

# THE WAR AGAINST PRO-LIFERS

The heat on the abortion issue has now reached a fever pitch. Emboldened by the Clinton administration's strong support for abortion rights, the so-called pro-choice enthusiasts are seeking to crush the pro-life movement by tampering with the First Amendment. Under the guise of protecting the right of women to obtain an abortion, pro-abortionists are doing everything they can – in legislatures and in the courts – to abridge the free speech rights of pro-lifers.

The recent U.S. Supreme Court's decision on *RICO* (the Racketeer-Influenced and Corrupt Organizations Act), has led some persons, on both sides of the issue, to believe that pro-lifers cannot demonstrate at abortion clinics. But that is simply not true. The decision, *National Organization for Women v. Scheidler*, merely said that no economic motive needs to be shown in order to invoke *RICO*. Indeed, Justice Anthony Kennedy explicitly said that the ruling in *Scheidler* "does not bar First Amendment challenges to *RICO*'s application in particular cases." Nonetheless, *Scheidler* has caused considerable harm by strengthening the resolve of the pro-abortion forces. Nowhere is this more evident than in the varied attempts to muzzle the free speech rights of abortion dissenters.

The latest tactic in the war against pro-lifers is to charge that women are being harassed by opponents of abortion on the way to abortion clinics. That this charge comes from those like the ACLU is truly amazing. There is hardly a protest that the Left has engaged in that the ACLU hasn't defended. In 1991, the ACLU protested when fines were levied on demonstrators who blocked traffic on San Francisco's Golden Gate Bridge. But if someone "harasses" a women seeking an abortion, the ACLU screams foul.

The war is heating up at every level of government. At the federal level, there is the Freedom of Access to Clinic

Entrances bill ("FACE"). Already passed in the House, FACE provides penalties that include one year imprisonment for a first offense and as many as three years for repeat offenders. At the state and local levels, there are a host of bills pending legislative and judicial consideration, all modeled on FACE. The Catholic League is doing what it can to alert public officials to the First Amendment problems inherent in most of these bills.

In Florida, the Catholic League has filed an amicus brief protesting the establishment of a buffer zone around an abortion clinic in the town of Melbourne. As a result of one court decision, any pro-life person who enters the 36-foot buffer zone that cordons the clinic is subject to arrest. Another court ruling has made it a crime to come within 300 feet of the clinic *and* of the residence of any employee or agent associated with the clinic. A decision is expected this spring.

In New York City, the Catholic League tried, but failed, to persuade the City Council to reject a FACE- type bill. The bill calls for a year in prison and a fine of \$5000 for anyone convicted of blocking passage to an abortion clinic *or* who "communicates" with or "harasses" a woman seeking an abortion "in a manner likely to seriously alarm or annoy a reasonable person." Supporting the bill was the New York Civil Liberties Union.

The hypocrisy that the City Council and the NYCLU engaged in could not be more evident. The only demonstrators that seem to get their goat are anti-abortion protesters. Animal rights extremists can engage in trespass, theft and violence against those who work in labs and the "get-the-pro-lifers" never complain. Greenpeace can block naval vessels and the "get-the-pro-lifers" never complain. Feminists can obstruct traffic entering the Holland Tunnel and the "get-the-pro-lifers" never complain. Homosexuals can disrupt Mass and the "get-the-pro-lifers" never complain. But let the pro-lifers "annoy" a woman

on route to an abortuary and a clarion call for law and order echoes from the high priests of tolerance. This is raw politics at work, not principle.

What makes this matter even more hypocritical is that there has not been one recorded case of a woman in all of New York who has ever been denied access to an abortion because of pro-life protesters. In my testimony before the City Council, I made mention of this fact but, of course, no one was really interested in making decisions based on data; they had already committed themselves to ideology.

So as not to be misunderstood, it is not defensible to defend those pro-lifers who go off the deep end and engage in violence. But fortunately there are very few such incidents. Most of those who protest outside abortion clinics do so by praying and counselling. They are not vigilantes gunning for justice. They are honest, decent Americans whose concern for child abuse antedates birth.

The real problem with FACE-type legislation is that it engenders a "chilling effect" on the legitimate free speech rights of pro-lifers. It will be most interesting to see what the Supreme Court will say about the constitutionality of FACE and its progeny, for there is little doubt that the Clinton administration and its allies in Florida, New York and around the country will not have the last word on this. As Yogi Berra likes to say, "It's not over till it's over."