

Gregg L. Cunningham, Executive Director

September 2011

Dear Pro-Life Supporter,

September 3, 2011, CBR received a message from a fourteen-year-old girl who wrote to tell us that our abortion photos “Changed my way of thinking, so now I can spread the word and website, save lives that are on the line, and help others.” She did not list her hometown on our website abortion survey but she said she found us on Google. She is why we drive our abortion photo billboard trucks around middle schools and high schools as students are arriving before the start of the class day.

CBR is preparing a lawsuit to strike down yet another unconstitutional statute enacted by California’s out-of-control, one-party, leftist legislature. The *Los Angeles Times* reported on August 4, 2011, that “Assemblymember Tony Mendoza’s ‘school safety bill,’ AB 123 [intended to discourage CBR from driving our billboard trucks near schools], was signed into law by Governor Jerry Brown today. The law will take effect on January 1 of next year.”

The article explains that “The bill would add language to Penal Code 626.8 addressing disruptive messages where the disturbance threatens the physical safety of school children in preschool, elementary school, or middle school while they are coming to, leaving from, or attending school.” Mr. Mendoza was quite candid in admitting that his bill was aimed explicitly at stopping the pro-life truck projects of The Center For Bio-Ethical Reform. The pro-aborts are fanatically determined to hide the horror of abortion from vulnerable students.

But AB 123 is patently unconstitutional. The *LA Times* notes that the Ninth Circuit Court of Appeals previously ruled in *The Center For Bio-Ethical Reform, Inc., et. al., v. Los Angeles County Sheriff’s Department, et. al.*, that CBR has a right to drive billboard trucks displaying images of aborted babies on public streets, whether near schools or not. The court then added gratuitously that “... if the California Legislature adopted statutory language to address this situation, the outcome might be different for future instances.”

That statement, however, was merely off-handed dictum, with no precedential value. It was also incorrect as a matter of law. CBR vowed to sue and win again if the legislature amended the statute in another unconstitutional attempt to cover up the truth about abortion. But the court’s error is now academic.

Just a few weeks before Gov. Brown signed this unconstitutional bill, which, as a former California Attorney General, he knows to be unlawful, the U.S. Supreme Court handed down a related decision in *Brown v. Entertainment Merchants Association*. In that case, the Court ruled that there is no exception to the First Amendment which empowers government to prohibit the showing of violent images to children, even when children’s “safety” is the pretext for the prohibition. “No doubt a state possesses legitimate power to protect children from harm,” Justice Scalia wrote, “but that does not include a free-floating power to restrict the ideas to which children may be exposed.”

Justice Scalia added that "... the State [of California] wishes to create a wholly new category of content-based regulation that is permissible only for speech directed at children. That is unprecedented and mistaken. This country has no tradition of specially restricting children's access to depictions of violence."

So now we will have to relitigate these same issues despite the fact that the new law is as flawed as the old one, at least as applied to us. CBR's aborted baby photos have never "threatened the physical safety" of students. Nor did the police threaten us with arrest for breaking any traffic laws in the first lawsuit. The arrest threats were based solely on the specious theory, rejected by the Ninth Circuit, that CBR could be stopped because students who were upset by seeing the truth about abortion could place themselves at risk by stepping into the path of passing vehicles.

Concerning our lawsuit against the first statute, the *LA Times* explains that:

In March 2003, the Center for Bio-Ethical Reform held a demonstration outside of a Los Angeles County middle school, which included billboard-sized graphic photographs of aborted fetuses. Students, who were walking to and being dropped off for classes, became agitated because of the disturbing nature of the photographs. Some became angry, some began to cry, and others stared while standing in the street and on the sidewalk, creating a traffic safety hazard. The school's administrators notified the L.A. County Sheriff's Department and the sheriffs detained the demonstrators, based on the determination that Penal Code section 626.8 had been violated.

As noted above, The Center For Bio-Ethical Reform filed a lawsuit and eventually won on appeal in the Ninth Circuit Court of Appeals. Los Angeles County was forced to pay CBR's attorneys \$260,000 in legal fees. To protect innocent taxpayers, CBR now recommends that the legal fees we will be awarded in our next lawsuit against this amended version of the statute be garnished from the salaries of Gov. Brown and Assemblymember Mendoza.

California has failed its students with incompetent schools that produce embarrassing dropout rates and humiliating failures to master even basic skills. It is shameful that Assemblymember Mendoza and Gov. Brown are now working to withhold abortion information from students to whom that truth needs to be taught. We won't let them get away with that.

It is an outrage that California's "educators" almost uniformly mislead students regarding the humanity of preborn children and the inhumanity of abortion. But it is a scandal that those same "educators," and their political cronies in Sacramento, persist in threatening to imprison anyone who shows students the abortion horror their teachers are hiding. We say "Bring it on!"

If the embryo and early fetus are blobs of tissue, and if abortion is, therefore, a morally inconsequential act, why would a photo of it upset students? The answer, of course, is that our photos are shocking because they prove that abortion is a shocking act of violence which kills a baby. Our photos are divisive because they force everyone to stop pretending. That is why California's teachers and lawmakers threaten people who expose this terrible truth. It is why we must and will return to court to defend the right to teach students what their teachers don't want them to know.

The impulse to avoid the disturbing truth about social injustice is as old as the history of social reform. A book titled *A History of the American People*, Paul Johnson, Harper (1998) reports that "When the [Civil War] ... actually came, the Presbyterians, from North and South, tried to hold together by suppressing all discussion of ... [slavery]; but they split in the end. The Congregationalists ... remained theoretically united but in fact were divided in exactly the same way as the others." Johnson adds that "Only the

Lutherans, the Episcopalians, and the Catholics successfully avoided public debates and voting splits; but the evidence shows that they too were fundamentally divided on a basic issue of Christian principle.”

In his epic trilogy *The Civil War*, Shelby Foote, Vintage Books (1986) described this historic tendency toward political censorship. William Holden, editor of the Raleigh, NC, *Standard* newspaper, “... continued to rail against the [Confederate] Administration and all it stood for, uninterrupted except for a day in September when a brigade from [Gen. Robert E.] Lee’s army, passing through the North Carolina capital, indignantly wrecked the office of the *Standard*. Holden resumed publication without delay but meanwhile, the soldiers having departed, a crowd of his admirers marched in retaliation on the plant of the rival *State Journal*, a [Jefferson] Davis-loyal paper just up the street, and destroyed its presses, type and machinery.”

Foote adds that on the other side of the Mason-Dixon Line, “On June 3rd, 1863, at three o’clock in the morning, Union Major General Ambrose Burnside’s cavalry ... rode up to the offices of the *Chicago Times*, which he had charged with repeated expression of disloyalty and incendiary statements. Reinforced an hour later by two companies of infantry from Camp Douglas, they stopped the presses, destroyed the papers already printed, and announced that the *Times* was out of business.”

Attempts to suppress information which would provoke political discord are also noted in the colonial history *Founding Brothers*, Joseph J. Ellis, Vintage Books (2000). “... [T]he delegates to the Constitutional Convention had engaged in extensive debate about the slave trade and how to count slaves for the purposes of representation and taxation. But these debates had all occurred behind closed doors and under the strictest codes of confidentiality.” Slave owners feared public debate would stir public conflict.

Ellis explains that “... [S]tate based [Constitutional] deliberations quite naturally tended to focus on local or regional interpretations of the Constitution’s rather elliptical handling of the forbidden subject. (No specific mention of ‘slavery,’ ‘slaves,’ or ‘Negros’ had been permitted into the final draft of the document.)” Constitutional Convention Delegate Charles Cotesworth Pinckney expressed the sentiments of many when he referred to slavery as “this species of property,” refusing to say the forbidden word.

The author also reveals that “... [S]everal representatives from South Carolina ... objected to the suggestion that ... [petitions proposing an end to the slave trade] be read aloud in the halls of Congress. Aedanus Burke ... demanded that the galleries be cleared of all spectators and newspaper reporters.”

“The position of all the speakers from the Deep South seemed to be that the Constitution not only prohibited the Congress from legislating about slavery or the slave trade; it forbade anyone in Congress from even mentioning those subjects publicly.” That sounds a lot like today’s Congress and the word “abortion.”

During the congressional debate over the Missouri question, and by implication, the extension of slavery into the territories, “... the code of silence governed the lengthy exchanges in the House of Representatives, which focused exclusively on the constitutional question of federal versus state jurisdiction rather than on the problem of slavery itself. Jefferson, for his part, was outraged that the issue was being discussed at all....”

In years following their departure from public office, an enormous body of personal correspondence was exchanged between former Presidents Thomas Jefferson and John Adams. Jefferson was a defender of slavery who himself owned slaves, but Adams was an ardent abolitionist. Jefferson, however, refused to discuss the issue and Adams reluctantly acceded to his wishes.

Ellis says that slavery, therefore, became “the unmentionable fact” in their letters. “... [T]he ever candid Adams recognized that this was the forbidden topic, the one piece of ground declared off-limits by mutual consent.” The author argues more broadly that “... the dialogue between Adams and Jefferson ...

symbolized the unofficial policy of silence within the revolutionary generation on the most glaring disagreement of all.”

We use pictures to fight abortion for the same reasons William Wilberforce used them to fight the slave trade. In the Pulitzer Prize-winning book *Inhuman Bondage, The Rise and Fall of Slavery in the New World*, David Brion Davis, Oxford University Press (2006), the author says, “The conditions on transatlantic slave ships ... were probably too horrible to convey in human words.” Effective social reform almost always requires the ability to confront society with evidence of its complicity in injustice. In the 1540’s, Catholic Bishop Bartolome’ de Las Casas was instrumental in “... documenting the appalling mortality and cruel treatment” of native Caribbean slaves and “publicizing the crimes committed against the Indians”

But defenders of an unjust status quo are always ready to hide the truth. Davis also reports that “After Southern mobs burned anti-slavery mail taken from post offices in 1835, Postmaster General Amos Kendall began censoring such mail bound for the South. From 1836 to 1844, Congress also enforced a ‘gag rule’ against receiving anti-slavery petitions.”

Inhuman Bondage, however, explains an even more striking example of society’s obsessive inclination to purge the public record of embarrassing facts related to social injustice. In early July 1913, at the Gettysburg, Pennsylvania 50th anniversary commemoration of the Battle of Gettysburg, President Woodrow Wilson’s speech “carried no echoes of Lincoln’s magnificent Gettysburg Address” and “made no mention of the Emancipation Proclamation.”

Any allusion to slavery was considered out of bounds with so many former Confederates attending the ceremonies. More poignantly, “... the planners made no space for black veterans,” despite the fact that more than 180,000 black men had served in the Union Army and Navy, with 40,000 of them giving their lives to save the Union. The taboo topic of slavery could not be kept out of sight unless the blacks who fought and bled to end it were kept out of sight as well. Their mere presence would have given lie to the myth that the Civil War was about state’s rights, not slavery. That fiction adumbrated the feminist mantra that pregnancy termination is about “choice,” not abortion.

In 1863, pro-slavery Democrats attacked Republicans as “the party of fanaticism” for their opposition to slavery. But the real fanatics are the censors who conceal injustice by suppressing the truth. Those fanatics are as pervasive today as they have been in every century. They were at the Constitutional Convention in 1787 and they are in the California legislature today.

But they are also in the executive suites of the major corporations which support Planned Parenthood. The CEOs of these companies want to give money to America’s largest abortion provider but they don’t want their customers to know it. And they especially don’t want them to know what abortion looks like. But our Corporate Accountability Project is using abortion photo signs outside the retail facilities of offending businesses and driving away their customers, regardless of their position on abortion. With your help, we aren’t going to allow these corporate censors to have it both ways.

Lord bless,

A handwritten signature in black ink, appearing to read 'Gregg Cunningham', with a long horizontal line extending to the right.

Gregg Cunningham
Executive Director