

Former ND president chairing Clinton fund

WASHINGTON — Holy Cross Father Theodore M. Hesburgh, president emeritus of the University of Notre Dame, has been named a co-chairman of the legal defense fund for President Clinton and first lady Hillary Rodham Clinton. Growing out of concerns that legal expenses stemming from the Whitewater investigation and a sexual harassment lawsuit could detract from the president's ability to do his job, the Presidential Legal Defense Trust was launched June 28 in Washington.

Court asked to release Aetna Co. from cases

PROVIDENCE, R.I. — Aetna Casualty and Surety Co. has asked a federal court to declare that the company "has no duty to defend or indemnify" the Diocese of Providence or diocesan priests on charges involving child sex abuse. The suit filed in U.S. District Court in Providence named the Roman Catholic Bishop of Providence, a corporation sole; Bishop Louis E. Gelineau and former Auxiliary Bishop Kenneth A. Angell, now bishop of Burlington, Vt.; four priests who allegedly knew about the supposed abuse but did not report it; the diocesan CYO office; and six alleged perpetrators. Diocesan attorney William T. Murphy said he has 60 days from June 15, when the papers were received by the diocese, to respond.

EEOC moving ahead on faith, work rules

WASHINGTON — The Equal Employment Opportunity Commission is moving ahead with review of proposed guidelines on religious harassment in the work place even as the House and Senate voted to reject the guidelines. In a 366 to 37 vote June 27, the House adopted an amendment to the EEOC appropriations bill that blocks funding to implement the guidelines.

Lourdes shrine slated for \$100-million facelift

LOURDES, France — Government and private sources have allocated \$100 million to remodel Lourdes, popular Marian pilgrimage site noted for its miracles. Plans say that by the year 2,000, conditions should be improved for the hundreds of thousands of sick and handicapped people visiting the shrine yearly. Organizers said June 25 that financing will come from the French government, local governments, the European Community, a tourist tax and private contributions.

Vatican Library shows the Dead Sea Scrolls

VATICAN CITY — In an unprecedented collaborative effort between Israel and the Vatican, the Dead Sea Scrolls went on display in a major exhibit at the Vatican Library. The showing of the scrolls, which include the earliest known fragments of biblical texts, followed a breakthrough diplomatic agreement last year. At that time, Israel and the Vatican also pledged closer cultural cooperation. "We thought this would be a good place for the scrolls to be exhibited, since they touch the roots of both Christianity and Judaism," Amir Drori, director of the Israel Antiquities Authority, said at the show's opening June 30.

Pro-lifers decry ruling on buffer-zone

By Patricia Zapor
Catholic News Service

WASHINGTON — Organizations opposed to abortion roundly condemned the Supreme Court's June 30 decision upholding the constitutionality of a buffer zone prohibiting protesters within 36 feet of an abortion clinic.

In the final opinion of the 1993-94 term, eight justices found at least part of a Florida judge's injunction against abortion opponents to be unconstitutional. Six justices said all or part of the injunction — those sections limiting noise and forbidding protests close to the clinic — are constitutional.

The majority threw out parts of the 1993 injunction forbidding certain activists from picketing or approaching passers-by within 300 feet of the Melbourne, Fla., clinic, and banning "images observable" from inside the clinic.

The 21-page majority opinion written by Chief Justice William H. Rehnquist said the injunction prohibiting "congregating, picketing, patrolling, demonstrating or entering" the public right-of-way or private property within 36 feet of the Aware Woman Center "burdens no more speech than necessary to accomplish the governmental interest at stake."

He was joined by Justices Harry Blackmun, Sandra Day O'Connor, David Souter and Ruth Bader Ginsburg. Justice John Paul Stevens agreed with the parts of Rehnquist's opinion upholding the injunction and dissented from the majority in rejecting parts of it. Justices Antonin Scalia, Anthony Kennedy and Clarence Thomas agreed with the majority in those parts of the opinion throwing out sections of the injunction, but dissented over the decision to uphold its basic premise and some sections.

In *Madsen vs. Aware Woman Center*, Judy Madsen, Ed Martin and Shirley Hobbs fought a 1993 permanent injunction establishing a two-tiered buffer zone around the clinic.

The three plaintiffs and various other people who were known to oppose abortion were forbidden to set foot within 36 feet of the clinic. Within 300 feet of the clinic, people listed in the injunction, as well as unnamed sympathizers, were forbidden to make sounds or use signs that could be observed from the clinic or to approach anyone unless invited to do so.

The injunction affecting protesters at the Melbourne clinic was issued after physician David Gunn was shot outside an abortion clinic in Pensacola, Fla., in 1993.

Although the injunction names only certain individuals affiliated with Operation Rescue and its local organization, supporters of the protesters said it threatens the free speech rights of anyone who opposes abortion, even if their only act is to walk down the street wearing a shirt that reads "Choose life."

Liberty Counsel attorney Mathew Staver, who represented Judy Madsen and two other plaintiffs in their appeal of the injunction, said the ruling "has transformed public sidewalks normally open for expressive activity into a type of Tiananmen Square. By doing so, the court today has retreated to the Dark Ages, when speech was permitted only at the discretion of government officials."

Staver said the ruling sends a message to all forms of social protest "to beware."

The National Right to Life Committee said the only effect the Madsen ruling will have is that it "makes being pro-life a thought crime."

As a result of the Madsen case, women en route to having abortions will be denied a chance to be given information that might make them change their minds, said a statement from Right to Life President Wanda Franz.

"This decision is a devastating blow,



AP/Wide World Photos
Demonstrator Judy Madsen looked on June 30 as her attorney, Mathew Staver, talked to reporters outside the U.S. Supreme Court building in Washington, D.C.

not only for pro-life persons who wish to speak out against the destruction of unborn children, but also for the free speech rights of all Americans," Franz said.

Supporters of legalized abortion praised the ruling. A Planned Parenthood statement said it "makes clear that opposition to abortion is not a license to harass, threaten or stalk women and clinic staff."

Similar injunctions or local laws in several jurisdictions limiting protests near clinics have been in limbo while awaiting the Madsen ruling.

A Phoenix city ordinance restricting protests within 100 feet of clinics has been the subject of an injunction barring its enforcement while the Supreme Court case was pending.

In May, the California Supreme Court cleared the way for an injunction requiring protesters to stay on the opposite side of a busy street from a Planned Parenthood clinic in the city of Vallejo.

And in Texas, a ruling has been pending in a request for a permanent injunction barring Operation Rescue and Rescue America protesters from demonstrating close to 10 abortion clinics.

Jay Sekulow, an attorney with the American Center for Law and Justice who has represented key Operation Rescue defendants several times, said the Supreme Court ruling "crushes both the pro-life message and its messengers."

Paige Cunningham, president of Americans United for Life, said one "unseen and unheard" point about the ruling is that "the court has bowed to the notion that abortionists need 'quiet' to carry out their work."

She said the ruling means even pro-life protesters who have no intention of disrupting clinic operations "will be swept off the sidewalks."

Injunctions like the one in Florida have become an increasingly popular method of limiting how close to a clinic certain abortion protesters can be. Madsen's appeal to the Supreme Court was based on the fact that she was included in the injunction even though she had never been charged with violating a law, as had many of the other people it included.

Beverly LaHaye, president of Concerned Women for America, said the ruling breaks new ground in singling out one type of protest group.

"It is clear that we have entered a new dimension of constitutional interpretation that caters to the pro-abortion elite," she said in a statement. "Pro-life peaceful protesters may be targeted now, but we have to ask ourselves, who will be next?"

While not condoning violent protests,

LaHaye said her organization's members believe strongly that public sidewalks should remain a forum for peaceful demonstrations.

"America has historically defended the right to free speech even if the content is disturbing or offensive," she said. "Today the Supreme Court weighed two conflicting rights in the balance and found that the right to an abortion is greater than the right of free speech."

Writing for the court, however, Chief Justice Rehnquist specifically said the injunction was properly based not on what the protesters said, but on their previous disruptive actions.

Moreover, he wrote, because any injunction applies only to a particular group, there was no strength to the petitioners' claim that the judge's order was based on a particular viewpoint.

"An injunction, by its very nature, applies only to a particular group (or individuals) and regulates the activities, and perhaps the speech, of that group," Rehnquist wrote. "It does so, however, because of the group's past actions in the context of a specific dispute between real parties."

He said the Florida judge imposed restrictions on the petitioners that were "incidental to their anti-abortion message because they repeatedly violated the court's original order."

Mark Chopko, general counsel for the U.S. Catholic Conference, said he thought the ruling seemed to be aimed at protecting the rights of the Florida trial judge to control the cases before him.

Originally, a 1992 court order prohibited the petitioners from blocking or interfering with public access to the clinic. Six months later, clinic operators complained to the judge that the protests were still impeding patients, so the injunction was expanded.

"The state court seems to have had few other options to protect access, given the narrow confines around the clinic," Rehnquist said in affirming the Florida Supreme Court's decision to uphold the 36-foot zone. However, private property on two sides of the clinic, inaccessible from public roads, did not merit such protection, the court said in limiting the zone.

The injunction's provision prohibiting all uninvited approaches to clinic clients was found to "burden more speech than is necessary to prevent intimidation and to ensure access to the clinic," the majority said.

Similarly, the prohibition on "images observable" inside the clinic was found to be more of a burden than necessary to achieve the purpose of limiting threats to patients or their families. A ban on noise audible inside the clinic was allowed to stand.

"But it is much easier for the clinic to pull its curtains than for a patient to stop up her ears, and no more is required to avoid seeing placards through the windows of the clinic."

In a 38-page partial dissent, Scalia wrote that the majority opinion, while having "an appearance of moderation and Solomonic wisdom," is deceptive. The ruling departs so far from established jurisprudence, he said, that if the case had not dealt with abortion rights "it would have been regarded as a candidate for summary reversal."

Chopko of the USCC agreed that there seemed to be some merit to Justice Scalia's "abortion distortion" argument.

In his partial dissent, Stevens disagreed with the majority's decision to even rule on the constitutionality of individual aspects of the injunction because they were not challenged in the petition to the court.

Stevens said that while he agreed an injunction merits a different standard than legislation passed by an elected body, he would judge an injunction with more leniency than did the majority.