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eSalt Volume 6 Issue 12 2005



Bringing you **IMPORTANT** news from our nation's capitol

Volume 6 Issue 12 2005

A publication of the Southern Baptist Convention's Ethics & Religious Liberty Commission
901 Commerce st. #550, Nashville, TN 37203 (615) 244-2495 FAX (615) 242-0065

www.faithandfamily.com

505 Second St. NE, Washington, DC 20002 (202) 547-8105 FAX (202) 547-8165

A *For Faith & Family* Ministry Partner

Richard D. Land, President Tom Strode, Editor Jerry Price, Assistant Editor

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In June 2004, federal judge Phyllis Hamilton ruled that a ban on partial-birth abortions imposes an "undue burden" on a woman's right to an abortion during the second trimester of pregnancy. The moral compass of our federal judiciary has been grossly demagnetized. It continues to go haywire under pressure from groups such as Planned Parenthood, which hailed Judge Hamilton's decision as a victory for women's rights over against the ideological agenda of antichoice extremists.

How could we have allowed our moral standards to sink so low that we would be having a national debate on whether it's right or wrong to kill an unborn baby during induced delivery by puncturing its skull? Our society has already granted legal protection to unborn children in acts of physical violence against pregnant women by criminal assailants, yet it grants legal protection to doctors who perform acts of violence against women and their unborn children through a barbarous and horrific act solely intended to result in the gruesome death of the baby.

Dr. Richard Land
President, SBC Ethics & Religious Liberty Commission

From Dr. Land's latest book *Imagine! A God-Blessed America* available through ERLC's Family Bookstore (click [here](#)).

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Bush's nominee to Supreme Court awaited

Americans continue to await President Bush's nominee to the Supreme Court to replace Associate Justice Sandra Day O'Connor, who retired July 1 after 24 years of service.

Though the retirement of Chief Justice William Rehnquist, 80, has been rumored, it is still unknown if he or another member of the high court will retire this summer, giving Bush additional opportunities to shape its makeup.

O'Connor, 75, the first woman to serve on the Supreme Court, was often a swing vote who frequently departed from the court's conservatives on issues such as abortion and public religious expression. O'Connor served as a deciding vote in 5-4 decisions that upheld some Pennsylvania restrictions on abortion but reaffirmed the 1973 *Roe v. Wade* opinion legalizing abortion; struck down a Nebraska law banning partial-birth abortion, and barred Ten Commandments displays in Kentucky county courthouses.

"For President Bush, social conservatives and the senators they helped elect, the moment of truth has arrived," said Richard Land, president of the Ethics & Religious Liberty Commission.

O'Connor's retirement "opens the door for the opportunity that tens of millions of Americans have been praying for," Land said. "That opportunity, of course, is to redress the imbalance in the Supreme Court and to make it a solidly original-intent court that will interpret the Constitution, not view it as an 'evolving' document to be rewritten according to the personal views of the justices with allusions to international law.

"George W. Bush's long-term legacy as President will in all probability hinge on whether he now keeps his promise to nominate only judges and justices who fit the Scalia-Thomas, original-intent-jurist mold," Land said.

Antonin Scalia and Clarence Thomas are considered the most conservative justices on the high court.

Possible Bush nominees suggested by various sources are:

- Samuel Alito of the Third Circuit Court of Appeals;
- Edith Brown Clement of the Fifth Circuit Court of Appeals;
- Emilio Garza, also of the Fifth Circuit Court of Appeals;
- Alberto Gonzales, U.S. attorney general;
- Edith Hollan Jones, also of the Fifth Circuit Court of Appeals;
- Michael Luttig of the Fourth Circuit Court of Appeals;

— Michael McConnell of the 10th Circuit Court of Appeals;
 — John Roberts of the District of Columbia Court of Appeals.

Priscilla Owen and Janice Rogers Brown also have been mentioned as potential nominees. The Senate recently confirmed Owen and Brown to the Fifth and D.C. circuits, respectively, after they were filibustered at length by Democrats.

Pro-life advocates would not embrace Gonzales like they apparently would other selections. As a member of the Texas Supreme Court, Gonzales voted with the majority in a decision providing what pro-lifers considered a liberal interpretation of a law requiring parental notification for a minor's abortion.

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Eighth Circuit Court of Appeals rejects partial birth ban

The Partial Birth Abortion Ban Act still has found no court willing to uphold its constitutionality.

A three-judge panel of the Eighth Circuit Court of Appeals in St. Louis, Mo., unanimously struck down the 2003 federal law July 8, ruling it was unconstitutional because it does not include an exception to protect the health of the mother. The measure prohibits an abortion procedure performed on a nearly totally delivered unborn child normally in the fifth or sixth month of pregnancy.

The opinion was the first of three on the law due from appeals courts. Last year, federal judges in New York City, San Francisco and Lincoln, Neb., invalidated the ban in separate cases. The U.S. Justice Department appealed all three decisions. The Second Circuit in New York City and the Ninth Circuit in San Francisco have yet to issue rulings in the cases appealed to those courts.

The Eighth Circuit's opinion came in an appeal of a decision by federal judge Richard Kopf of Lincoln. Kopf ruled the federal ban was unconstitutional because it lacked a health exception and imposed an undue burden on abortion rights.

The federal law bars a procedure in which a doctor delivers an intact baby, feet first, until only the head is left in the birth canal. The doctor pierces the base of the infant's skull with surgical scissors, then inserts a catheter into the opening and suctions out the brain. The technique provides for easier removal of the baby's head.

The Ethics & Religious Liberty Commission and six other organizations signed onto a friend-of-the-court brief authored by the Christian Legal Society in support of the law before the Eighth Circuit.

Supporters of a ban on partial-birth abortion have been unwilling to include a health exception because it would basically render the law meaningless. In its 1973 decisions legalizing abortion, the Supreme Court defined maternal health so expansively it had the practical effect of permitting abortion for any reason throughout all stages of pregnancy.

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Senate vote on funding destructive research nears

The Senate is expected to vote soon on a bill to provide federal funds for research that destroys human embryos.

The Ethics & Religious Liberty Commission urged 16 Republican and two Democratic senators to vote against the measure in a July 13 letter from its president, Richard Land. In June, the Southern Baptist Convention approved a resolution opposing destructive embryonic research and calling on the Senate to defeat legislation supporting funds for such experimentation.

The pro-embryonic stem cell bill, sponsored by Sen. Arlen Specter, R.-Pa., is the Stem Cell Research Enhancement Act, S. 471. It has 40 cosponsors. The House of Representatives passed a companion bill, H.R. 810, in a 238-194 vote in May.

The measure would change President Bush's policy and permit funds for research that uses embryos left over at in vitro fertilization clinics. The President's rule allows funding for research only on embryonic stem cell lines already in existence prior to his August 2001 announcement of the policy. Bush has promised he will veto the bill if it reaches his desk. The House fell about 50 votes short of the two-thirds majority that would be needed to override a veto.

The Senate may vote on as many as four or five other bills regarding stem cells and other bioethics issues, including two the ERLC strongly supports: A comprehensive ban on human cloning and funding to establish a bank for stem cells from umbilical cord blood. The Human Cloning Prohibition Act, S. 658, has 32 cosponsors. The Bone Marrow and Cord Blood Therapy and Research Act, S. 1317, has 21 cosponsors.

The House voted 431-1 in May for its version of the cord blood bill, the Stem Cell Therapeutic and Research Act, H.R. 2520.

The extraction of stem cells from such non-embryonic sources as umbilical cord blood, bone marrow, fat and placentas does not harm the donor.

You may contact your senators by calling the Capitol switchboard, (202) 224-3121, or by emailing through the ERLC's website, www.faihandfamily.com.

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ERLC reiterates call for end to judicial filibusters

The Ethics & Religious Liberty Commission and other organizations have reiterated their opposition to the Senate's use of the filibuster to block confirmation votes on President Bush's selections for the federal judiciary.

In a June 30 letter and news conference, the National Coalition to End Judicial Filibusters urged Republican senators to halt the "obstruction" and called specifically for the confirmation of federal judge Henry Saad to the Sixth Circuit Court of Appeals. The latest action followed a May letter also asking GOP senators to vote to end the use of the delaying tactic on judicial nominees.

Senate Majority Leader Bill Frist had scheduled a vote in late May to change a rule that, had it been successful, would have required only a majority to break a filibuster on judicial nominees. Ending a filibuster currently requires 60 votes. The night before that vote, seven Republicans and seven Democrats announced an agreement that prevented a vote on a rule change but also provided for the confirmation of some of the filibustered appeals court nominees.

In June, messengers to the Southern Baptist Convention approved a resolution calling for the Senate to confirm judicial nominees by the traditional majority vote and for Presidents to nominate judges who "interpret rather than make law." The resolution also commended Frist and encouraged Southern Baptists to urge their senators to halt the "obstruction of judicial nominees."

William Myers and Saad, the two appellate nominees left out of the agreement crafted by the 14 senators, "have been held hostage by a minority that refuses to accept that their vision for America's future is out of step with the vision of the majority of Americans and their elected leadership," the ERLC's Duke said at the Washington news conference. The developments regarding Myers and Saad demonstrate "we have already stumbled over the corpse of the short-lived, poorly conceived, disingenuous compromise," Duke said.

Bush nominated Myers to the Ninth Circuit Court of Appeals.

Among other signers to the latest letter calling for an end to judicial filibusters were representatives of Concerned Women for America, Focus on the Family, Congress of Racial Equality, Liberty Counsel, Coral Ridge Ministries, American Family Association and Family Research Council.

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