets and programs), according to a just released study by the Carnegie Foundation for the Advancement of Teaching, school choice is not among them. Carnegie senior fellow Kathryn Stearns studied British school policies and concluded regarding educational free markets and school choice: "There is no evidence . . . that competition among schools leads to higher educational standards overall." And, "Choice among schools does appear to widen the gulf between rich and poor or good and bad schools. Some schools with falling enrollments have had to cut remedial programs and extracurricular activities." Stearns added that "choice works best for the more affluent, better educated parents."

That is pretty much what critics of voucher plans in the U.S. have been saying.

'Religious Patriots'?

Charles Colson, convicted Watergate operative turned evangelist, has coined a new term that we can expect to hear more of: "religious patriot." Writing in the April 29 issue of *Christianity Today*, Colson seems to imply that "religious patriots" are "political outcasts" scorned and persecuted for being "Christian." In an article titled "Christian v. America," Colson identifies with thinking of Richard John Neuhaus, Lutheran minister turned Catholic priest and ultraconservative theoretician, and Antonin Scalia, Supreme Court justice and severe critic of church-state separation, and opines that "religious outcasts" will either "turn a blind eye to America's moral decline" or "withdraw from mainstream society into a 'class of permanent exiles'."

The bottom line of Colson's article seems to be that Christian voters this year will have to choose between a "Democratic party . . . committed to abortion 'rights'" and a "Republican candidate . . . under enormous pressure to race to the 'inclusive' center" on abortion.

School Violations Ended

Responding to student and parent complaints and an ACLU lawsuit, the school board in Elgin, Texas, agreed in April to quit mixing religion and sports. Among the proscribed activities: school pressure on high school athletes to attend Fellowship of Christian Athletes meetings, school promotion of the FCA, school invited speakers discussing religion with students, prayers posted on lockers, religious music piped into the locker room.

School Prayer in Mississippi

Trial was finally held in March on parent Lisa Herdahl's challenge to school sponsored Bible classes and intercom prayers. The suit, sponsored jointly by the ACLU and People for the American Way, tested the practices in the Pontotoc, Mississippi, public schools. Mrs. Herdahl and her family, themselves church-going Christians, had been subjected to harassment in their local community and to vilification by national leaders such as House Speaker Newt Gingrich.

Airport Chapel Upheld

The Sixth U.S. Circuit Court of Appeals has approved the arrangement under which the Cleveland Airport rents space at less than market value for the local Catholic diocese to operate a chapel. The arrangement had been challenged on church-state grounds.

International

Ottawa: Canada's Catholic bishops are exerting strong pressure on Parliament not to ratify the popular vote in Newfoundland last September to abolish the province's system of tax-supported sectarian schools in favor of a consolidated, cost-saving U.S.-style public school system. The bishops fear that Newfoundland's rejection of tax support for church schools (a sort of voucher system) would threaten similar arrangements in more populous provinces like Ontario.

Bonn: Germany's federal parliament passed a nonbinding resolution in March criticizing Brandenburg State for not

offering traditional religious education in the state's public schools. Brandenburg plans to offer a course called "Life-Ethics-Religion" instead of the traditional religious courses taught in other German states. In those courses the churches usually play a significant role in determining content. (ENI)

Moscow: After decades of official hostility toward religion, the Russian pendulum is swinging in the other direction. Moscow's new Cathedral of Christ the Savior has apparently been partly built with public funds (Stalin destroyed its predecessor in 1931). The Russian Orthodox Church, according to some Russian observers, is supporting Russian nationalism and often portrays itself as being under siege by mostly Protestant missionaries and their aggressive proselytizing. Orthodox priests have been disciplined for urging religious tolerance.

Warsaw: Although the overwhelming majority of Poles are Catholic and the Catholic Church is the country's most powerful institution, most Poles believe that the church is out of sync with the people. Warsaw-based Public Opinion Research Center surveys show that fewer than half of Poles approve of the Catholic Church as a public institution, while 40% disapprove. Fewer than 13% agree with the church that abortion should be banned.

In last year's elections former Communist Aleksander Kwasniewski defeated incumbent president Lech Walesa, a devout Catholic. In the 1993 parliamentary elections, explicitly pro-church candidates did not win a single seat.

Books

Faith and Freedom: Religious Liberty in America, by Marvin E. Frankel. Hill and Wang, 1994, 131 pp., \$7.95.

The Godless Constitution: The Case Against Religious Correctness, by Isaac Kramnick and R. Laurence Moore, W.W. Norton & Co., 1996, 191 pp., \$22.00.

Nothing is more essential for a well informed citizenry than the imparting of truthful information whether by listeners, journalists, media persons, religious leaders or educators. Thus it is a real pleasure to be able to recommend two recent books about the progress of religious freedom in America.

Former federal judge Marvin E. Frankel argues eloquently that religious liberty is dependent upon the legal foundation of church-state separation. He writes, "The wall of separation has been a treasure for the polyglot American family. The opponents of the principle—those who seek the clout of government to back their religious beliefs—base themselves on erroneous views of history and of true religious devotion. In a long, prudent perspective, it can be seen that they risk freedom of religion for themselves as well as others. This was understood by the framers of the Bill of Rights."

Frankel warns the misguided that "The coercive mingling of God's and Caesar's commands could lead to nothing but trouble for a society of diverse beliefs about ultimate things."

Frankel believes that it is nothing short of miraculous that the United States has achieved so high a degree of religious tolerance and fairness because, he reminds us, "It pays to remember that mutual tolerance of religious differences has

never been, and is not to this day, the characteristic stance of mankind."

He is firm in his conviction that separation of church and state is good for both religion and government. "The wall of separation must be kept high and solid, with breaches for doubtful occasions being avoided."

In a richly textured and eloquent conclusion, Frankel writes, "Fortunately, despite the appearance of petty inquisitors from time to time, the pressure for orthodoxy in religious conceptions has never prevailed in America. There can be no heresy here. Or blasphemy. We are all free to believe as we please. And none of us is entitled to force beliefs on others. Above all, no person and no church is brigaded with the power of the state or condemned to be coerced by the state in matters of conscience. An inheritance that includes these principles is priceless. We owe ourselves and our posterity the duty to preserve it."

(*Faith and Freedom* may be ordered from ARL for \$7.95 plus \$1.50 for postage and handling.)

In *The Godless Constitution: The Case Against Religious Correctness*, Isaac Kramnick and R. Laurence Moore, respectively professors of government and history at Cornell, argue forcefully that the U.S. Constitution is a secular document for a secular state that protects and respects religious diversity.

After tracing the development of a thoroughly secular national document, the Constitution, by a religiously diverse group of framers, the authors show conclusively that today's Christian Right leaders are busily "rewriting history" and have "falsely dressed the founders of American government and the Constitution in Godly garb. America today will suffer God's wrath, we are now told, unless it returns to its founders' abiding vision of Christian American politics. Such is the vast distortion of American history offered by today's preachers of religious correctness."

Kramnick and Moore remind us unequivocally that, "The founders of this nation could regard the mixing of religion and politics in the ways now being engineered by the religious right as part of the problem of failing public morality, rather than as an answer."

The religious politics being waged in 1996 would be deeply offensive to the nation's founders, write Kramnick and Moore. "If religious leaders attempt to pass legislation by arguing that it is God's will, if individuals run for office saying they do so with

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Books, continued from page 11

God's blessing, if members of a religious lobby endorse candidates for office only because they claim to be born-again Christians, they offend both American politics and the religious rules of this country set up to protect the free exercise of religion."

Frankel, Kramnick and Moore have presented the case for freedom of conscience in American history with honesty, integrity and accuracy. One can ask for little more.

— Al Menendez

The Perot Voters and the Future of American Politics, by Albert J. Menendez, Prometheus Books, 1996, 277 pp., \$24.95. (May be ordered from ARL for \$24.95 plus \$2.00 for shipping and handling.)

ARL associate director Al Menendez is one of the country's leading experts on voting behavior. In his just published book, *The Perot Voters*, he takes a close look at the 20 million Americans who supported Ross Perot for president in 1992 and the impact they are likely to have on the future direction of American politics and government.

Perot voters, who were found in greater numbers in New England and west of the Mississippi, were disenchanted by the workings of the present two-party system and want a more effective government to address their economic grievances. They held much in common with earlier populist and Progressive movements.

While they distrust Big Government and Big Business, they also dislike Big Religion. Perot voters were largely secular and oppose Religious Right intervention in politics. They were less likely to attend church than Clinton or Bush voters, and were slightly more critical of the Religious Right than were Clinton voters. Perot ran second to Clinton among the religiously nonaffiliated. In key state referenda, Perot voters overwhelmingly opposed tax credits and vouchers for parochial and private

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schools (most recently in Colorado and California).

The Perot Voters is a vitally important work for the current election year.

— Edd Doerr

Doctors of Conscience: The Struggle to Provide Abortion Before and After Roe v. Wade, by Carole Joffe, Beacon Press, 1995, 250 pp., \$24.00.

In this important new book, sociologist Carole Joffe uses in-depth interviews with 45 physicians who perform abortions or support reproductive choice to study the professional delivery of abortion services both before and after the Supreme Court's 1973 recognition of the constitutional right to choose. Joffe faults the medical profession generally for failing to provide adequate backing for those "doctors of conscience" who both worked to save women from pre-Roe incompetent and/or unethical providers and to facilitate the right to affordable, safe means for dealing with unintended, unwanted, or problem pregnancies. This book should be read by all who are concerned with maintaining or maximizing freedom of conscience, and would be an eye-opening read for those who presently do not approve of choice.

— Edd Doerr

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