My Preparation for this Legal Battle

(My Resume)

By Dave Leach

I may not be a lawyer, but I'm no newcomer to the Necessity issue.

I became aware of Operation Rescue and its habit of arguing the Necessity Defense, in 1990, a year after I began publishing Prayer & Action Weekly News. (This is our 20th Anniversary, although we have dropped the "weekly".) A paralegal gave a series of lectures to several of us OR aspirants in Des Moines.

I defended my own pro se (without a lawyer; I defended myself) doorblocking case 17 years ago, which I appealed to the U.S. Supreme Court. Twice, actually, on the same case. Once, on denial of right to counsel of my choice, and second, on the merits of the case (on the central issue of abortion and whether abortion is an unthinkable "harm" which it needs to be OK to prevent).

As I reporter I covered Shelley Shannon's trial in person – the whole trial – in Wichita, during which time I met Paul Hill and Paul deParrie. (Shelley shot George Tiller through his car window in 1993; she shot both of his arms, thinking that would stop his abortions without killing him. Wrong. He was so determined to kill that he was at work the next day. Paul Hill shot an abortionist the following year, but this time he shot to kill. Paul deParrie published Life Advocate magazine, which covered events like those.) I covered Paul's trial from Iowa, but analyzed and criticized its procedures and rulings, and wrote to his clemency board with my findings.

In the role of legal assistant, I helped Regina Dinwiddie (after Michael Hirsh dropped out after the 8th circuit rejection) prepare her FACE case (for talking outside killing centers with a bullhorn) for en banc review and the U.S. Supreme Court. Janet Reno's Justice Department asked for TWO 60-day extensions of time to respond to our brief. (FACE stands for Freedom of Access to Clinics. It was an act passed by Congress in 1992 which made the penalty for blocking an abortion door the same, after a 3rd offense, as for shooting an abortionist. Was Congress surprised that that is when the shootings began?)

In 2002, through my state representative campaign, I published a strategy for amending Iowa's Compulsion defense, 704.10, combined with a Joint Resolution. The amendment says in part:

> ..."Imminent" means less than an hour from the time of the act to the time there will be no further opportunity to act, but less than a day from the time of the act to the time of the expected serious injury. For purposes of this section, 'serious injury' means that which is, in fact, a serious injury, which it is the jury's duty to determine. When abortion is the 'serious injury' alleged, its 'threat or menace' will not justify destruction of physical property."

The Joint Resolution begins by giving background and explaining the intention to avoid violence on both sides. It calls upon Congress to amend FACE to punish nonviolence less severely than violence. It concludes, "The Iowa Legislature calls upon the United States Attorney General to allow Iowa's experiment in stopping the violence to work, and serves notice that should Federal Marshals be ordered to arrest nonviolent abortion center trespassers, they may not count on help from Iowa law enforcement, and Iowa will offer legal assistance to defendants to help them raise, in ensuing Federal trials, the points about the Compulsion, or Necessity Defense, which the Iowa Legislature has made in clarifying Iowa 704.10."

Beyond the amendment and resolution, my plan foresaw legal battles between the Iowa Attorney General and the U.S. Justice Department, and offered scenarios and arguments. The plan also factored in public involvement through the process of electing lawmakers willing to support this, and of understanding the court battles.

The plan, now posted at www.Saltshaker.US, (click on abortion), gathered impressive endorsements, despite missing the endorsement of voters.

Bill Kurth, a Rutherford attorney who used to grade bar exams, read it and told me

"...your brief...appears to be good.... You do a good job of setting forth the law."

Chuck Hurley, head of Iowa Family Policy Center (Iowa branch of Dobson's Focus on the Family), attorney, former head of the Iowa House Judiciary Committee, read it, had a couple of meetings with me about it, and told me

"If this passes, it could facilitate the closing of every abortion clinic in Iowa."

Joe Scheidler, heads Prolife Action League, Chicago, a defendant in the 16-years-long NOW vs Scheidler case before the Supreme Court as of 2002, said:

"There's a private swimming pool not far from our office with a 'no trespassing' sign on it. But if I saw a toddler thrashing around in the water, I'd jump the fence and try to save him. That's the necessity defense. It sets aside the letter of the law for the spirit of the law. In any other situation besides abortion, the necessity of trespassing to save lives would be accepted in a flash. But the so called 'right to privacy' has blinded our judges. But if you present the facts of the humanity of a child to a jury, they are much more likely to accept the reality of the defense.

"The Necessity defense was our legal ace in the hole from the earliest days of clinic blockades. One of the major reasons we allowed ourselves to be arrested was to try the necessity defense. It is still law, which presents a fact issue to the juries. Anything that makes that clear will be a powerful tool.

"We should have kept our focus on this defense, but we haven't, so today most lawyers laugh if you bring it up. But a lot of water has gone over the dam since then, from cloning to the sale of baby body parts. The public may be ready to see the defense tried now. Public education on the child's humanity is crucial. That is why this initiative to spell out the necessity defense is valuable even before it is passed. It won't work if you don't try, and I am willing to help."

Ruth Kabitzke, organizer of Des Moines' annual October "Life Chain", told me:

"That sounds like something you would come up with!"

John Brockhoeft, who burned down the clinic that pioneered the Partial Birth method, wrote:

"Years before 30 states became sufficiently horrified by Martin haskill's abortion method in which he half delivers a baby, sucks out the baby's brains, and then crushes the skull, I was horrified enough to burn it down. For that, I spent 7 years in jail, from '88 to '95.

"I remain horrified. I remain committed to saving as may lives as possible, using whatever method saves the most lives.

"At the present time there is a plan which shows promise of saving more lives than the methods available to me then. It is the legislative proposal by Dave Leach in Des Moines, Iowa, described at www.saltshaker.us. I urge anybody who is as committed as I am, as willing to sacrifice my time and comfort for the sake of the unborn, to join me in supporting this plan which offers a realistic hope of stopping ALL American abortions."

Rob Leach, PC, Starkville, Mississippi, chiropractor, researcher, author, lecturer; author of "The Chiropractic Theory", a required text in the majority of the world's chiropractic colleges, and my brother, wrote:

"I have never been more proud of what you are doing. Although I only had time to read down to Part 3, Jurisdiction, everyting (at least from non-lawyerly viewpoint) appeared in order. My prayers are certainly with you, and I believe God will continue to use your gifts."