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## CORRESPONDENCE Strategy Time

A READER RESPONDS

### Joining the debate

Executive Chamber  
Albany, N.Y.

To the Editors: Your editorial invitation [February 23] to join *Commonweal* in a reasoned debate on abortion, particularly in the post-*Webster* environment, evokes this response.

Like you, I believe that the matter merits continuing reflection and debate, and that it does not benefit from obloquy, a word that describes too much of the recent public conversation about this topic.

Perhaps the best I can do right now, is to reflect on some of *Commonweal's* commentary of the past six or seven months.

● Last August 11, in an editorial, "Too Many Abortions," you decried the number of abortions performed annually in our country. I agree that the statistics are sobering, as I think virtually everyone does. More than that, I share what appeared in that editorial to be your minimal expectations about the *Webster* decision's effect on the number of abortions. After reading *Webster* closely, I stated publicly that nothing in the decision changed New York law. And in October of last year I wrote in *America*: "The frustration and disappointment some may feel in the aftermath of *Webster* comes, at least in part I believe,

from their reading too much into the decision and its effect on the law."

The same editorial brought up the issue of viability, finding in the language of *Roe v. Wade* and in the *Webster* decision "justification for viability testing at twenty weeks."

The issue of viability is of course a crucial one, and a matter of grave medical and ethical concern because at that point the unique relationship between the woman and the fetus changes in one important aspect. At viability, others could, all circumstances being benevolent, care for the child were it born.

Viability has been, is, and clearly will be, one of the pivotal issues in the discussion of abortion. For that reason, I requested the New York State Task Force on Life and the Law, which I established in 1984, to conduct a medical inquiry to determine the stage of gestational development at which the fetus can survive outside the womb.

The report the Task Force received in January 1988 from a committee of leading medical and scientific experts in New York state included the following findings: The threshold of fetal extrauterine survival is approximately 500 grams or 23-24 weeks of gestation; before this time, the fetal organs, especially the lungs, are not sufficiently developed to permit extrauterine survival even with the most sophisticated technology currently available; it is not likely in the foreseeable future that technological advances will lower the threshold for fetal extrauterine survival. The committee also pointed to difficulties of determining gestational age with exactitude, and noted that survival of infants over the threshold depended on a number of factors, including the level of care available.

The point is that whatever public policies might be made in the future should be based on sound scientific evidence. There are abroad some false assumptions about technology's potential for pushing back the survivability threshold. It may further serve

to avoid future dashed expectations to point out, as State Senator Brandl did in *Commonweal* [December 1] that fewer than 1 percent of abortions take place after 23 weeks of gestation.

None of this is to say that the ethical and legal implications of the medical data should not be explored. Only that we should proceed with the caution the facts dictate, and without raising expectations that any law dealing with viability—even if enforced and obeyed—would lower the abortion rate more than minimally.

On the question of counseling, which the August editorial raises, I believe we should at a minimum be consistent. If we require, as we do in New York state, that family planning centers under Catholic auspices provide women—either through counseling or referral—information about the full range of options available, including birth control and abortion, then it would seem reasonable that other such centers, regardless of auspices, be likewise required to assure that their clients understand the full range of options, including adoption. If strengthened regulations are required to assure this full disclosure, I would favor that.

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"Come in, Mario. We were just talking about you."

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as much about the categorizers as about the poor.

The book concludes with an attempt to move the debate beyond liberal and conservative conceptions of poverty, in the process showing the difficulties involved. Katz proposes a structural analysis of poverty and suggests that policy modeled on the European experience might be more successful in stopping the pendulum swing between the liberal and conservative extremes. Drawing on the work of William J. Wilson, he shows that the existence of the so-called underclass can be better understood by examining structural problems in the job market.

This effort is essential; however, I am not convinced that Katz's approach can stop the pendulum swing in the understanding and treatment of poverty. What other alternatives are available? The book is quite favorable about the American bishops' *Economic Justice for All*, but never draws upon its insights in formulating a new position. Perhaps the consistent moral and prophetic stance of the bishops can inoculate against the self-delusion that is often present in dealing with poverty. Or perhaps a return to community organization, mobilization of the poor, and direct attack on the structures of society would be more successful than in the 1960s. Perhaps further development of an ethically based understanding of macroeconomics, as proposed by Charles Wilber and me in our new book, *Beyond Reaganomics: A Further Inquiry into the Poverty of Economics*, could provide the structural understanding necessary for creating better policy. Perhaps A. K. Sen's reconceptualization of poverty as an issue of capacities and freedoms would break the confines of the debate.

Whichever direction is taken in this post-conservative era, the late Michael Harrington's words continue to ring true: "When we join, in solidarity and not in noblesse oblige, with the poor, we will rediscover our own best selves...we will regain the vision of America." If we fail in this, we will suffer the fate of the Buendías in García Márquez's *One Hundred Years of Solitude*, "...races condemned to one hundred years of solitude [do] not have a second opportunity on earth." □

## CORRESPONDENCE

(Continued from page 170)

*Commonweal* concludes the August editorial with a call to women, arising from the feminist insight, to exercise restraint in relationships with men who will not or cannot share the responsibilities of parenthood, or to become effective users of contraception.

In my State of the State message of this past January, I advocated something similar, without focusing exclusively on women. I enclose that section of my annual message.

● In a November 3 editorial, "The Politics of Evasion," I was named among some politicians who "rather than engaging in that [political and moral] debate, seem to be evading it."

Frankly, I think the charge of evasion against me is unwarranted. But let me answer some of the editorial's criticisms.

First, *Commonweal* was apparently disappointed by an answer I gave to a question about abortion after a speech (not about abortion) in Tucson, Arizona. The editors at your friendly rival, *America* [October 14], were similarly disappointed. Here's what I wrote to them [October 28]:

"As for my own remarks at Tucson, I assure you that they did not represent any change in my long-held position.

"In Tucson, I said I felt presumptuous talking about the terrible, hard judgment women make with regard to abortion. I do. I am very uncomfortable with having to make decisions about abortion. I do think there is an element of the absurd or incongruous in men making laws about something they can never experience—pregnancy. I think every male should feel uncomfortable making such judgments. But we've been doing it for a long time, both in the church and in government. Certainly, I knew that when I chose public life.

"I did not say that, in every circumstance, the judgment should be absolutely the woman's alone. Nor did I say that I am incapable of making decisions regarding abortion, even with the terrible complexities surrounding it in the public realm. I've done it every year I've been governor, and will continue to, based on the principles

I set forth at Notre Dame, as long as they are applicable.

"I will continue to accept my responsibility, and to make other decisions that affect the lives of people whose situations I have no direct experience of—the mentally disabled, people dying of cancer, young people addicted to drugs.

"I said in Tucson that here in America—where the law permits women to have abortions and preserves their right not to have abortions—the terrible, hard judgment, which that freedom permits, must be a matter of the woman's conscience.

"Everything I said in Tucson was perfectly consistent with my position as stated in Notre Dame."

Second, *Commonweal* faulted me for joining eight other governors in an amicus brief to the Supreme Court on the case *Turnock v. Ragsdale*. At question was an attempt by the State of Illinois to impose on abortion clinics standards that I viewed as unreasonable. Apart from the fundamental issues of federalism and the separation of powers proper to state legislatures and to U.S. Courts that were involved in the case, the standards imposed by Illinois law were equivalent to hospital standards—far more stringent than experience teaches are required for safe patient care. The standards were, in effect, an attempt to do indirectly, by putting clinics out of business, what the law says cannot be done directly. Illinois, in fact, needed reasonable standards like those in effect in New York, which previously had been challenged and upheld in court. And, in fact, the State of Illinois withdrew the case, and settled out of court—for reasonable standards. The *Ragsdale* amicus brief that I joined was in no way an argument for expanding abortion rights. I do not regret nor apologize for being party to it.

Third, in the November editorial *Commonweal* seems to find an inconsistency between my positions on abortion and on the death penalty.

If it were my judgment that theoretically doable legal restrictions on abortion (for example, limitation of medicaid funding) were fair and would engender a greater respect for life in our state, then I would have to be disposed to advocate for such change.

I say theoretically doable because it remains my judgment that, as I stated in my Notre Dame speech, "the equal protection clause in New York's Constitution has been interpreted by the courts as a standard of fairness that would preclude us from denying only the poor—by a cut-off of funds—the practical use of the constitutional right given by *Roe v. Wade*."

Likewise, if it were my judgment that the imposition of a death penalty would save innocent lives and make our state a safer, better place, then I would have to be disposed to acquiesce in the Legislature's judgment.

But in each case, my prudential political judgment, formed by examining all the available evidence, is that these actions would not have such desirable effects. They would more likely, I believe, merely enable us to ignore the root causes of abortion and crime, and soothe our consciences by allowing us to believe we had done everything possible when we had brought the coercive power of the law to bear.

● In December, *Commonweal* published approvingly a letter sent by State Senator John Brandl of Minnesota to his constituents. I too commend Senator Brandl's willingness to state his position and his reasoning publicly. I wish more legislators, at both the state and national levels, whatever their religious persuasions, would follow his lead.

On some points, for example medicaid funding, I might part company with the senator, for reasons already stated. But I'm not sure we're in total disagreement. He writes, without specifying, about favoring "some restrictions" on medicaid funding. In New York we have some restrictions. When in 1988, we expanded medicaid coverage to some people 185 percent above the poverty level, abortion and some other services were, at my insistence, not included among those covered. I might add that it was not a popular decision, and that those, including the Catholic bishops, for whom it assumably was popular, were publicly silent about it.

I am in total agreement with Senator Brandl when he states "the responsibility of a politician...is...to put forward alternatives." I did that, as already mentioned,

this past January in my State of the State message [see page 198 ].

Senator Brandl also points out that "politicians must enact laws governing a myriad of situations and for millions of people holding a great variety of moral views about the appropriateness of the act." That is a sentiment to bear in mind when considering another issue he raises—parental notification/consent, an issue which has not yet been presented to my administration. I see it this way. My instinct as a parent is one broadly shared by parents. I would have wanted to know if a minor daughter of mine had to face the decision, whether to have an abortion or carry a child to term. I believe I would have, without any law mandating it. And I believe further it is possible that in some individual cases such a law might be beneficial, not necessarily as a way of preventing abortions but of helping to provide a minor the support she needs at such a time.

But to write a law for everyone, to consider not just the individual situation but the circumstances of each minor and her family in this state, is a far more complex decision. I will give the most careful attention I'm capable of to any law on this issue the Legislature sends me.

● *Commonweal*'s January 26 editorial, "Strategy Time," mentions Bishop Leo Maher of San Diego, seeming to disapprove of his action, but disappointed that it took the headlines. Bishop Maher, it seems to me, did not advance with that action the cause he espouses. But there's a broader point to be made. I don't think there's any disagreement that the Catholic bishops of this country have done as much as any group to keep abortion from becoming a non-issue, something that does not deserve and demand our attention. For that I believe they deserve our gratitude. We shouldn't and don't expect bishops to be politicians. But I don't think we can exempt them from the demands of prudence in the political arena. When the public perception is that they are not simply exercising their teaching role for Catholics, but trying to influence the outcome of an election, there will be publicity.

Like *Commonweal*, I look forward to the putative guidelines to be issued by a committee of the National Conference of Catholic Bishops on responsibilities of

bishops, Catholic citizens and officials in the current public debates. As far as I can determine, the process for drafting this statement will not follow the broadly consultative lines of more general statements such as the pastoral letter on the U.S. economy. That, of course, has advantages and disadvantages. I, for one, will give respectful and careful attention to whatever guidelines, in its proper realm of competence as teacher, the committee might offer.

● The February 9 editorial, "Strategy Time II," mentions among other things the actions of two bishops besides Bishop Maher—Bishop Elden Curtiss of Montana and Bishop Austin Vaughan of New York.

Unfamiliar with all the details of the Montana case, I am reluctant to comment.

I am familiar with the New York case, but in that instance *Commonweal* has already commented more eloquently than I could: "Bishops have a responsibility to teach and even to enforce the moral law; but their office does not confer the power to read souls, or to make apodictic judgments about how a particular moral principle is to be translated into law and public policy." Amen.

The editorial also raises an issue broader and of more consequence than the actions of individual bishops—that is, the moral, not just "Catholic" character of the abortion issue. I have been criticized for making abortion a Catholic issue, especially after my speech at Notre Dame where I spoke at a Catholic university to a Catholic audience about—in part—my beliefs as a Catholic. I think a careful reading of that speech will reveal that I did not make abortion an exclusively Catholic issue. That would certainly be presumptuous and contemptuous of people who hold other beliefs and some who hold no religious belief, but still oppose abortion.

It is, nonetheless, a problem of public perception, and *Commonweal* is right to raise it for public discussion.

I hope the Catholic bishops, especially, will join that discussion. The bishops, as I understand it, base their opposition to abortion not just on proclaimed Catholic teaching but on the broader lessons of natural law, of laws written in the human heart by God, norms accessible and available to all members of the human family. But

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*Following is a portion, slightly condensed, of Governor Mario Cuomo's 1990 "State of the State" address, mentioned in the accompanying letter to the editors.*

**N**o one I know—no matter what position she or he takes in the debate over the right to decide when an abortion is appropriate—would deny that the statistics on abortion in our nation are sobering. Each year, approximately 6 million pregnancies occur; more than half of those pregnancies are unplanned; over 1.5 million, or 25 percent of all pregnancies, end in abortion.

Earlier this year, the former Surgeon General, C. Everett Koop, pointed out that "even among groups committed to confirming a woman's right to legal abortion, there was consensus that any abortion represented a failure in some part of society's support systems—individual, family, church, public health, economic, or social."

This continuing failure of society's support systems has produced a phenomenal growth in the trauma, and the tragedy, of abortion.

And it's here that I believe lies some real hope of accomplishing what most people agree is a desirable goal: lessening the number of abortions by helping women to avoid the situation that requires making the difficult decision of whether to terminate a pregnancy.

Perhaps all of us—families, religious and public institutions, voluntary associations—should begin by teaching young men and women better than we do now their responsibility in creating and caring for human life, instead of abdicating that responsibility and letting the popular media and advertising substitute for it the message that sexual exploitation is normal, or even necessary to validate one's maturity. Our adolescent pregnancy prevention programs make a start in that direction.

At the very least, young men and women should hear from us that they are not abnormal because they choose to abstain until another and better time. I think it is a mistake to believe that history has left the alternative of restraint behind, as a sociological anachronism. My budget

will provide funds specifically allocated for promoting the value of abstinence for young people.

At the same time, however, we must recognize that not all young people will follow this preferred path—even with our best efforts. All young people who for whatever reason are sexually active, unprepared to take up the responsibilities of parenthood, and terribly at risk of contracting AIDS and other serious illnesses, should be made fully aware of the possible consequences of being sexually active. Responsible sex education that recognizes and respects the different moral values in our society on this sensitive matter is an appropriate part of the public school curriculum....

While we express a particular concern for teenage pregnancy and abortion among teenagers, this is hardly a matter of concern for young people alone. Only 22 percent of the women who had induced abortions in New York State in 1987 were under the age of twenty. With 25 percent of all pregnancies ending in abortion, most of them involving women over twenty years of age, the failure of society's various support systems is clear. This is a legitimate concern of our public health policy.

Some of us believe the use of contraceptives is wrong. Those who do, have a right to live by that belief. That is one of the great beauties of this democratic place; no one can be required to have an abortion or to use contraception. But, for the sake of those people in our society who believe contraception is better than abortion, we should invest in better, easier, and safer contraceptive methods—as freely as we would invest in other technology that might have a bearing on 1.5 million women a year. The new budget I will submit in January will provide funds to enable family planning clinics to offer family planning services to those who wish to use them. Further, in high-risk communities, starting first with Neighborhood-Based-Initiatives sites, we will provide special grants for outreach, expanded clinic hours, and other innovative strategies that will increase the likelihood that young people

will make use of these services.

Another aspect of the situation that deserves more attention is the question of adoption. There are some women who would rather not choose abortion if they could be relieved of some or all of the emotional, physical, financial, and social commitments of bringing up children—commitments they judge themselves presently incapable of undertaking for a lifetime.

We need to reexamine this adoption option, not as a panacea for abortion but as another of the ways we can create real choices for people. We should remove unnecessary obstacles to adoption, making it as easy as possible, consistent with prudence, for the thousands of people eager to find a child they can love, to do so. And we must continue to see to it, as we do in New York, that the health care necessary to give birth safely is as available as the care needed to have an abortion.

Finally, everyone, I hope—whatever else they believe—would agree that life beyond the womb deserves more consideration. We should understand that whether or not the law reflects one's view of abortion, no infant should come into a world that does not care if it is fed properly, housed decently, educated adequately; where the blind or retarded child is condemned to exist rather than empowered to live.

While the debate goes on over abortion, the United States' infant mortality rate places us sixteenth among the nations of the world. Thousands of infants die each year because of inadequate medical care. Some are born with birth defects that, with proper treatment, could have been prevented. Some are stunted in their physical and mental growth because of improper nutrition.

All of us, I believe, should support efforts like New York's Decade of the Child, our comprehensive program to help children in every way possible. Together, we need to prove that whatever we believe about when life begins, we surely are fully committed to nurturing, caring, and loving the children left to our charge. □

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it seems to me that there has been a reluctance on the bishops' part to pressure or criticize non-Catholic politicians whose position on abortion is not theirs. I understand their reluctance. Other Christian denominations and some non-Christian faiths do not teach as the bishops do. Some do.

The reality or concept of the natural law is not one congenial to our society. I don't see much attempt by the bishops to explain, defend, or promote it to Catholics or others. Perhaps, that's a work the bishops could join with others of similar belief—theologians, philosophers, religious leaders—in undertaking. An ecumenical effort to do that might help convince their fellow citizens that what they teach to Catholics would be beneficial for them as well, that their teaching is, as I said at Notre Dame, "not just parochial or narrowly sectarian but fulfills a human desire for order, peace, justice, kindness, love, any of the values most of us agree are desirable even apart from their specific religious base or context."

● Finally, as to the February 23 editorial, "Strategy Time III," that was the proximate occasion for this extended response to your call.

For "real freedom of choice," I would point out that women in New York, because of the policies of this state and its budgetary commitments, are certainly free to choose. We have made enormous commitments to prenatal care, to nutrition, to family life education, to a whole array of programs for teens and others that guarantee the choice is free.

This response to your invitation, may not, I realize, contain everything *Commonweal* wishes it would, and some things with which it will disagree. My modest wish is that it does not constitute what you have labeled "ducking for cover."

Transforming the minds and hearts of individuals, on this issue and on others—the economy, foreign relations, the homeless, the historic struggle of minorities and women, the environment, for example—is an essential, and quintessentially American and Catholic, work.

*Commonweal* deserves praise for continuing to engage in that work. At the end of the speech I gave at Notre Dame, I said

this: "The problems created by the matter of abortion are complex and confounding. Nothing is clearer to me than my inadequacy to find compelling solutions to all of their moral, legal, and social implications. I—and many others like me—are eager for enlightenment, eager to learn new and better ways to manifest respect for the deep reverence for life that is our religion and our instinct."

I feel fortunate that New York is home to journals like *Commonweal* and *America*, willing to undertake the task of easing that inadequacy.

MARIO M. CUOMO

Governor of New York

The editors will respond in the coming issue.

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### Events

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PEACE\*WORKS: NYC premiere of acclaimed Chicago musical, in cooperation with Pax Christi. Sunday, March 25, 4:00 pm, St. Joan of Arc Auditorium, Jackson Heights, Queens. (718) 429-2333.

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