

Correspondence

ABORTING AMERICA

Dear Editors:

I was extremely disappointed by the quality of Ms. Scharf's review of the book, *ABORTING AMERICA* by Dr. Bernard Nathanson.

The critic completely ignores the author's main message, *i.e.*, that legalized abortion has unwittingly led to infanticide. The author supports that proposition by citing the same conclusions of Dr. Everett Koop, a nationally prominent pediatric surgeon.

Dr. Nathanson's proposition is particularly relevant because, as an early pioneer for abortions (co-founder of the National Association For Repeal of Abortion Laws) and after actually performing 60,000 abortions, he has come to this conclusion.

The reviewer's total disregard of the main message of the book regardless of her obvious personal bias is destructive to the book review process, and detrimental to the quality of your journal.

Can we get a more objective review of this important book in the near future.

William P. Polito, Esq.
Solito, Polito and Anderson
Rochester, New York

Ms. Scharf responds:

I find it difficult to agree with Mr. Polito that Dr. Nathanson's "main point" is that "legalized abortion has unwittingly led to infanticide." Nathanson quotes writers who believe that some arguments in favor of legal abortion can be advanced in favor of infanticide as well, and warns that "when the myth and magic have finally disappeared from the birth line," infanticide will become acceptable. This is not to argue that legalization *has led to* infanticide. Dr. Koop's statement, "that disability and unhappiness do not necessarily go together," is adduced in support of Nathanson's arguments against the use of abortion to prevent the *birth* of compromised infants. In fact, Nathanson criticizes the article from which the Koop quote is drawn as "a typical example of 'slippery slope' thinking." Nathanson's central argument is that legal and moral formulae which balance a woman's rights against the viability of a fetus are based on a mutable technological frontier, so that ending a pregnancy need not end the life of a technically viable fetus. The infanticide argument seems to me subsidiary to Nathanson's examination of the conflict between the rights of the pregnant woman and the fetus.

Kathleen Rudd Scharf, M.A.
Boston University School of Medicine

M.D.s and Lethal Injections

Dear Editors:

In reply to George Annas' editorial on *Doctors and the Death Penalty*, *MEDICOLEGAL NEWS*, 8(2): 17, I must say it is not a position with which I agree. I suspect it is because you are dealing exclusively with the justice of the death penalty — which, while certainly one issue, is not the only one. Whether there is a death penalty or not is a subject for the law and the state. The role of the physician, however, is something that exists within many states and in many systems, and has its own right to protection.

A physician is indeed the proper person to pronounce someone dead; he is not the proper person to *make* someone dead. The setting is irrelevant, although he — as anybody — may express his moral conscience by refusing to participate in the system. In other words, in analogy, a doctor serving in the Army should still not suborn his medical skills to the war. I do not think he should execute prisoners by injection. Injection is no more difficult than shooting a rifle. But he should inject people to cure or prevent gangrene. I presume there are some doctors who are sufficient pacifists that they would not serve in the Army at all. There may, in the same sense, be some doctors who are opposed to the prison system and would not serve in the prisons at all; there are those of good will who could take a compromise position and say that they will serve the prisoners, if not the prison; and there are those who will serve both the prisoners *and* society (the prisons) — but not as executioners, since this would compromise their identity as physicians. I don't see any of this as at all either contradictory, illogical or, for that matter, immoral.

Willard Gaylin, M.D.
President
The Hastings Center
Hastings-on-Hudson, New York

Mr. Annas responds:

You are, of course, correct that justice is not the only issue worth discussing concerning the death penalty. We could also discuss equality in a system that often executes blacks who kill whites, but rarely executes whites who kill blacks; or deterrence and the lack of evidence to support this goal; or the concept of retribution. These issues all seem to me to be critical and central to the death penalty debate. The role of physicians, on the other hand, seems to be an irrelevant side-show; certainly physicians have the right, both moral

and legal, to refuse to participate in any way in executions — this may make them "feel better," but it does not address the real issues that society must face.

Withholding Treatment

To the Editors:

It may be a bit late but I would like to comment on the conference report on withholding care from a newborn that appeared in the summer 1979 issue (vol. 7 no. 2). I was extraordinarily surprised by the hypothetical decision and even more surprised by the extraordinarily presumptuous oversight engaged in by Ms. Rice in her appeal to a "best interests" standard. As attorney for the parents she presumably believed that the proposed test would coincide with the parents' desires to refuse life-saving medical care. To the extent that this is true a preposterous result emerges. Under the most minimally acceptable standards of constitutional and common law jurisprudence a proposal such as hers ought to apply to all those similarly situated. Failing that, we have carved a "class out of a class" in direct contravention of what any attorney ought to know about the fourteenth amendment.

But I seriously doubt whether Ms. Rice would ever wish to see her supposed test applied to the several hundred thousand severely handicapped and/or retarded persons already alive in this country. Does she really wish to endorse the proposition that for most of these individuals the "best interest" is death with the consent of parents or legal guardians? Would it therefore be best if parents signed such a document upon admitting the child to an institution so that when he needed care or treatment the institution could let him die instead, even though his life could be saved as was the possibility in this case? Finally, should parents with a severely handicapped youngster be legally entitled to petition for withholding care in potentially fatal but eminently treatable conditions, and should they be given the right to withhold such care merely because they believe it to be in the supposed "best interest" of the child? It is because I cannot conceive that Ms. Rice would accept any of these things that I am suggesting that her position in the case is entirely indefensible.

As for Judge Podolski, I think he may have misunderstood the medical testimony or the *Saikewicz* decision or both. From what was printed it seems that this infant's chances for prolonged

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