chases. Of course children have rights, but parents traditionally have been the custodians of these rights, at least until those children reach adulthood. This is a sound presumption based on the more limited capacity of children to make responsible choices. The movement to grant minors full access to the full range of choices available to adults inevitably leads to the liberation of the child from his or her parents. In this view, the parent is the *obstacle* to the free exercise of the child's rights and the state is the arbiter of family relations. Tragically, this threatens to destroy a child's most precious right: the right to a child-like dependence upon the guidance of loving parents.

Pulliam is also right to characterize the *Lungren* dissent as a challenge of the right of parents to act *as parents.* It's no secret that some influential people in our country think "it takes a village to raise a child." When the "village" shows up on our doorsteps, armed with legal briefs and court orders, those of us who are parents will find it is too late to claim our natural and historic rights to raise our families. We need to be alert *now.*

This movement threatens a child's most precious right: the right to a child-like dependence upon the guidance of loving parents.

— Gary L. Bauer

Hon. Rob Hurtt

Senate Republican Leader

Reversing ground on parental consent will signal a direct assault upon parental rights. Even though parental consent is required to treat a minor for a headache, the court wants to second guess itself on whether or not the Legislature may require parental consent for abortions. If the court strikes down parental consent, it will be a sad defeat for parents who already must contend against an intrusive "village" of arrogant government lovers who want to raise our children. Unless a minor is being abused or endangered, that child belongs to its parents, not the state. It's hard enough to fight off the Legislature's "villagers" who want to raise our children; we don't need the state Supreme Court championing their cause.

Gideon Kanner

Professor Emeritus, Loyola Law School

Lawyers know that, depending on the result a court wants to reach, a landmark, famous decision can be dismissed as the dead hand of the past or hailed as the law and it's always been the law and who are you, you silly little upstart, to challenge it. The courts, by degrees, have slipped into an overt governance mode, not an adjudicative mode. They always govern to some extent, but it's a matter of degree. Now they want to be movers and shakers and policy makers. Of course they deny it, because if you are a policy maker you have to be accountable.

Pulliam's critique is that we had far-out liberal judges and replaced them with ostensibly conservative judges but we still get anti-business, pro-government decisions. I disagree: this isn't liberal versus conservative; it's libertarian versus statist, and these guys are statists. It started when Jerry Brown appointed public defenders to the bench. Then Deukmejian appointed prosecutors and other government lawyers. That was his idea of balancing. Wilson exacerbated the trend of appointing prosecutors and civil government lawyers. I don't mean these judges consciously twist the law to serve the government. But if you spend your formative years doing particular work and being good at it, which means you like it typically, you can't be expected suddenly to drop all that and take a much more detached position. Some can do it, but they're rare gems. Under the old system, some appointments were plaintiffs lawyers, some defense lawyers, some criminal lawyers — it was a mix. Now you get a bunch of bureaucrat lawyers.

Gary Kreep

Executive Director, U.S. Justice Foundation

While I respect the requirement that the Chief Justice not discuss pending cases, I am somewhat puzzled about his declination to discuss already decided cases. That avoids criticism of those cases, but it does nothing to help the public's perception of the Court. The public believes judges promote their own social or political agenda through their decisions. The Chief Justice's comments, unfortunately, do not dispel that perception and, in fact, may aggravate the situation due to his declination to discuss previous decisions. Also, he hints that he believes *Myers* should be overturned, yet he defends the decision to rehear *Lungren.* In other words, Chief Justice George appears to be saying that California taxpayers should not be paying the bill for abortions for indigents, yet the court is going to invalidate its parental notification law. If the public is as confused as I am by these statements, then there is little wonder the judicial system is viewed as it is.

Hon. Alister McAlister

California Assembly, 1971-86

Mark Pulliam's analysis of *Lungren* stimulates further thoughts on the "independent state grounds" doctrine sometimes followed by the California Supreme Court. Whether applied

by liberal or conservative courts, the worst aspect of this deceptively labelled doctrine is that it invariably results in legal enforcement of the lowest common denominator — and invariably a left-leaning twist — in every area of law where a constitutional right can plausibly be asserted. This street runs two ways for liberals but only one way for conservatives. If the U.S. Supreme Court renders a liberal interpretation of a federal constitutional provision, the state courts can never circumvent it by a more conservative interpretation of a similar state constitutional guarantee since states cannot deprive anyone of a federal constitutional right. But since the federal Constitution only establishes minimum rights which states, through judicial decisions, can exceed, conservative federal decisions can be and often are undermined by liberal state courts. Tails, they win; heads, we lose. But even conservative judges are reluctant to relinquish the awesome power conferred on them by independent state grounds.

For example, in *Raven v. Deukmejian,* while upholding most of constitutional amendment Proposition 115 (1990), our state Court unanimously held that it violated the state Constitution's "revision" clause by proposing that in criminal cases most constitutional rights of a criminal defendant "shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by" the U.S. Constitution. The Court held this was such a "devastating" change that it amounted to a "qualitative revision" of the California Constitution *which could not be adopted by the People via the initiative process but could only come about through a constitutional "revision"* — a ruling contrary to the Court's approval, despite similar challenges, of other major constitutional changes such as Proposition 13 and Proposition 8, which even contained a provision similar to 115 abolishing the independent state grounds doctrine as to exclusion of evidence in criminal trials. The Court did not even mention the 1979 amendment to the state Constitution, article I, § 7, which abolished independent state grounds as to school busing.

The moral? (1) Pragmatically, the law is what judges say it is. (2) High courts have more impact on many issues than legislators and chief executives. (3) Hence the *selection* of high court judges is one of the most crucial functions of government. (4) Theoretically, the judge *retention* process could be even more important, but sadly few citizens know the judges' records.

William Rusher

Publisher, National Review, 1957-1990

Drive-by shooting suspects tell police they don't do it for money or for revenge but because it just seems like a good idea at the time. Those kids never had discipline and morality and order internalized into them as children. In the old days, before this generation, this internalization came from the family, the churches, and the schools. But the churches that still try to speak about morality are under attack for having the nerve to do it. The public schools have been told that it is absolutely impermissible even to have a non-denominational prayer — we have default atheism in our schools.

And then the family. This at least people thought they could depend on for what we call the transmission of culture. But the family is under heavy attack. In many cases, it simply disappears. The glorious Aid to Families with Dependent Children and similar nonsense has all but destroyed the black family and many white families. The move to overthrow California's parental consent law is another attempt to drive a wedge between parents and their children.

Let the light shine on this matter; let the decision be taken in public.

Hon. Bruce Thompson

Assistant Republican Majority Leader

Your "View From the Bench" interview with Chief Justice Ronald George was both illuminating and discouraging. The tone of the Chief Justice's remarks reveals an elitist sentiment that often ignores the moral underpinnings of our free society. In *Lungren* the Court must choose between the so-called "privacy rights" of irresponsible teenagers and the right of parents to assist their children in making a decision of life-altering significance.

In what seems to be an effort to pre-empt public criticism if the Court overturns the Parental Consent statute, the Chief Justice says the public's "incredible lack of information about the whole judicial process" will prevent average Californians from understanding the wisdom of striking down the rights of parents. He relies upon an infamous Bird Court decision *(Myers)* that created an "inalienable right" to taxpayer-funded abortions. The Chief Justice recently argued in a fiery dissent that *Myers* is good law that must be followed and that it likely renders the Parental Consent law unconstitutional.

Ignoring precedent set just a few months previously, the new Supreme Court Chief Justice has instead decided to follow the logic of a debunked and illegitimate Bird Court — a panel of incompetent jurists soundly rejected by Californians for its judicial activism and promulgation of liberal social policies.

The issue is whether parents have a right to give counsel to their children before a major surgical procedure. In a state in which it is *illegal* to give a teenager a tattoo (Penal Code § 653), it is incomprehensible to think that parental consent for abortion is so intrusive as to be unconstitutional! If this Court so finds, then the standard it uses defies common sense and seriously threatens our society's most important building block: the family unit. CPR