

3/5/69

55th NEVADA LEGISLATIVE ASSEMBLY - COMMITTEE ON HEALTH AND WELFARE - Joint Hearing with Judiciary

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Re: A.B. 155, A.B. 229, A.B. 259 - Abortion.

Health & Welfare Members Present: Wilson, Foote, Hafen, May, Frazzini, Swallow, Espinoza, Brookman, and Homer.

Judiciary Members Present: Torvinen, Schouweiler, Fry, Kean, Lowman, Bryan, Reid, Prince, and Swackhamer.

The meeting was called to order by Roy Torvinen, Chairman of the Judiciary Committee in the Assembly Chambers at 2:50 P.M. He suggested hearing all the bills together, and asked for proponents of the bills first.

Reverend John Emerson, Pastor, Methodist Church, Carson City, Nevada.

"The motivating source for my being here is that I am a happily married man with three daughters. I earnestly desire a fair deal for everyone. I do not wish to engage in polemics over what may prove to be a highly controversial and emotional issue. I have many friends among the clergy and laymen who differ with me on my view of this legislation. I admire them for holding fast to their convictions. I give my testimony without malice toward anyone and no desire to impugn the integrity of anyone who differs with me. What I say represents only my own views, although others may agree with me.

Our present Nevada law provides for abortion when the life of the mother is in danger. This law was adopted in 1911 when our population was about 36,000 people. Can we reasonably think that this old law represents the thinking of the half-million people living in Nevada today? Can we honestly say we do not need this legislation? Can we fulfill our responsibilities by ignoring this problem? No, we cannot. Technical matters can be perfected by the legislative process. I will address myself to other considerations which might be overlooked in a comprehensive view of the situation.

I favor repeal of the present law, but having no law would be as disastrous as maintaining the status quo. To continue would be to have many more illegal operations. Abortion is especially a medical problem. Accordingly, I favor A.B. 259. The abortions would be performed in a good hospital with strict sanitary regulations.

A.B. 155 suggests a group of doctors and obstetrical nurses supervise the abortions. We should trust our licensed physicians who are qualified. They judge each case on its merits. We trust their judgment on other things and we can here too. These proposed abortions need not be reviewed by a court.

We do not have absolute freedom with our own bodies. Generally, we do not feel that a person has a right to commit suicide without our trying to prevent it. Our bodies cannot be sold into slavery. We must have certain reasonable controls as to what we can do with them. Therefore, laws governing abortion are wise. I believe that

we need legal abortion: 1. When the continuation of pregnancy may threaten the life of the woman or seriously impair her health; 2. When pregnancy is a result of rape or incest; 3. When the continuation of pregnancy may result in the birth of a deformed child.

Colorado, Maryland, North Carolina and California have revised their abortion laws and they have not become abortion mills. With adequate controls, Nevada need not become an abortion mill either.

The abortion should be performed within the first trimester of pregnancy, or 12 weeks.

I draw a distinction between the early embryo stage of the human fetus and later, prenatal stages. At that time various organs and blood have been developed and the fetus is at the point of quickening. We must consider that in a pluralistic society we will have many different views. The democratic process is not to impose the doctrines and beliefs of any one group but to do the best possible for all.

I favor AB 229. It seems to me that the free abortion law would be the best solution. If we can't have that, I would choose next AB 259. No woman would be forced to seek an abortion. Likewise, no doctor would be compelled to perform abortion if, according to his beliefs he should not do it. There would have to be protection under the law that hospitals would not have to accept these cases if it is against their policy. I am referring mostly to hospitals run by Roman Catholics.

We know the Catholics would not want abortion but a woman of a different belief should be able to exercise her beliefs. Any person who opposes abortion on civil rights does not need to take advantage of a free abortion.

One objection is that abortion is an act of murder, presuming that the human embryo is indeed a human being. If this were true, no state would permit abortion yet some states do permit it. The prevailing belief is not that the human embryo is a human being. If there is a lack of consensus here how is it possible to say that an act of abortion is killing a defenseless child? From the third to the fifth month there are many signs of life.

I feel that the provisions of the constitution do not apply to the embryo.

The best way to control human reproduction is the prevention of conception rather than the prevention of birth. We do have 100% knowledge of contraceptives and we do have some knowledge of how to prevent rape and incest. We have some knowledge concerning birth of deformed children and when we do a better job of sex education among our children, we should use abortion as our last resource.

MR. TORVINEN: I will have to ask you to limit your comments to 5 minutes each from here on out.

ALICE KEY: Las Vegas: My remarks are for the purpose of clarifying the role of the Committee for the Rights of Women. We know the horror and tragedy of criminal abortions and we are very much aware of the fact that it will continue unless we change our laws. It is a major

health issue in the United States. All over the nation we have organizations working on educational programs to bring before their Legislatures this problem, hoping that we can get more liberal laws. We have spent thousands of dollars on our educational program and many thousands more on our mailing program.

We have been asked for one of our booklets to be sent to other states to be used as a model. We have talked to professional people who could bring expert authoritative information to the people of Nevada so that we could all be better informed.

We have not taken a position on any one of these three bills. We have asked for a consensus of opinions from many groups. Sometimes they have suggested reform but the majority wanted complete repeal.

I attended one of these conferences in Chicago and I donated \$50 to them because I believe you should put your money where your mouth is. We have had many contributions but most have come from Joe Sunnen, President of Sunnen Products Co. and Emko Co., St. Louis, Missouri. Ladies and Gentlemen, Mr. Sunnen.

MR. REID: Did you say you got no preference on any of these bills?

MRS. KEY: That is right. The Committee is a corporate structure with a Board of Trustees that are mainly responsible for decisions.

AB 229 and AB 259 seem to be acceptable. Most do not favor AB 155.

MR. KEAN: If AB 155 did not have the section of the court would that serve the purpose?

MRS. KEY: I cannot say. I am not that informed as to the merits of each of the three bills.

DR. KEITH P. RUSSEL: Pres. American College of Obstetrics and Gynecology, 244 South Irving Boulevard, Los Angeles, California.

I practice and teach gynecology. I am grateful for the opportunity of giving you my views. The College of Obstetrics and Gynecology, of which I am President, has 12,000 members trained in this field. I am Clinical Director of this department of the UCLA. In these various activities over the past few years, my associates and I have spent much time on this termination of pregnancy.

I am here to urge your favorable consideration of AB 229 because it especially embodies those tenets proposed and expounded by the College of Obstetrics and Gynecology in May of 1968. This is a national issue, so far as the overall problem is concerned. I would emphasize that the American College is cognizant of its responsibility in defining standards and we feel that this issue of terminating pregnancies is within the realm of our duties.

The hazards of abortion are not appreciated generally by the lay public and even by some within the medical profession. Legislation should incorporate some of the standards for the care of these cases.

Reverend Emerson has covered the issues we agree with. 1. When continued

pregnancy will endanger the mother's health; 2. When pregnancy results from rape or incest; 3. When continuation of pregnancy is likely to result in the birth of a child with infirmities or mental retardation. These general concepts have the support of many prestigious organizations: American Medical Association, Parent Groups, and many others.

In recent legal activities in California we have accumulated the thinking of those most concerned with the teaching of Obstetrics and Gynecology. At one time we accumulated the signatures of over 200 prominent medical people who support legal abortion. Yesterday we had another one. The Deans of every single medical institution in California have signed this amicus brief. I can't believe that so many fine people would sign something that was wrong in its concepts.

We have now had more than one year of experience with our new law of November, 1967, in California. Approximately 5,000 abortions have been done under the provisions of the new law. Although no residency requirement is in our law, only two percent of these abortions were from out of state. 98% were California residents. The law can be so applied that a state which liberalizes does not need to become an abortion mill.

The third provision concerning deformed or damaged infants did not carry in California, due to political activities. The Governor indicated he would not sign it with that provision. 85% of those performed in California were performed under the mental health provision.

I again urge your favorable consideration of AB 229. This would put Nevada down as a forward-looking state.

MR. MAY: Re your remark that your law does not contain number three: I have prepared an amendment to require a 90 day residency. I feel that this is a Nevada problem, not a national problem. It is my personal reaction that should one of these bills be adopted it should include a residence clause and avoid having Nevada turned into an abortion mill.

DR. RUSSELL: I would not agree that this is just a Nevada problem. It is a national problem. So far as the medical aspects of your bill are concerned, I think it's a very good bill.

MR. ESPINOZA: Since you are a California resident, what is it you want us to do for you? Are you being paid to come here today?

DR. RUSSELL: In answer to your first question: I am here because the tenets embodied in AB 229 were based upon the policy statement of the National Society of Obstetrics and Gynecology.

In answer to your second question, I regret to say I am not receiving any pay. My plane fare here and back was paid.

MR. LOWMAN: Would you have any figures pertaining to the average cost of an abortion now in California hospitals?

DR. RUSSELL: It will vary, of course. In our analysis the average cost of a D & C in California is about \$150. Eight percent of our abortions were paid for by MediCal.

To give you additional information on costs, the medical fee runs according to how far along the pregnancy is and the amount of complications. If you add to that the hospital, you will add around another \$150 to \$200 for a patient for two days. The anaesthetist will add another \$50. If there is a consultation where two psychiatrists are involved, this may add another \$200. \$500 per abortion would come pretty close to it. It is not a poor man's law.

PROFESSOR HERMA HILL KAY: Professor of Law, the University of California at Berkeley. (Her Statement attached).

Let me say that I am interested in this problem as a student of the Law and as a woman. I am interested not only in California but in Nevada and all over the country.

My travel expenses are being paid but nothing else.

MR. FRY: Does the father have to consent?

PROF. KAY: You should have a clause giving the father the duty to consent if the man and woman are not living together. If they are living together, there is a difference of opinion whether the father should have the right to object to the abortion. My personal opinion is that you should not involve the consent of the father. It would be bad legislative policy to write that into the law.

MR. SCHOUWEILER: I have a question about the cases argued in California yesterday.

PROF. KAY: I was not there at the hearing. I did sign an amicus brief.

MR. SCHOUWEILER: Was the law being considered in California yesterday the old law?

PROF. KAY: Yes, the 1872 decision.

Doctor Donald A. Mohler was invited to speak but declined.

REVEREND PAUL GASTON: Pastor, Congregational Church, Las Vegas. (Entire statement is attached except for the following excerpt which Reverend Gaston read to the group).

I have a letter here from Mrs. Slattery to Senator Slattery. I have permission to read this small part of it. Mrs. Slattery comes from a family with several priests and a ways back a Pope.

"I hope the abortion bill passes. Now that tests can determine that the fetus is abnormal, imagine the agonization of the mother carrying a baby and knowing that it will not be normal but will be a "thing". This could lead to insanity or suicide. I wish you and Bishop Green not only had to give birth to a child but care for it all its life. Right or wrong I love you but you are wrong."

REVEREND SIMMONS: Las Vegas: I came at a sacrifice to let each of you know that it is my desire that AB 229 will reach the minds of our lawmakers.

I have lived in Las Vegas for 26 years and I love it but I don't love 141
so many things I see. On the streets of Las Vegas, it is children 3 to
running in the streets from morning till night, halfway dressed and
what not. When I talk with the mothers and the fathers they give me
some fancy excuses. If this law is not passed, 20 years from now the
Federal Government will not even begin to be able to feed and clothe
and educate all of the kids.

MR. TORVINEN: We will now hear those persons who have requested the
privilege to speak in opposition to our proposed law.

DR. ANTHONY CARTER; President Clark County Medical Association:

I come as a private citizen and as the president of the Clark County
Medical Society.

MRS. BROOKMAN: Are you speaking as a physician or as a representative
of the Clark County Medical Society?

DR. CARTER: I am speaking as a private person and as a representative
of the Medical Society.

(Dr. Carter's statement is attached).

MRS. BROOKMAN: What is your motivation in this matter?

DR. CARTER: My personal interest in the matter.

MR. LOWMAN: Do you have figures on the cost of abortion in Nevada?

DR. CARTER: I really do not have any information of any kind on that
aspect of the subject.

MRS. RUTH MCGROARTY: Clark County. Las Vegas mother of 4.
(Mrs. McGroarty's statement is attached).

DR. JOHN BROPHY: Practicing physician and surgeon in Reno.

I wish to speak in opposition. Neither I nor anyone else can state
the support for liberalized abortion by the Medical Association because
they chose not to give it.

The fetus is alive. A nondenominational conference on abortion came
to this decision. There is no evidence that life comes any later than
the implantation. The heart of the fetus is beating at the end of
four weeks. This is evidence of life. Geneticists consider the fetus
as being completely separate and apart from the mother. The proposed
laws come into conflict: Life vs. Health. Cases involving life vs.
life are already covered by Nevada law.

I did some research on what is going on in Nevada. Pregnancy from rape
is very rare. I have searched diligently and have found none in twenty
years in Northern Nevada. When a woman is raped, if she goes promptly
to the police, she is examined by a physician who removes sperm as
evidence and uses germicide to kill any remaining.

Under California law they have had 135 rapes last year, all pregnant. Some come in and say they were raped four to six weeks ago. They may blame an innocent young man who will be blamed or harmed for life.

The second area deals with the problem of deformities of the fetus. All diseases from which deformities come are being mastered. The Federal Budget allows \$317,000,000 to study these things. Immunization is being perfected for German Measles. 80% are normal and only 20% abnormal anyway. And not all of the 20% are badly deformed. How can you know which will be badly deformed? All other diseases which predict deformities have been conquered. The block of birth difficulties are unpredictable and are not known until after birth and with many of them we do not then know the cause. In 5,000 births only a few are deformed. This is not a massive, urgent problem at this time.

In the near future, there will be rearrangement of chromosomes and the ability to remove the fetus, treat its problem, and return it to the womb. In most cases, we should wait until the child is born to determine the deformity, and maybe until the age of two, and I hope that nobody here will pass a law on them to destroy them at that time.

Mental Health is a "catch all" which includes almost anything, even a too small paycheck.

How many women die from criminal abortion in Nevada? There was one death in the last 5 years and it was self-induced. Maternity deaths which would be prevented by this law would not be many, perhaps one or two a year.

How many abortions could be expected to be done? 140% of our present birth rate, according to figures from other countries. If this law is passed, the medical department of the state will have to pay for many of these.

This proposed law would be dangerous to our society. Human life would become a cheap commodity. I urge the defeat of all three bills.

MRS. BROOKMAN: What is your practice in medicine?

DR. BROPHY: I treat diseases of the ear, nose and throat.

BILL O'MARA: Chairman of the Right to Life Committee.
(His entire statement attached, except for the following).

We have the rights of the unborn child, the rights of the father, the right of the doctor to refuse to do what he considers to be unethical. There are many areas which have only one doctor. If the woman has the right to abort doesn't the doctor have the right to refuse?

Innocent human life should be respected and preserved and protected. We have two major cities in Nevada. In the outlying areas, there would be the problem of accredited and licensed hospitals. You talked about medical provisions. Only in an accredited hospital are inspections allowed and records opened. You are limiting all rights on this to just the woman and the doctor.

Some take the position of reform legislation, thinking it will solve the problem of illegal abortion. If reform is the issue, how can you be sure it will not be "abortion by demand?" There is a movement afoot in California to do just that.

If legal abortion is accepted, who is going to pay for it? In California they do not make any exceptions. Lumps all economic situations together.

Family planning services are available to help people prevent unwanted births. It doesn't say just unwanted pregnancies.

A word about the doctor from California who mentioned the D & C. This is what we call Dilation and Curettage. I would like to tell you what happens with this. Two women both pregnant go into the hospital. One lady has decided to keep her baby and one has decided to eliminate hers. They go to the hospital, are cleaned and prepped and taken to surgery, and put on the table. With one, a child is born. With the other they take a curette and place it inside the womb which has already started becoming soft for the child. This wall is very easy to puncture. If a wall is punctured the normal procedure is to do a hysterectomy at once. One comes out without a baby and one comes out with a baby. What does your cultural society tell you about this?

MRS. BARBARA KAY: Reno. Catholic Women.

I am representing a federation of over 50 organizations in the state of Nevada. I am representing at least 10,000 women. This Resolution was adopted unanimously in Tonopah. (Read Resolution against the three bills).

No one can predict the deformity because of disease or method of conception. We recommend social legislation rather than any liberalization of the abortion law.

JOAN O'CARROLL: Las Vegas: Registered Nurse: I am a registered nurse in obstetrics.

Why should a St. Louis man be interested in spending so much to get abortion in Nevada? Could he maybe be expecting to get returns on his investment? Will we in the State of Nevada allow them to use us as guinea pigs?

NOAH SMIRNOFF, M.C. Reno: I have been a practicing physician in Reno for 39 years. I want to express my feeling toward repeal of the abortion law. As a private citizen, I would like to ask that this law not be repealed.

THERESE ANN DUNN: LAS VEGAS: I would like to ask the members of the Legislature to let these bills die. I have been a registered voter of Nevada since 1953. I am in agreement with all the speakers who have been in opposition.

One point personal to me: I am the mother of two adopted children and they are a source of great joy to me. To those who say don't make

the mother bear an unwanted child I say, let them bear them for us who can't have children. A pregnant woman is sustaining life. We must help sustain life in diverse ways. Let us sustain life rather than death, since life is all we know.

JOSEPH KAY: Chairman of Legislative Committee of Knights of Columbus.

We have consistently opposed any liberalization of the abortion laws of the state. In 1967 we specifically opposed the change then, which is AB 155 now and we want to go on record as opposing these other two also.

BETTY BELL: President Private Nurse Association: I am not representing my colleagues. I speak for myself. I am against any liberalization of the abortion law in the State of Nevada. Any legislation should respect the rights of every person, born and unborn.

I am also the proud mother of seven.

RUTH ARDEN: Reno: I am obviously in a position to know about the problems of pregnant women. Please consider this carefully.

MARY ANN WILLIAMS: CALIFORNIA: I think there is nothing worse than making a woman bring a child into the world and an environment that is obviously catastrophic.

KAY KOCH: Las Vegas: I am a mother and a teacher. I have seen many children from different environments. Their answer is not abortion but welfare laws to take care of them.

NANCY CAME: Reno: I am against any liberalization of the abortion law. I feel very deeply that we should not play God with the life of any child. We all support each other in love and charity and when we deny the rights of the unborn we all suffer.

GWEN WEEKS RAYNOR: Las Vegas: I stayed to represent the group that had to leave early because of the bus. We want the rights of women supported.

KEITH LOCKARD: This is vitally important to me because I am a young married person.

How can we rationalize that a woman who is taking contraceptives which are not perfect and we have given her the right to limit the size of her family that way but she still gets pregnant. How can we deny her then? My wife is in complete agreement with me. If she became pregnant and we felt it best, we would seek the aid of an abortion.

I support AB 259.

MRS. ROBERT FINDLAY: Yerington: I favor liberalization of the abortion law

MRS. ROBERT PERKIN: Yerington: I am in favor of the liberalization of the abortion laws of the State of Nevada.

MR. TORVINEN: I want to thank everyone for coming and giving us the benefit of their thoughts and knowledge and experience, to help us in our consideration of these laws. Meeting is adjourned. 5:20 P.M.

MARCH 5, 1969

Prepared by Professor Herma Hill Kay,
Professor of Law, The University of
California, Berkeley

Mr. Chairman, members of the Committees. I have been invited here to share with you my views as a lawyer on the bills you are considering today. Before turning to purely legal matters, however, may I first say that I think two of the bills before you are the best and most progressive measures that have as yet been presented to any state legislature for action. Both AB-229, which embodies the recent position of the American College of Obstetricians and Gynecologists, and AB-259, which frankly recognizes that abortion is a medical, rather than a legal question, go substantially beyond the more conservative statutes recently passed in California, Colorado, and North Carolina. The enactment of either of these measures would, in my opinion, be a creditable achievement for the State of Nevada. I do not support AB-155. I would like to congratulate the proponents of those measures on their vision and leadership in this important and complex area of the law.

It has been argued elsewhere, and it will doubtless be argued again here today, that any statute which allows abortions for indications other than the preservation of the life of the mother is unconstitutional because it deprives the fetus of life without due process of law. Moreover, those who oppose the current national effort to liberalize abortion laws have frequently argued that the extension of legal personality to the fetus necessarily means that the fetus must be protected against its destruction through abortions that are not required to preserve the life of the mother. With your permission, I should like to consider these arguments with you for a few moments.

No case has yet been found that squarely holds that the fetus is a "person" within the meaning of the Due Process Clause so that its abortion is a violation of that Clause's protection of all "persons" from their deprivation of life, liberty, or property. Nor, as I understand the argument, do the opponents of liberalized abortion statutes contend that any such case exists. Rather, they seek to argue by analogy that cases which accord certain rights to the fetus for the purpose of property law, tort law, and support law establish that the fetus is a

human being entitled to protection under the due process clause for the purposes of the criminal law. I would like to suggest that these precedents have been extended beyond their original meaning for the purposes of this argument and that the analogy does not support the conclusion for which it is offered.

Cases that protect the right of a fetus conceived prior to the death of its ancestor to inherit property as a member of a class "in being" at the testator's death or as a posthumous child "living" at the parent's death normally apply only to those fetuses who are subsequently born alive. Similarly, Dean Prosser's discussion of the tort cases dealing with prenatal injuries, which has been widely relied on, carefully notes that most of the cases in which recovery has been allowed are cases where the fetus has been born alive and is thus able to maintain its own action for personal injuries. There is a split of opinion on the question whether an action can be maintained by those who survive the fetus for its wrongful death if it is not born alive. I have not heard any suggestion that a representative be appointed for the estate of an aborted fetus who might sue the mother and her physician for wrongful death. By 1964, the date of Dean Prosser's latest edition, seven states had refused to allow recovery and eight had permitted recovery. A more recent ALR annotation reports that the wrongful death action is generally not permitted unless the fetus was viable, and thus capable of independent life, at the time it was injured. On the question whether an action is allowed even if the fetus was viable at the time of its injury, there is still a difference of opinion. ALR's count shows 15 states permitting the action and 10 states (including California and New York) refusing to allow a suit for the wrongful death of a viable fetus.

A third group of cases frequently cited are those allowing suit to be maintained on behalf of the unborn fetus against a parent, usually its father, to obtain support in the form of prenatal care for its mother. This group of cases recognizes the father's duty of support prior to the birth of the fetus. No one has suggested, however, that the court's order granting such support is thereby res judicata of the right of the fetus to be born alive: presumably, such an order would not prevent a later abortion that might be necessary to preserve the life of the mother. Moreover, the principle seems to have developed because the father has no duty to support the woman who is carrying his child, unless he is married to her. The duty to the fetus is his, the only way of assuring adequate prenatal care to both mother and child.

None of these three groups of cases appear to me to establish the proposition that the fetus has a right to be born that must be preferred to the mother's right, in consultation with her physician, to have an abortion. At most, the cases recognize that the fetus has been accorded legal personality for a few specific purposes. But a corporation as well has legal personality. The difference, of course, is that a fetus will normally develop into a human being while a corporation will not. But the mere recognition of legal personality of itself does not automatically lead to the recognition of greater rights, particularly when those greater rights are asserted in the face of countervailing rights possessed by the mother.

The more difficult cases relied on to establish the right of the fetus to its life are of two kinds: those, like President and Directors of Georgetown College, 331 F.2d 1000 (1964) which order blood transfusions over the objections of a pregnant woman and her husband to prevent the mother from dying and thus to save the life of the fetus, and those, like Williams v. State, 276, NTS 2d 885, 223 NE 2d 343 (1966), which refuse to recognize a cause of action in a child born alive for its "wrongful life". It seems to me that these cases are strikingly different from the abortion problem. In the blood transfusion cases, the interests of mother and child are identical. Both will be sustained in a healthy life only if the blood transfusion is ordered. In the abortion cases, however, the interests of the mother and child are antagonistic: the mother's life or health will be threatened unless the pregnancy is terminated. As in the child support cases discussed previously, it would not be inconsistent with such an order to permit an abortion if at a later stage of pregnancy the mother should need that treatment for her own protection. Nor do the "wrongful life" cases require that the fetus be born. Rather, they merely refuse to recognize that the plaintiff, who is alive, can hold another person liable in damages for the conditions under which he must live.

CONCLUSION

In conclusion, let me say that I do not feel that there is any constitutional objection to any of the three bills before you. You should consider them purely on their policy merits. You have authority to enact any of them.

Senator Anthony Beilenson, of California, in presenting his more modest bill

to the California Legislature in 1967, pointed out that abortion laws had been enacted in large part by male legislators. I was most encouraged to find that the two measures I am supporting today were introduced by women. This is a matter on which women's opinions are entitled to great weight. The most precious right any child can be given is the right to be born to a loving mother. Except emotionally, making a woman pregnant does not make her a mother. Any woman who comes to the terrible decision to have an abortion is giving up the chance of becoming a mother due to some other, more immediately pressing, reason. To arrive at a wise choice, she needs the help of her physician and, if she so desires, her spiritual advisor. In my view, she should not also be required to consult her lawyer.

by Roy U. Schenk

Roy U. Schenk, Ph.D., is a research associate in somatogenetics at the University of Wisconsin.

The moral issues involved in contraception and divorce are currently being discussed with substantial probability for changes in what are presently accepted as the Catholic Church's traditional stands. The church's current stand on the issue of abortion appears equally worthy of examination.

Since contraception involves prevention of the conception of a new and unwanted embryo, while abortion involves the subsequent destruction of the embryo or fetus, contraception certainly has less arguments going against it than does abortion. However, unwanted conceptions do occur--many millions per year if we may judge from reports of countries permitting abortions. Without the escape of abortion, then, millions of unwanted children brought into this world are very often doomed to a life of misery. Indeed, the lifetime of misery facing so many of these unwanted children makes one wonder if the most serious sin associated with sex might be giving birth to an unwanted child. One does hear the argument that these children are being brought into the world ultimately to help fill heaven. But I cannot believe that God needs such cruel means to achieve this end.

However, at present we do not appear to be prepared to acknowledge a moral justification for directly and intentionally taking the life of any innocent person. And it is on this basis that abortion is normally condemned. Unfortunately, the concept that the fertilized embryo is already a human person is being increasingly questioned in the light of work which I and other biologists are performing.

Increasing evidence is accumulating that almost any cell of an organism is totipotent--that is, capable of producing another complete, genetically identical organism. Already today we can produce complete new plants from single cells of many plant species. Due to the more complex requirements of animal cells, complete animals have not yet been produced from single somatic or body cells; but this appears to be only a matter of time--a decade or two at most. The complexity of human embryogenesis will probably delay for a further decade or so the growth of new human persons from body cells (e.g., cells from a piece of skin).

However, the evidence seems overwhelming that this feat will be achieved and even perfected to the point where it will be possible to completely separate sex and reproduction, though whether women will want to give up bearing children is another matter. Parenthetically, one might note that separation of sex and reproduction, partially true already today, will itself further challenge our ideas concerning sex and marriage.

If the totipotency of a major portion of body cells is accepted--and this seems an almost inescapable conclusion at present--the fertilized ovum loses its claim to uniqueness. One then has to treat each body cell as potentially and essentially a human person (and thus cease all surgery) or one has to reject the concept that the fertilized ovum is a human person.

Actually, the fertilized ovum cannot be a unique human person since identical twins (or two human persons) can be born from a single fertilized ovum. Thus it would appear that the intrauterine device (IUD) or loop, and the "morning after" pill currently being developed, which both evidently work by preventing implantation of the fertilized ovum, would not be immoral on the basis of the destruction of a human person. Of course this alone does not mean they are moral either.

If the fertilized ovum is not immediately a human person, we are left with the serious question as to when the developing fetus does reach this stage. Since the more typical abortion takes place between the second and sixth months, preferably before the fourth, one must ask whether the fetus becomes a human person during this period of development.

For an answer to this question, we may turn to the ideas of the late Father Teilhard de Chardin. In explaining the evolution of man from lower animals (a theory which seems to be an inescapable reality based on modern scientific evidence), he proposes in his book The Phenomenon of Man that the brain, and specifically the cerebral cortex, of a strain of primates continued to develop in size and complexity until it reached a level of complexity which permitted consciousness or self-awareness. He maintains that this resulted in a unique, qualitatively different species--man.

The brain of modern man has, of course, advanced far beyond this break-through level. However, the point is that each human fetus progresses through a continuous series of developmental stages and ultimately passes through this level of complexity at which self-awareness becomes possible. It seems reasonable to propose that this is the point at which the fetus changes from a potential to an actual human person. Embryological studies on the developing cerebral cortex suggest that this level of complexity is probably not achieved before the sixth month of development.

This concept, interestingly, is similar to the ideas of St. Thomas Aquinas, who proposed that the fetus acquires its soul in stages--the first the vegetative, second the animal, and finally the human soul. Aquinas evidently thought the human soul was acquired at about two months of development, probably based on the fact that the fetus takes on a recognizably human shape at about that time. It was largely on the basis of St. Thomas' ideas that the church permitted abortions during most of the period from the thirteenth century until about a century ago.

Again it must be noted that disproving the idea that abortion is the killing of a human person is not the same as proving that abortion is morally permissible. However, the arguments against abortion have stressed the dignity and importance of each human person; and if a fetus has not yet become a human person, then it would seem that the other persons involved, and particularly the mother, should become of major importance.

In the case of a woman made pregnant by rape, for example, removal of the unwanted fetus seems far less cruel than forcing the woman to carry this unwelcome burden for nine months. Indeed the carrying of any unwanted fetus for nine months can and probably invariably does have serious emotional and psychological effects on the mother, as well as the child. I am not sure that an ethic of love, which Christianity claims to be, can justify or even continue to tolerate such exquisite torture.

On the other hand, one must also consider the deleterious psychological effects that an abortion can have--particularly on the potential mother. However, studies in several countries which permit abortions have indicated that these are not intrinsic effects, but rather they appear to depend on the conviction that abortion is sinful.

It is often argued that restrictive laws are necessary to protect society's interests in this problem. But if legislation is needed and if abortion is not murder as this article has argued, then it seems that any legislation should logically be directed toward the facilitation of abortions which would decrease the numbers of unwanted and unloved children born into the world.

It can, of course, be reasonably argued that we cannot be absolutely certain as to when the fetus becomes a human person and that therefore prudence would dictate that we take the safer course and reject abortion. However, we must surely balance against this possibility, the probabilities of such things as the misery of the unwanted child and the mental torture of the woman bearing an unwanted fetus. Surely prudence would dictate giving substantially greater weight to the more certain evils.

For most Catholics there appears to be an intense barrier to thinking through problems related to sex. This is understandable since the church authorities in the past have projected such rigid, no-room-for-argument attitudes that one seemingly did not dare even let one's mind dwell on these problems. As a consequence, even today we do not really honestly acknowledge the beauty and goodness of sex and sexual intercourse. We still tend to look on it as tolerated because of the "weakness of our flesh": Okay, so you had the pleasures, so now take the consequences! I suspect that this is the result of a subconscious attitude of theologians suffering under the burden of compulsory clerical celibacy. (Not that celibacy is bad, but rather the compulsion.)

Actually, it is this same compulsion associated with the church's stands on celibacy, contraception, abortion, divorce, as well as other issues not even associated with sex, which seems to be a most unfortunate characteristic of the church today. And I do not see this characteristic changing to any great degree, or even being recognized by most persons as needing changing.

A missionary working in South America told me during a recent visit to the States that he had yet to meet an American Catholic who is a mature Christian--a person prepared to make and to accept the responsibilities for his own decisions based on the teachings of Christ. Like little children, we have simply done what we were told and asked no questions. But where is the merit in this, where is the grace to be gained if one does not face up to the agonies (and the errors) of making one's own decisions?

I am increasingly wondering if we should work to eliminate restrictive laws which remove the possibilities, and the opportunities, for people to make their own decisions in these matters. I believe such laws, by forcing conformity, show a lack of faith in the ability of mature Christians to live as Christians if given the chance to choose.

BUSINESS of

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229
259

1.

I got into ^{REAL} this Abortion Law reform of necessity. ~~I am a most reluctant champion of this cause.~~ Ministers are learning in ~~our time~~ that it is part of their role to speak for the helpless ~~ones~~ in our social order...those who have no voice, no power block. And this is certainly true of women with unwanted pregnancies. My conversion to the cause came when a hysterical mother confronted me with her 15 yr. old daughter who had been impregnated by her own father. There is simply no other answer to this real life tragedy than abortion. Since then I have been faced with scores of situations that have made me aware that I cannot live by the law of this state and be a self-respecting, compassionate minister of God.

But Abortion Law Reform is not unique to this State. We need to see that this is but a tiny part of the whole picture. Several other countries have already passed enlightened legislation. Eight of our own states have updated their laws, and 30 more are voting on change this year...all to liberalize or abolish all laws that make medical-hospital abortions a crime. And it is interesting that none of the countries or states have regretted or rescinded their actions. In fact, after the scare is over that catastrophe will strike if we liberalize these laws, the ^{PURELY} move everywhere is to go further in the direction of making this a medical matter. We are about to pass another significant milestone in human history when one of the last and most tragic discriminatory laws against women will be rescinded and she will be given full rights over her own person.

Have our laws against abortion been ~~xxxxxx~~ effective ~~at all~~? Do they really work? It is doubtful that they retard the securing of abortions in any significant way ~~xxxxxx~~, except among the poorest members of our society where this kind of help is needed most. ^{1000 will 905} ^{ABORTION} Writing in the Jan., 1969, edition of SCIENTIFIC AMERICAN the world's foremost Biostatistician, Dr. Christopher Tietze, says abortion is still the most widespread...method of fertility control in the world, about 30 million a year in the world, and 1 million in the U.S., the vast majority of them being illegal. Dr. Jerome Kummer, psychiatrist, professor of psychiatry in the UCLA School of medicine says, "Any woman, with internal and external stresses accruing beyond a given level, will seek and secure abortion." I have started a Clergy Counseling Center in Las Vegas to help women who are distraught, and even suicidal, over an unwanted pregnancy. I put a blind ad in the newspaper and had over 100 calls in the first 10 days... almost everyone of them wanted quick, ~~easy~~ information about the nearest abortionist. ^{most of them will find an abortionist} The only people the law is really benefiting is the untrained, non-medical abortionist who is getting ridiculously fat because he has no competition.

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2.

All of the laws in the U.S. have not made a dent in the increasing numbers of abortions being sought. It is the third largest illegal activity in the U.S., after gambling and drugs. There is one illegal abortion for every five births. 70 % of all pre-marital pregnancies are ended by abortion. Yet they are in the minority of those who seek abortions. About two thirds of them are married women with children, their problem is economic and environmental, but it is drastic enough to cause them to risk their lives for the sake of the family unit which would suffer if another baby came along. A 1% defect in the birth control method (which is what the pill amounts to) would cause 220,000 unwanted births a year. The right to plan families by the use of contraceptives (which the Supreme Court has upheld) is different in but the smallest degree from the right to do so when contraceptives fail. The "morning after" pill will establish this by general acceptance.

As a Christian minister, I would like to speak briefly about the moral issues that are involved, and then the theological. It seems to me that if the law of our state makes pregnancy compulsory, we must then accept certain responsibilities for the welfare of these women during their pregnancy, and for the children after their birth, if they cannot be cared for adequately otherwise. HOMES FOR PREGNANT MOTHERS, HOSPITAL COSTS, INSTITUTIONS TO CARE FOR THE UNWANTED, UNLOVED ONES WHO ARE REJECTED, LIFETIME CARE FOR THE DEFORMED AND HELPLESS.

It seems immoral to me to invade ^{By law} the privacy of married persons, to make for them a personal, intimate, crucial decision, even when it may involve ~~xxx~~ ^{ABNORMAL} the birth of a ~~deformed~~ child, and then assume no responsibility for our actions. It seems immoral to me to force a woman by law to bear the offspring of rape or incest.

- Mrs. SLATTERY'S LETTER TO SENATOR SLATTERY -

There once was a need for Abortion laws. They were not written for moral reasons as much as for Public Health reasons. The medical profession could not offer safe, reliable techniques, and most women would suffer mutilation in the process of clumsy abortion attempts. Also, it was morally defensible then to produce large families because children were an economic asset. Neither such reason applies today.

^{Opposition} ~~THE FETUS A UNIQUE HUMAN BEING~~
IS ABORTION MURDER? No death certificate, do not bury, do not baptise up to four months. Rules of Pathology in hospitals declares the fetus to this point laboratory tissue, and it is disposed of accordingly, like a gall bladder, or a brain tumor, or any other living tissue that is removed from the body.

30% or more of fertilized eggs are passed from ^{The female} ~~female~~ ^{mostly} ~~mostly~~ ^{and her} ~~and her~~ ^{Kramke} ~~Kramke~~ ^{eggs} ~~eggs~~

Mormon Leader Unopposed To Therapeutic Abortion

A stake president of the Church of Jesus Christ of Latter-day Saints (Mormons), said Tuesday night that he knows of no tenet of the Mormon faith which prohibits legal abortion.

Glen H. Judd, of Sparks, president of the North Reno Stake, said he knew of no basis for some recently published insinuations that Mormons are opposed to the liberalizing of Nevada's abortion law.

"I know of no directives from the general authorities of our church which would oppose therapeutic abortions.

"One of the tenets of our faith, in fact, is honoring and sustaining the law. . . (and) if the legislature were to approve a liberalized abortion bill, I see no reason why Mormons would not support it."

Judd said that, while he could not speak publicly as to any position which his stake might take on this matter, "I personally believe that there is justifi-

able reasons for liberalizing our abortion law and I am certainly not unalterably opposed to it."

Public hearings on proposed bills which would change Nevada's existing abortion law which permits abortion only to save the life of the mother, are scheduled to begin today in the legislature.

It is plainly futile to make predications of the nonexistent. Every child that is aborted (or not conceived) might have been a Beethoven—or, equally likely, a Hitler. Much more likely, it would simply have been another Caspar Milquetoast, of which the world already has an ample supply.

The Promiscuity Issue

ONE OF THE TWO most widely urged reasons for not legalizing abortion is that to do so would be to invite promiscuous behavior among our young women. (Notice that our young men are almost never mentioned.) Does this argument imply that without easily available abortion, unmarried women will not indulge in coitus? Such an inference is hard to sustain in light of the frequently noted fact that at least 25 percent of our young brides are pregnant when they appear at the marriage altar. It surely cannot be maintained that fear of pregnancy is a *strong* deterrent to sexual intercourse.

However, neither can it be maintained that it is no deterrent whatever. More cogently, it should be pointed out that if we want the risk of pregnancy to be a deterrent to intercourse we should make it illegal for unmarried people to buy, possess, or use contraceptives. The minority of people who wish so to restrict contraceptives becomes smaller every day. Since we are not willing to control contraceptives in order to discourage promiscuity, we can hardly justify the prohibition of abortion on this ground.

In truth, it is not promiscuous behavior that produces unwanted babies so much as it is virginal behavior—or, more accurately, almost-virginal behavior. "Bad" girls don't get pregnant; neither do angels. It is "good" girls who get pregnant. Genuinely promiscuous girls know better. A statement made by the late Alfred Kinsey supports this contention:

In regard to the unwanted pregnancies that come outside of marriage, in our experience these more often occur among the religiously devout who set out on a date with the determination that they are not going to be sinful

REV. LESTER KINSOLVING

JEUIT Theologian - TIELHARD de CHARDON
PHENOMENON of MAN

Cerebral Cortex NOT SUFF. DEVELOPED To
FUNCTION UNTIL 6 wks.

By Hospital Rules - To
20 wks. - TISSUE PROTOPLASM
Disposed of in LABORATORY

Some Jesuits Back New Abortion Laws

The current nation-wide drive to liberalize state abortion laws has developed one of the most remarkable twists in recent ecclesiastical history: Jesuits who are pro, while Protestants are con.

THE JESUIT development appears to have begun two years ago when Father Robert Drinan, renowned Dean of Boston College Law School, wrote that "If the only choice is between a law that would permit abortions in rare cases of rape, incest, or a predictably deformed infant and a law that would legalize abortion generally, the Catholic's election is clear."

This departure from his church's total opposition to abortion by so prestigious a leader of its best-educated order apparently opened the way for additional comment. Father Thomas Wassmer, Professor of Moral Philosophy, Ohio University, observed:

"It is difficult to understand how the rational soul as the substantial form of a real human body can be present when the human body is not real but only virtually present in the cell or aggregate cells."

FATHER WASSMER also contended that the idea of a rational soul being present at the instant of conception is dualistic (the idea of a distinct separation of the body and soul with the body generally regarded as inferior)

and was condemned by the Council of Vienne, in 431 AD. He went on to mention the unavoidable spontaneous abortions that so frequently take place during the first weeks of pregnancy, often without knowledge of the woman — and, in connection with these, sighted famed Catholic theologian Karl Rahner's observation that if every fertilized egg was human, there are many more people in Limbo (traditional abode of the unbaptized) than in Heaven and Hell.

Meanwhile, still another Jesuit, Father Joseph Donceel, Professor of Philosophy at Fordham, had observed that "a slowly increasing number of Catholic thinkers are returning to the position of St. Thomas Aquinas, who held that there is no human being at all during the first few weeks of pregnancy, when most of the abortions mentioned by Father Drinan are performed."

By striking contrast, the late Protestant neo-orthodox theologian Karl Barth, in his monumental Church Dogmatics, held:

"THE UNBORN child is from the very first a child."

Yet in the next sentence Dr. Barth described a condition which is hardly tolerable in any civilized concept of childhood:

"It is still developing and has no independent life."

In the very next sentence,

he appears to have confused the situation altogether, by contending that "It is a man, not a thing, nor a mere part of the mother's body ... he who destroys a germinating life kills a man."

ASIDE FROM the possibility that this child-man might be Karla instead of Karl, Dr. Barth's attributing of personhood to "germinating life" would seem to beg the question as to why he did not also oppose contraception, which quite definitely spells the demise of at least one living and potentially human entity called the sperm. ("One half a potential unborn child"?)

In Germany, Protestant theologian Helmut Thielicke has defined abortion as "feticide" and described it as "The murder which does not begin with the active killing, it begins with the renunciation, the wishing away of the embryo. For here is a person who refuses to say yes to a gift bestowed by God."

From the standpoint of a 13-year-old victim of gang rape, or any pregnant woman faced with the ordeal of giving birth to a microcephalic, Doctor Thielicke's reasoning appears similar to those who once denounced Doctor Paul Ehrlich for improving the treatment for syphilis — on the grounds that this interfered with God's punishment for sexual promiscuity.

Origin of life

being: existence or something that exists; potential - possibility of existence
 ∴ Potential human being is a misnomer + contradiction

8 days after intercourse fertilization and implantation have occurred and genetically unique cells can be differentiated

∴ this is a human being - individual chromosomal structure and independent life

Ask any lady who is a "little bit pregnant."

The law recognizes the property and injury rights of an unborn child how can it then deny him his most basic right; The right to life.

Mythology of abortion reform

Myth: 1,000,000 illegal AB's in US yearly - and 10,000 deaths - all are
 7; 600 bed hospitals full time 247 deaths 1964 all abortions
 Research indicates figures come from Margaret Sanger from Vital Statistics
 birth control clinic 1925-1929 N.Y.C.

Myth: Push the back street abortionist out of business

Sweden 4500 - 12,000

Denmark 5000 - 12,000

Japan 1,000,000 - 2,000,000

Truth shows increase of illegal matches increase of legal R.P.

Myth: Abortionist law will not turn state into an abortion mill.

Headline Hollywood Citizen News, Calif. abortions increase 800% in Calif
 Sept 1968

Myth: Proposed changes are "medical" indications for abortion by Abg-2yr

1: Psychiatric indications are interpreted not as something which threaten a woman's sanity but ^{an undue psychological burden} ~~is an undue psychological burden~~ in some way making it a socioeconomic indication and not medical at all

2: Paper - legal term, easy to allege, difficult to prove outside the competence of the M.D. an unworkable provision

3- Fetal indications: Misnomer fetus could not benefit from his own destruction. Indications when deformity of the fetus is present. Who is to determine how much deformity is acceptable, who is to die. Do we intend to purify the race? So did Adolph Hitler. Indication here is maternal convenience

Truth: we have a law which allows for the protection of the mother when the fetus presents a valid medical threat to the life of the mother.

C.C.M.S. voted against the R.B. ¹³⁷ as proposed at the Oct 28 general meeting

A.S.M.A. House of Delegates Nov 1 voted to take no stand

No one can help but sympathize with the problems mentioned, not fail to be moved by human suffering; the question remains "Can these ^{good} ~~problems~~ justify the

SUMMARY AGAINST PROPOSED ABORTION LAWS

1. Individual human life is present at or soon after conception, according to genetics.
2. At no time after conception is the fetus part of the mother.
3. Pregnancy from rape is extremely rare if it is a real criminal assault.
4. All predictable birth defect diseases are coming under control and being eliminated.
5. Most birth defects (85%) are not predictable.
6. Research into the new science of fetology to correct birth defects is solving previously unsolved problems.
7. If the law allows destruction for a possible birth defect, it would be just as logical to destroy children with birth defects - and just as terrible.
8. Physical health of the mother under the present law allows abortions in some cases and other diseases can be controlled.
9. Mental health has become a catch all for all types of problems. Actual suicide is less among pregnant women than any other group.
10. Nevada has from one to seven deaths among pregnant women - from all causes. None from criminal abortions in the past five years.
11. Up to the 11,000 abortions a year in Nevada can be predicted under the "abortion on demand" law among residents - many more from out of state pregnant women.
12. Criminal abortion does not cease, but continues or increases in countries and states with liberalized abortion laws. (Denmark-Sweden-California)
13. These laws create a dangerous trend toward reasons for ending human life.
14. Tax funds from the welfare department will be needed and used to finance abortions for medically indigent if legalized. Cost is unknown.

I am Ruth M. Gentry from L V Nevada, a
mother of 4, a humanitarian and a business
woman. I note here today that no
speaker has spoken on the emotional
issue involved ~~which cannot be ignored~~. ~~On this I shall speak.~~
~~I do not think this subject should~~
~~can be treated at party.~~ On this I
shall speak.

I am voicing my opinions today as a mother of four, a humanitarian and a business woman.

Don't see to approve the proposed abortion law.
statin
 My family and I love Nevada and have lived through the hard times when our image was other than a savory one. We have joined thousands of local citizens through organizations such as March of Dimes, Cancer, City of Hope, etc. to help humanity, not destroy it.

It is with irony that I note the Legislature rejected the proposed lottery law because it might effect the image of Nevada. How could they possibly be considering legalizing abortion in our beautiful state? Is not the life of a human being worth far more consideration than a lottery law?

Those of you who have lived through the Sin City image era know the long hard pull it has been to defend our state so that we are now known as The Entertainment Capital of the World. Let's have tourists continue seeking our cities for laughter and fun rather than seeking it for clinical reasons. I realize this is a gambling state but can we afford to 'lead the nation' or have 'Nevada lead the way' as has been suggested by the proponents of this abortion bill.

Groups of businessmen from all over the state have made many trips to other states trying to learn additional industry to our state. What reason were they given for not wanting to come under present conditions? None. The most often given is the lack of culture - a comp. university, art, music etc. They are now working on a university. We are pushing for more culture in the arts. Industry is now taking a second look in our area and we are on the brink of the greatest prosperity in the history of Nevada. I say, economically, we cannot afford to give further consideration to the proposed abortion law.

Before we gamble such a position in the nation, we should carefully observe the effects of legalized abortion in other countries and states and profit by their experiences. After you have done so, do you honestly feel that legalized abortion has been the answer to any of the problems of the pregnant woman? Wouldn't we be actually harming the pregnant woman rather than helping her? Instead of building clinics to help destroy human life, wouldn't we be more humane to build clinics to help a woman before her pregnancy to make a decision on unwanted children and aid the pregnant woman in her temporary distress rather than legalizing a way for further complications for her

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and perhaps treating her in later years in a mental health clinic or for health per-
manently impaired by surgical abortions performed under hospital supervision? I know

of no one who does not feel compassion for the pregnant woman who feels despair because
of her condition...but for her sake let's give her the help she needs to insure her a
healthy and happy future...not one perhaps filled with deeper despair and consequences.
Legalized abortion is not the answer as has been proven by the monstrous problems
other countries are experiencing by legalized abortion...but time could be the answer.
Just a matter of 9 months of patience on the part of a woman and compassion and help
on the part of society during this time. If a decision for an unwanted child cannot
be made before conception, then let the decision be made after the unborn child has gained
his God-given right to life. Who knows, after the child is born and the mystery of life
has been experienced, this woman may grow to love this human being she cradles in her
arms. Wouldn't this be a more humane solution for all concerned?

2

Heun! forgotten

the older in 1837

the older in 1837

-You have seen a film on the many reasons why this proposed abortion law must not be passed...the right of the unborn, etcetera, etcetera...but another very important reason looms up before us...what of our many deformed children and adults across the country today who are leading a life to the best of their capacity...what of the blind who cannot read the papers but can hear television commercials telling that deformed people should not be born and have no right to life...what of the people who cannot hear but can read the articles that say the same thing...or the ones who cannot walk but can read and see and hear...yes what of these human beings who were born deformed...Helen Keller who served her purpose in life as the greatest inspiration that mankind has ever known and was given her right to life by the 'miracle worker'...what of our local great basketball athlete at MSU who was born deaf but plays an outstanding game and of the students who have learned sign language in order to communicate with him...does he not serve as an inspiration to these young people...what of the famous baseball player who was born with but one arm but was an inspiration to all athletes...what of the paraplegics who play their own standard of basketball in wheel chairs...yes...what if...~~that if~~...one could go on for hours naming famous people who have contributed greatness to our whole of society even though they were handicapped...but who by this very proposal before us now, they would have been destroyed. We must let these people know that they are wanted...what must be passing across their minds today when they either see, hear, or read that we are so fed up with taking care of them or we feel they contribute absolutely nothing but financial burdens to us but by passing this law, we will assure our normal children they will not be faced with such a 'burden'...when is a burden really a burden...one thing that vividly crosses my mind is the statue of the boy carrying another boy...with the by-line "he's not heavy, he's my brother."

Instead of thinking of legalizing a bill that will result in the building of clinics designed for destroying humanity...let's build clinics to help alleviate the grave physical or mental defects that the unborn child might possess upon birth and provide financial assistance to those who would otherwise be unable to take care of their children. These children so afflicted can be taught to help themselves but more facilities are needed. We are the richest nation in the world...we have the money...we have the time...but do we have the love in our hearts and the compassion for which we Americans are known to speak out in defense of these children?

In researching pros and cons on legalized abortion, I feel the proposed Abortion Law now before the legislature is like a slab of swiss cheese, full of holes!

There is a moral issue involved which anyone with a conscience cannot ignore. Life is too precious to say that anyone has the right to say whether a human being will live or die. This law, as proposed, is merely putting a foot in the door which will have more repercussions than the atom bomb on Hiroshima. It is certainly not far-fetched to say that it is the beginning of a vicious pattern of mercy killing. Is it not the continued arguments of those for the abortion law that it would be merciful to take the life of an unborn child rather than let it live and lead an unhappy life?...so you shall foresee the child's unhappiness and take measures to see that he does not have to suffer by being born? I don't know a doctor, a lawyer, or a judge who would be a party to this scheme ...yet we are asking that they sit in judgment on who shall live and who shall die...that is because the life they will be judging does not belong to the woman who conceived it. If a woman had the right to take the life of her unborn child through abortion, then there would be no need to obtain an order in District Court to perform such an operation. The authors acknowledge by this very portion of their bill that there is another life other than that of the woman concerned...that of the unborn child. We can put aside all the controversies about when life begins, etc. because that is not an issue in the proposed law. Our constitution guarantees all rights of all human beings regardless of race, creed, or color...it says nothing about limiting it because of age, being born or unborn, or if born deformed...it says ALL HUMAN BEINGS. It is with this in mind that I say woman has her God-given and constitutional rights to bear as many children as she wants or not to bear any at all...this is her freedom of conscience. However, the decision in this matter should be made before conception, not after...with murder as her alternative.

From the legalized abortion of the unborn child, the door can be opened to further mercy killing, such as that of the children born deformed or if they become mentally incompetent or physically deformed from an unfortunate accident or unforeseen disease during the course of life (and let us not forget, it could be YOU, the reader of this article, or it could be me...disability knows no bounds) and then of course there is the mercy killing of someone who is dying of an incurable ailment. HOW MERCIPUL CAN WE GET BEFORE IT IS CALLED MURDER? If all this sounds proposterous and melodramatic, read an article in the January issue of the Reader's Digest, entitled 'Death of a Son'. It is the story of a father, mother, and doctor who decided to let a newly born child die rather than live what they pre-judged would be a useless life. The father states "that decisions like this are made every day and that medical progress has brought us to the point where we must have new laws to help decide who shall live and who shall die." Does this ring a bell? ...Hitler made himself a judge in mercy killings and the world rose up in arms...have our moral standards decayed to the point that we could possibly chance this happening again? Have we lost faith in our great scientists who are feverishly working to find cures for the helpless and incurables? WOULD YOU OFFER YOURSELF AS A JUDGE OF WHO SHALL LIVE AND WHO SHALL DIE...don't place the decision on a woman who is in apparent need of psychiatric help.

One could say I have written this in self-defense...I am the youngest of nine children and I am glad my mother gave me my RIGHT TO LIFE. How about you?

Wendy M. Hill at 11:00 AM

INTRODUCTION

My name is Bill O'Mara, I am the Chairman of the Nevada Right to Life Committee. By my presence here today we do not accuse the proponents for the "so called" liberalization of the abortion law of malice, but rather we defend the defenseless unborn child against any attacker, even though they be of good faith.

During the last four years, abortion has become the subject of national interest. We have seen the massive mind molding advertizing of abortion as the modern, enlightened and "humane" solution to a grave and complex social problem in television dramas and documentaries, mass circulation magazines, books and public meetings.

In Nevada, the Committee for the Rights of Women has recited a number of alarming statistics concerning the increasing abortion rate and deaths that are suffered by pregnant women who are "forced" to obtain an illegal abortion because of unyielding and archaic laws.

1.

Frequently, the proponents of abortion characterize us, their opposition, as a raving religious group who seek to impose their moral views upon the people of Nevada. I am a lawyer, not a theologian. I oppose such laws because they represent a threat to the most civilized of our secular legal values - the inalienability of innocent human life. So let us not obscure the fundamental issue of when human life begins behind the smokescreen of misleading statistics and emotionalism.

BASIC ISSUE

If life does not begin until birth, as the advocates of the abortion bill say, then there is no need for restriction to be placed upon abortion whatsoever. But if life begins at *Fertilization* conception or at some other time during pregnancy, we must safeguard the rights of the unborn child with all the respect for human life we can afford to, those of us who were fortunate enough to have been born.

Except for the reactionary abortion movement, the universal thrust of the law today is toward full recognition 2.

- 2 -

of the essential humanity of the unborn child from the moment of conception. In the landmark decision in 1946, a United States Judge observed: "From the viewpoint of the civil law and the law of property, an unborn child is not only regarded as a human being, but as such from the moment of conception -- which it is in fact." (Bonbrest vs. Koty, 65 F. S. 138 D.D.C. 1946).

In holding that a child, after birth, has a legal right to sue a third person who wrongfully inflicted injury upon him in the womb, an Illinois Court in 1961 observed, "Medical authorities have long recognized that a child is in existence from the moment of conception." (Daily vs. Meier, 33 Ill. App. 2d. 218, 178 N. E. 2d. 691 (1961))

Traditionally, our law has regarded innocent life as sacred and inalienable. The English jurist, Blackstone, expressed it well: "Life is the immediate gift of God, a right inherent in every individual." Our own Declaration of Independence asserts that "All men...are endowed by their

3.

Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness." And in 1967, the Supreme Court of New Jersey reaffirmed that the right to life of the unborn child is inalienable in our society (Gleitman vs. Cosgrove.

ILLUSTRATIONS

A pregnant woman may not refuse a blood transfusion, even on religious grounds, if the continued life of the unborn child depends upon the transfusion. The child's right to life takes precedence over his mother's right freely to practice her religion. (Raleigh-Fitkin vs. Anderson (1964) 42 N. J. 421, 201 A. 2d. 537)/ The parents of a prospectively defective unborn child may not terminate his life before birth in order to save themselves emotional distress and financial hardship. (Gleitman vs. Cosgrove, N. J. 1967). A doctor attending a pregnancy is deemed to have two patients to whom he owes a duty of providing careful medical attention, - the mother and the unborn child. (Sylvia vs. Gobeille, (R. I.)

*ARTIFICIAL CASE - common law - which was adopted by law except as modified by statute, held - women who are not to be punished - 4.
come out as precedent until the child is born.*

In so far as the abortion movement refuses to acknowledge the medico-legal status of the unborn child as a human being with rights to life, to due process of law, and to the equal protection of the law, the movement may fairly be characterized as a legal anachronism - a relic of discarded principles having little, if any, relevance to contemporary law. But it is more than this: it is a threat to our jurisprudential ideal of the inalienability of innocent human life.

Our present abortion laws emphasize the primacy of innocent human life. Even the longstanding exception which permits abortion to preserve the mother's life must be viewed as a last ditch procedure to save life. And in such cases, we weep for the child we have lost.

The primary emphasis of relaxed abortion laws, on the other hand, is not the saving of life, but the permissive killing of an inconvenient human being. The death of the child is specifically desired because he is a social or economic burden. His death prompts not weeping but a sigh of relief.

As against the traditional view that human life is sacred simply because it is human, the abortion movement would have us determine the value of each innocent human life by weighing it on the scales of social utility and convenience. *And* - If it appears on balance that the life will be, in the words of Ashley Montagu, "a menace to the quality of the society into which it is born", then it may be aborted with impunity.

Certainly our hearts go out to the socially deprived family, to the distressed parents of a prospectively defective unborn child, and to the innocent victim of rape. But is the deliberate killing of an unborn child really the answer to any of these social evils? Will we not compound the problems of our state if we attempt to solve them by killing innocent human beings? What will become of our jurisprudential ideal of the inalienability of innocent human life? Who will be the next to be placed beyond the curtain? The old? The infirm? The unskilled?

Is feticide so very different from homicide?

ABORTION STATISTICS

①

We often hear that over one million women in the United States are forced to submit to criminal abortions and one-half of the maternal deaths are caused by these criminal abortions.

Have any of you studied where they got these statistics?

The estimated criminal abortion statistics come from the basic study published in 1934 in Birth Control in Practice, by M. E. Kopp. From their one sample in Margaret Sanger birth control clinic in New York City, taken between 1925 and 1929, they theorized that one illegal abortion happens for every 3.55 live births, and since there are approximately 4 million live births each year in the United States, there must be 1,200,000 illegal abortions.

Then, to get our death rate from criminal abortions, we go back to a study made in 1936 by Fredrick Taussig. Using a guessed at mortality rate of 1.2 per hundred abortions from another questionable German study, Taussig arrives at 8,000 deaths from criminal abortions per year.

②

We know from our vital statistics Department that there are only four hundred registered abortion deaths from both therapeutic and criminal abortions each year. That means, if Taussig's study is correct, there are one hell of a lot of dead women lying around.

(Just because all these groups have accepted these statistics, doesn't change or verify ~~the~~ its origin) *(standardization of error)*

- 5 -

First, the argument that abortion on demand is a woman's right is a clear denial of other rights. It is true that a woman has a right to choose whether or not she will be a mother; and this means the exercise of responsible parenthood. But once pregnancy has occurred, other rights besides the woman's enter the picture: the right of the unborn child, the right of the child's father, the right of doctors to refuse to do what may be bad or unethical in medical terms, and the right of society to insist that innocent human life be respected and preserved.

Second, passage of "reform" legislation, rather than reducing pressure for abortion on demand, actually stimulates it. The abortion forces will settle for "reform" laws as a first step, but they will not stop at that. This is obvious from events in a state like California, which, having enacted a "liberalization" law in 1967, is now witnessing a drive through the courts to obtain outright abortion on demand.

Some of you may think that passage of "reform" legislation will solve the abortion issue by satisfying the pro-abortion forces. This is not the case, as the leaders of the pro-abortion movement have now made crystal clear.

-- If "reform" legislation is enacted this year, how can you be sure that abortion on demand will not be the issue in the next legislature? That, after all, is what the leadership of the abortion campaign has announced as its ultimate goal.

-- If legalized abortion is accepted, who is going to pay for it? The National Association for Repeal of Abortion Laws urges "equal availability of abortion services to all women regardless of economic status." If that principle is accepted, does it mean that taxpayers will have to subsidize free abortions through public health services for women who cannot afford them?

And Mrs. Brookman, you know that under the State Welfare Manual Section 2-06-063-0, Family planning services

are designed to enable women to prevent unwanted births -- not unwanted pregnancies, but unwanted births. Thus, this proposed abortion law should be given to the Ways and Means Committee to see if they can provide funds for Abortoriums.

MR. TORVINEN and MR. LOWMAN, I'm sure you remember Michael Rouse at the hearings on narcotics when he told you the best way to lower the crime rate would be to eliminate the existing laws. He then went on to state all sorts of statistics, and then told the legislators that you are putting your own children in jail.

Both of you know where he got his idea, and it is the same nonsensical idea that the proponents are espousing today.

*When criminal abortions have been liberalized, the
criminal abortion ~~has~~ rate has ~~been~~ soared.*