JOINT HEARING - COMMITTEES ON JUDICIARY, ASSEMBLY AND SENATE, 54th Session, Feb. 16, 1967

Hearing commenced at 2:10 P.M.

Assembly Committee members present: Wooster, Dungan, Torvinen, White, Kean, Hilbrecht, Schouweiler, Lowman

Assembly Committee members absent: Swackhamer

Mr. Wooster conducted the meeting. He welcomed everyone and said that all who had notified him that they wished to speak would be called first, after which we would hear from anyone else who wished to say something.

Mr. Wooster said that what we are dealing with here today is an emotional and controversial subject and he wished that all who are going to speak would remember that this is not a debate but a meeting to inform the committees of the peoples' views in the matter. At the end of each presentation there will be a question period.

AB 180: Allows therapeutic abortion to be performed under certain circumstances.

DR. DONALD I. MOHLER: Reno Gynecologist and Obstetretician.

I am going to quote from Clarence Darrow who said that lawmakers should know that laws should be like clothes--made to fit, in this case, to fit the citizens of the state.

This law on therapeutic abortion is long over-due and should have been passed years ago. Changes in attitudes started some 13-14 years ago and impetus was given by the American Law Institute, who ran a ten-year survey, involving clergymen, judges, lawyers, physicians, etc. At the end of the survey, they proposed changes be made which were almost identical to what we are proposing here. In 1962 when this was presented, it was passed by the A.M.A. and the adoption of almost identical words was made, with the exception that they added that hospital abortions should be performed in licensed hospitals and have at least two other consultants, physicians, in addition to the performing doctor. Since then there has been impetus all over the United States.

The Gynecologist is the primary one involved. In Los Angeles the Gynecological Society passed and adopted the same resolution that we have proposed here. The American College of Obstetriticians and Gynecologists proposed this same thing, discussed and approved it, and handed it back to the individual states for adoption.

District 7, which consists of Texas, Louisiana, and other adjoining states, passed the same code last year. Within the past year the Medical Societies of Texas, New York,Georgia, and other states have endorsed and recommended changes in their laws on this subject. Locally, I have been the spokesman for the change in the law. I have had the support of my own state. With three exceptions, every physician I have talked to has been in favor of the proposed changes.

Abortions remain one of our largest socialogical, medical and religious problems but it has to be faced. Why the urgency? Because doctors should be the ones to make decisions concerning abortions. It is a very grave decision, regardless of religion. But it is also a grave decision to perform any operation.

42 states have laws which grant the right to perform therapeutic abortion to save the life of the mother and for no other reason. 3 states have a law which says it can be performed to save the health of the mother, in addition to saving her life. Two other states have laws that are even more liberal and say, in essence, that they are criminal only if unlawful, but they have never decided what is unlawful.

Many years ago, throughout the medical profession, therapeutic abortions were being performed where heart disease, diabetes, syphilis and other things were afflicting the mother. With medical progress, indications to perform abortions for these reasons have become less but other things have come to the foreground.

To continue a pregnancy where bad kidney disease or heart trouble is present would jeopardize the health of the mother. Some mental conditions, also. You all remember the case of Mrs. Finkbein of Arizona who was forced to resort to an abortion in a foreign country where abortions are liberalized. It is a known fact that the fetus had severe marked congenital defects, characteristic of taking the particular drug which Mrs. Finkbein had taken.

Another thing is German measles, or Rubella. Many congenital defects occur in infants that are allowed to be born after the mother has had Rubella during the first twelve weeks of pregnancy. The major defects in such infants are blindness, deafness, and many serious congenital heart diseases. There have been several measles epidemics throughout the last few years, with many resulting deformities.

There are 1 to 1.2 million criminal abortions in the United States each year. We seem more concerned with the therapeutic abortion than we are with the criminal abortion. Eight to ten thousand women die annually as a direct result of criminal abortions. At the present time, between six and seven thousand hospital abortions are being performed in the U.S. The morbidity occurring from hospital abortions is very minimum compared to what occurs with criminal abortions.

Laws have been passed to prevent these hospital abortions. Five leading physicians in California are now in danger of losing their licenses for performing the good practice of medicine, for performing abortions on women who had contracted German measles in the first few weeks of pregnancy.

We like to believe that medicine is progressing. In many instances medicine depends on law, and throughout the states, if the laws are not changed, we are doing several things. We are forcing physicians to break the law, putting them in jeopardy of law suits and jail sentences and ultimate loss of their licenses. We are doing a worse thing when a woman has a medical indication for an abortion and cannot receive it. She is forced into the hands of an abortionist and the result of this is horrendous.

Our present law was written in 1911. It has not been changed but it is now becoming a medical necessity that it be changed. The present law is ambiguous and antiquated and unhumanitarian. I talked with one of the Washoe judges about this law and he said he hoped he never has a case because he would not know how to interpret the law. This change is a clarification of the law. It is an abrogation of the present law when the medical indications are that an abortion should be performed in a licensed hospital, by a licensed doctor, with two other consultants. We feel that this is a decision that should be made by physicians, with a panel of two, or three or five.

We do not feel that this is a religious point at all. We do not believe that one man's religious beliefs should be forced on another. The Jews do not eat pork and the Mormons are against alcohol, tea or coffee, and tobacco and Jehovah's Witnesses do not believe in blood transfusions. However, we do not have their beliefs forced on us by the law.

"Abortion" has been a dirty word as Tuberculosis was a few years ago. It doesn't impinge on religious dogma. If this becomes law it would not be compulsory for any group. No individual would be forced to have an abortion.

WOOSTER: I want to again emphasize that this is not a debate. Are there any questions of Dr. Mohler?

CLOSE: One provision says that if the mental health of the mother is endangered there could be an abortion. However, there is no requirement that one of the doctors who decide whether or not this is needed be a psychiatrist. Don't you think this should be added?

DR. MOHLER: This is the weakest part of this bill. At present, at the Washoe Medical Center where I do most of my work, we have a 5-man panel. Three are named annually, and then for a specific case two men are added who are specialists in the field which is the reason for the abortion. I know of three cases this past year that were recommended by the psychiatrist and some obstreticians on the panel and they were turned down. Doctors sometimes make rules against themselves.

The psychiatric problem is one we worry about. To do an abortion is a very grave matter. There are other regulatory committees within the hospital besides the panel. All do a review on the patient. In a major hospital if anyone were to get out of line with abortions it would be detected right away.

HILBRECHT: What kinds are you referring to when you refer to mental reasons for therapeutic abortions?

MOHLER: An example, a 14-year old girl that was raped. Another example might be a 38-year old divorcee with two teen-age children in New York. She knows society and her children are going to reject her. This could become a severe mental problem. It would have a severe emotional impact.

If we pass this law, only a very small segment of women will be eligible. If we do not pass it, none will be.

SENATOR DODGE: Your basis is largely humanitarian consideration. If that correct?

DR. MOHLER: I base it also on the good practice of medicine.

DODGE: Would it be consistent if we were to permit mercy killings on this same basis?

DR. MOHLER: I don't think the two problems are the same. This will involve religious dogma; when does a so-called "soul" enter living tissue to become a living soul? This has never been documented by anyone. There is no natural law that decides it. The Catholics believe the soul enters the fetus at the moment of conception. They believe this was revealed to them through the Pope in 1869. The time that life actually begins is one of the great arguments of all time.

SENATOR MONROE: Senator Dodge talked about someone who was going to die anyway. We are talking here about someone we might be able to save.

DR. MOHLER: Most therapeutic abortions would be done to save a life.

SCHOUWEILER: You mentioned that this proposal had not been taken before any medical association in Nevada. Is that right?

DR. MOHLER: That is right, mostly due to my own negligence and lack of time.

SCHOUWEILER: Why three physicians?

DR. MOHLER: This is the figure that has been used previously in this field. Some say they will have two, some three, and some five.

SCHOUWEILER: I was thinking of some of the smaller counties where there would not be three physicians available.

DR. MOHLER: The mechanics of this will have to be worked out among the medical profession. Some arrangements would have to be made for the patient to be seen by other doctors.

SENATOR BUNKER: Do you think this instance that you gave in New York of the 38-year old woman is sufficient reason for abortion?

DR. MOEHLER: No, I do not.

DR. ARNSTEIN: (Stated that he was in the employ of the State of Nevada in the Department of mental retardation, but that he was speaking only as an individual).

It is obvious that many conditions may occur to a pregnant woman where the effect is to give birth to a severely retarded or deformed child. As science advances, many more drugs will be available whose effect is more powerful.

There were 8,000 children injured in Europe because of thalidomide. Things such as this are going to become more and more common. We must think what will happen to the mother in cases like this, where she gives birth to a child that is not accepted by society. She probably will not have another child, and this is worse for her and her family than an abortion would be.

In the case of incest, there is a higher chance of genetic damage, more chance for recessive genes to come forward, more chance for serious defects of a basic nature. In cases of incest, the girl is usually 13 or 14 and sometimes she is just 11 or 12 years of age. These are purely humanitarian matters. These cases are not rare, unfortunately.

We are not legislating anything for the person who is well off. This is a bill for the poor. If she has the means, a woman can go to any one of a great many countries and have an abortion. We are talking about unwed mothers, women without resources, in dire straits.

I have been interested in this field for 15 years and I know that there is no legal control in the field.

DR. FUHRMAN: Obstetricians are, of course, the people most interested. Most favor some change in the law. In the state of New Jersey, there was a mother who had measles and the physician did not perform an abortion. He was sued for not having done this and the case is being reviewed in the Supreme Court. At the same time, there are five physicians in California who are about to lose their licenses for having performed abortions in the same circumstances.

It is the responsibility of the legislature to face these things. Economic and social factors are never acceptable by themselves. It is not to be used as a method of birth control.

FATHER RIGHINI: This is an emotional thing. It is easy to see why the proponents have been speaking of the heart break cases. Let not your emotions overrule your intellect.

The competence of the church to deal with this matter was brought up by a reporter in this morning's paper. We feel that this question is not only a medical and legal question, but also a moral and eugenic one. Because of this, I feel the church has a right to speak. Proponents of this bill freely quote church leaders.

Legislative adoption of this bill would leave many sincere persons disturbed in their own way of life. The mere fact of an affirmative approval by the legislature could change the views and the practices of many who earnestly try to shape their lives by a moral code. There is a moral obligation on the part of the legislature. The opposition to the Catholic's stand is the right that each person has to their own life and we believe that no one has the right to take an innocent life. Once we give the right to take an innocent life, what is the next step going to be? It would be easy for the state to go step by step to worse things.

It is proposed that such abortions would be performed only in licensed hospitals by licensed physicians. This is considered to give an added note of respectability. An analogy here is to adultery. It is still adultery whether performed between clean sheets or dirty sheets. Manslaughter is still manslaughter, whether performed under sterile conditions or on a butcher's table.

AB 180 is extremely lax in its wording. What is meant by substantial risk? Who is to determine the physical or mental health of the mother? It is such a broad concept. How many mothers at some time in their pregnancy have not thought about abortion or for that matter about suicide? There are times of particular depression where mothers would desire an abortion. If it were easily available, there would be a great deal of harm done.

The bill does not specify the qualifications of the men on the panel. It does not contain a suggestion that one member on the panel be a qualified internist in the complicated disease or condition from which the mother might be suffering. No profession is a guarantee of character. One who is ruthless, mercenary, or dishonest will be that way regardless of whether he is a doctor, lawyer, or whatever. Wherever the law has been relaxed, there has been a vast overwhelming increase on the matter of abortion.

With our present image throughout the nation as a state, let us not be in the forefront in being given the dubious title of an abortionist's paradise. Let us not add this to our already difficult position in the national image.

On the positive side, in attempting to meet this problem, I would suggest two things. First, I would suggest that the state make provision for the life-long support of a child who has been refused adoption. Second, guarantee to the victom of a rape medical assistance that might prevent pregnancy. As far as the matter of conception goes, it does not take place at the exact moment of intercourse. There is a lapse period there, and we would recommend that any victim of rape be given assistance during this time.

HILBRECHT: For me, it is difficult to distinguish where we have been given knowledge and techniques, between an active killing and a permissive killing. The present law provides an exception in the case of the mother's life. I fail to see that the moral or ethical issue is different in a permissive killing and an active killing. Birth control information can be obtained almost any place. You are concerned with setting an example. When the type of information that is available makes passive killing so available, what is the distinction?

FATHER REGHINI: The present law as it stands would also come under this question. The thing is not to kill at all. I would like to see the statute removed completely.

EILEEN BROOKMAN: You are going on the assumption or implication that this is going to be forced on everyone. This is not so.

FATHER REGHINI: No, I am not I think it opens up a whole Pandora's box, the condoning of the state of the taking of an innocent life.

MEL CLOSE: Where there is danger of death to the mother, does your church have a stand on that?

FATHER REGHINI: In such a case we would risk the mother's life because both have a right to life.

JOSEPH KAY: Read a statement which is attached to these minutes.

TORVINEN: Do you know of any decided case referring to a child incapable of independent life that granted that fetus the rights of life and privileges?

KAY: No. The trend of the law is toward the cause of action for destruction of a viable fetus, one that could be removed from the mother and continue to exist.

SENATOR YOUNG: Haven't some of the rights in these cases depended on the "quickening" of the fetus?

KAY: The word "quickening" is one that medical science has changed its mind about. There is movement long before the mother knows about it.

HILBRECHT: You mentioned absence of any judicial review. Some states do require the doctors to go to a judge.

KAY: The so-called "model" law doesn't provide for this. It is the opinion of the medical association that this should be within the jurisdiction of doctors only. We cannot submit someone to the State Hospital without a judicial hearing.

MRS. JOSEPH KAY: I want to clarify some statistics, to show that illegal abortions would not decrease when abortions are made legal. I will consider some places where

abortions have been made legal as Sweden. In that country, since 1938 legal abortions could be obtained but since then illegal abortions have increased, in fact they have increased ten times. Criminal abortions have increased ever since the idea of abortion was accepted among the Swedes.

In Japan there have been one and a half million illegal abortions, 4 illegal to each legal one. Denmark passed a legal abortion law in 1931. Twelve years later legal abortions have reached twelve thousand each year.

DR. JOHN H. DETAR: Reno physician. Read a prepared statement which is attached to these minutes.

LOWMAN: As a professional public relations man I must defend the profession. When I want help with a sickness I go to a doctor. When I want help with a public relations problem I get professional help in that field.

TORVINEN: Do you think that the ability of the mother to make a free choice in the matter of therapeutic abortion should be given no consideration?

DETAR: With every right goes a corresponding responsibility. The mother has an obligation to protect the life of the child. It is not a matter of the mother's rights. It is a matter of her obligations.

The question was raised about "quickening" of the fetus. This is quite variable in terms of civil law. In some countries, a child is not legally born until he is two years old.

SENATOR YOUNG: When, in your opinion, does life begin?

DeTAR: I don't really have an opinion, but I was always taught that life begins at the moment of conception.

MRS. WAINSCOAT: I would like to ask Dr. Mohler a question. Why aren't these pregnant women treated psychologically the same as they are physically for the pregnancy?

DR. MOHLER: In the last several years, indications are that about 50% of legal abortions are done for psychological reasons. We are not far away from being able to immunize for Rubella. That would be the greatest thing in the world to have medically. We feel that a child also has the right not to be born deformed.

The Joint Hearing was adjourned at 3:50 P.M.

TO: Nevada Assembly Judiciary Committee,
at its public hearing on February 16, 1967.

STATEMENT ON NEVADA
ASSEMBLY BILL NO. 180

Honorable Gentlemen:

This statement is made in an effort to assist your Committee in constructively evaluating the legal, medical, sociological and moral implications of Assembly Bill 180, which is aimed to remove almost all restraint upon the direct abortion or feticide of innocent unborn children. The statement is prepared on behalf of and is an expression of the earnest convictions of the members of the Nevada Jurisdiction of the Knights of Columbus comprised of thirteen Councils throughout this state, and the Reno Diocesan Council of Catholic Women and its membership, which is in excess of 12, 500.

In addition we confidently believe that this statement is also expressive of the convictions and consciences of the great majority of all thoughtful citizens regardless of whether they are of our religious persuasion.

Since your Committee is especially charged with responsibility for matters pertaining to the judiciary, we deem it appropriate to discuss first the legal implications of the Bill. In this regard, it is ironic indeed that, while the Bill is in the hands of the Judiciary Committee, it actually attempts to make the taking of an innocent life a non-judicial act. It attempts to divest entirely from any judicial control the legal execution of countless human beings.

Law and medicine recognize that a child in the womb is a living person. Courts and doctors alike consider the life of an unborn child as a separate and distinct life from that of the mother. The abortionist himself acknowledges that the life of the child can be snuffed out while the separate life of the mother continues. Also there are numerous cases in which, after the death of a mother, the separate life of the child continued and was able to be saved with the help of immediate surgical delivery.

Every tradition and pronouncement of our legal structure stresses our solicitude for the protection of every innocent life. No distinction is made between born or unborn lives. Our Declaration of Independence, the proudest document of our history, declares:

"We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with

certain inalienable Rights, among these are Life, Liberty, and the Pursuit of Happiness."

Our founding fathers declared in our Bill of Rights, Amendment 5,

"No person shall . . . be deprived of Life, Liberty, or Property without due process of law. . "

The Fourteenth Amendment to the Constitution of the United States prohibits any state in the same respect with the following:

". . . Nor shall any state deprive any person of life, liberty, or property without due process of law."

The Preamble to the State of Nevada Constitution reads as follows:

"We the people of the State of Nevada Grateful to Almighty God for our freedom in order to secure its blessings, insure domestic tranquility, and form a more perfect Government, do establish this CONSTITUTION."

ARTICLE 1, Section 1 of our Constitution is as follows:

"Inalienable rights. All men are by Nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing and Protecting property and pursuing and obtaining safety and happiness."

Section 3 of ARTICLE 1 of our state Constitution states,

"The right of trial by Jury shall be secured to all and remain inviolate forever; . . . "

Section 8 reads,

"No person shall be . . . deprived of life, liberty, or property, without due process of law . . ."

Under an almost identical Constitutional provision in Ohio, the Supreme Court of that State held that:

"Injuries wrongfully inflicted upon an unborn viable child capable of existing independently of the mother are injuries 'done him in his . . . person . . . and subsequent to his birth, he may maintain an action to recover damages for the injuries so inflicted." (Williams vs. Rapid Transit, 152 Ohio St. 114, 87 N.E. 2d 334, 10 A. L. R. 2d 1-51)

The Minnesota Supreme Court in the case of William H. Verkennes,

Special Admr., etc. of Baby Girl, Rita Verkennes, Deceased, vs. Albert D. Corniea (38 NW 2d 838, 10 ALR 2d 634) gave recovery to the plaintiff who was the personal representative of the deceased child, whose death was caused by the wrongful acts or omissions of the physician in charge of the mother and of the hospital in which she was confined. The Court stated the case as follows:

> "This is an action for the wrongful death of an unborn child. It is brought under MSA Sec. 573.02, which provides in part: "When death is caused by the wrongful act or omission of any person or corporation, the personal representative of the decedent may maintain an action therefor if he might have maintained an action, had he lived, for an injury caused by the same act or omission."

The Court in its decision stated the principle involved as follows:

> "We hold that under the wrongful death statute the action here will lie. It's language is clear. Thereunder, a cause of action arises when death is caused by the wrongful act or omission of another, and the personal representative of the decedent may maintain such action on behalf of the next of kin of decedent. It seems too plain for argument that where independent existance is possible and life is destroyed through a wrongful act, a cause of action arises under the statutes."

Blackstone, after declaring the right of personal security to be an absolute right, says:

> "The right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health and his reputation. Life is the immediate gift of God -- a right inherent by nature in every individual; and it begins, in contemplation of law, as soon as an infant is able to stir in the mother's womb.

What does A. B. 180 do to preserve the "inalienable right of enjoying and defending life"? What "due process of law" does it establish? What "trial by jury"? What offense does it charge against the child?

The answers are obvious. The Bill repudiates the right to life. For due process, it substitutes the mere belief or judgment of the abortionist himself and two other friendly and cooperative physicians that, "(a) There is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother; (b) There is substantial risk that the child would be born with grave physical or mental defect; or (c) The pregnancy resulted from rape or incest." Though a human life is balance on the scales opposite such belief, no judge presides, no advocate speaks the muffled protest of the babe in the mother's womb, and no

jury stands to be convinced beyond a reasonable doubt before the sentence of death is pronounced. Neither indictment nor information is required. The child is a defendant but under the anomaly of not being charged with an offense, yet having no defense.

It is no accident that the law has always shown such great solicitude for the preservation of innocent human life. Every legislator who recognizes that Almighty God is a Divine Lawgiver strives to make society's laws and regulations conform to the laws of God. Thus, the Declaration and the Constitutions all recognize that the "inalienable rights" are not man-made -- they come from the "Creator", together with all the consequences that flow from them. The conscientious lawgiver will recognize the invalidity of whatever denies thoseinalienable rights. Above all, he will recognize that society never has been, and never will be, able to flaunt those inalienable rights that come from the Creator without doing inestimable harm to the entire structure of human society. Man's finite wisdom is no match for the infinite wisdom of Almighty God.

On of the Commandments given to Moses by God is "Thou shalt not kill". To say that it does not explicitly and unequivocally prohibit the taking of an innocent life is to say that is does not exist. But, in fact, it does exist, as attested to not only by the tenets of revealed religion, but also in the hearts and consciences of men of every race and clime throughout all human history.

Theologians recognize that every human body is infused with an immortal soul made to the image and likeness of God. Thus, when God prohibited, by the Commandment, the taking of an innocent life, He merely made a law for the protection of the soul He had created and which He had destined for a life eternal with Him. Just as He had created them, He reserved to Himself the power to take away the physical temples in which they dwell. <u>This primacy of the law of God is an absolute essential to the right formulation of all laws pertaining to life or death for innocent human beings.</u>

True medicine, either ancient or modern, does not contradict these concepts. As early as 400 B.C. the traditionally honored father of medicine, Hippocrates, in the so-called Hippocratic Oath formulated the doctor's pledge: "I will not give to any woman anything to produce an abortion". And in our present day, the Third General Assembly of the World Medical Association meeting in London in 1949 included in the International Code of Medical Ethics the requirement that the "Doctor must always bear in mind the importance of preserving human life from the time of <u>conception until death.</u>"

From what has been thus far said, certain principles must be taken as absolutes. Firstly, every living person, born or unborn, is a creature of God possessed with an immortal soul and also the Creator endowed inalienable rights guaranteed by our Constitution. Secondly, the direct taking of an innocent life, that is, by an act solely designed and intended for that purpose, is an act clearly prohibited by the Laws of God and by our Constitutions. Thirdly, the direct abortion of an unborn baby is such a violation, regardless of any other purposes that it may be intended to serve.

We recognize that there are those persons who, heedless of the mandates of Divine Law and the directives of our Constitutions, are critical of these principles. They will give evidence of their failure to grasp them by their efforts to rationalize around them. In order to be of maximum help to your Committee, we will attempt to anticipate some of the objections.

It will be said that we are callous of life and are unsympathetic since we "would gravely impair the physical and mental health of the mother" just to save an unborn child. Instead of our position reflecting callousness, on the contrary callousness is reflected by the abortionist who would crush the skull of the baby in the womb, or by some other technique snuff out its life. The abortionist stands for the destruction of human life, we stand for its invioability. The abortionist condemns a child to death, we proclaim its right to live. The excuse the abortionist uses to justify the act is wholly beside the point. Regardless of the excuse, he shows the extreme of callousness towards life by usurping unto himself the power to destroy it.

The foregoing should not be interpreted to say that we are not completely solicitous of the life and health of the mother. We must be equally solicitous for both mother and child and do all that reasonably lies within our power to save both. We will neither condemn an innocent mother to die in order to save her child, nor can we condemn an innocent child to death to save the mother. As long as both live, our efforts must be to save <u>both.</u>

Before proceeding further, let me make it crystal clear that what is denoted in A. B. 180 as, "Therapeutic abortion", is a <u>direct</u> abortion, i. e., the termination of the life of the fetus by the crushing of the skull of the unborn child, or by the use of the several other means known to Medical Science. There is no moral objection to an abortion which indirectly results from an act intended and necessarily performed to accomplish some other life saving objective without a <u>direct attack</u> upon the unborn child. As a simple example, the surgical removal of a pregnant but cancerous uterus, which seriously threatens the life of the mother, even though it necessarily involves the termination of the pregnancy is not prohibited. The distinction is clear. In this instance, the death of the infant is unavoidable but not intended. The surgery is directed against the <u>cancer</u>, not against the <u>innocent child</u>.

Another criticism will be that our position refuses to recognize that a child which "would be born with grave or mental defect" would be better dead than alive. Who is to be the judge of this? Whose rights would be violated by such abortion? The unborn child's!

Assume for a moment that the jurisdiction over such a judgment were actually ours. Who is there that possesses the slide rule to determine the worth of the malformed body or the below average mentality? Charles Steinmetz, probably the greatest physicist of the past one hundred years, was born horribly, almost repulsively, malformed. Yet the legacy he left to the world of science in the fields of electricity and in applied industrial chemistry is incalculable and beyond dispute. Would the world have benefited from the application of an A. B. 180 to him?

It is completely gratuitous to say that no good, or not enough good, can come to society from the existence of persons less capable than ourselves, or who do not measure up to some man-made standard of physical or mental completeness.

In passing, we point out that even the setting of any such standard is a badge of the rankest totalitarianism. It is exactly what Hitler did in his extermination of the Jews. But our point at the moment is that man's compassionate care for the incapacitated and the suffering is actually enobling and refining. Christ's sufferings on Calvary have been the source of Divine Grace for the entire world. The afflictions of a Helen Keller inspired a nation. No one ever guides a blind person across the street, nor wipes a fevered brow, but what he feels a little closer to God for having done so.

No doubt it will be said that our position represents an adherence to unprogressive and unscientific dogmatism. The exact contrary is true. A. B. 180 would run against the tide of modern medical research and discovery. A decade or two ago, many reasons were thought to exist for the termination of pregnancies in order to preserve the life or health of the mothers. Today, by reason of devoted and inspired research and study many of the former reasons are no longer regarded as reasons at all.

The intellectual and social implications of A. B. 180 would be disastrous. It is an insult and affront to a dedicated medical profession whose aim is to save life by every presently known technique, and to find new techniques to meet the baffling situations that still confront us. A. B. 180 would be an acknowledgement of utter defeat. In effect it says "We are licked. We can go no further. The malformed or defective child is beyond the scope of our possible saving or helping. We quit". If Pasteur had said the same thing when he was impelled from observing the hideous deaths of persons who contracted rabies, to delve further into the possible existence of micro-organisms, the entire field of bacteriology, as we know it today, would probably still be beyond the pale of man's knowledge. It is impossible to evaluate how far man advanced by this single inspired discovery.

Much of the world's progress is directly attributable to the efforts that were motivated out of difficult, burdensome or distressing situations. Their existence brought the solutions. The intellectual and scientific challenge is to relieve, not to destroy; but once destruction is adopted as a technique of escape, there will be no reason to try to relieve.

There will also be the criticism of our position that we are trying to foist our moral convictions upon those who do not share them. It will be said that those who do not believe in abortion are not compelled to resort to it, but why deny it to those with less sensitive consciences. This criticism implies that as citizens we do not have the duty to try to stem by every legitimate means any and every assault upon the inviolability of human life. No greater disservice could be done by us as citizens than to stand idly by while a misguided effort is unleashed to condone the taking of lives of innocent persons, and to subvert the whole basis

of our law and government. It is precisely because we love this land so much that we make these representations to you today.

The sanctity of human life makes for a duty which is incapable of compromise. No nation can condone the taking of innocent lives without meriting God's condemnation rather than His blessings. Likewise, the State of Nevada cannot escape the same condemnation. A. B. 180 should be repudiated. It is morally objective.

Reno Diocesan Council of
Catholic Women

Mrs. Charles Sheeran

Mrs. Charles Sheeran, President

Nevada State Council
Knights of Columbus

Joseph J. Kay, Jr.

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Legislative Chairman

STATEMENT

by John H. DeTar, M. D.

This statement is presented to the Committee on Judiciary in my capacity as a Catholic American physician. I do not represent any organization, but I believe that this statement is representative of Catholic doctrine with reference to the obligation of the physician and society to preserve the right to life as defined in the Decalogue, in the natural law and in the Bill of Rights and the Constitution of the United States.

It should be noted that the existing law and the proposed Nevada Revised Statute 201.120 and 200.220 recognize that the unborn fetus is a human, as the fetus is referred to as a "child" in lines 3 and 18 of Section 201.120 and lines 8 and 9 of 200.220.

It is the Catholic position that the unborn child is entitled to all the rights which God has given to all individuals.

Yet, A.B. 180 would deny these rights to the defenseless unborn child on the grounds that there is substantial "risk" to the physical or mental health of the mother.

Nature is so ordered that men risk their physical and mental health in defense of the nation and the family, with the reciprocal risks of childbirth being those of the mother. God so ordered nature, but this proposed law would remove the right to life from one individual in order that the mother be protected from a "risk" which is as old as mankind. Need the Committee be reminded that Christianity has never accepted the use of immoral means to accomplish desirable ends.

AB 180 would sacrifice the life of the unborn child because of the "substantial risk of grave physical or mental defect of the child concerned. Isn't it apparent that the defect of death is considerably greater than that of a physical or mental defect? And equally important, even if a prediction of physical or mental defect were infallibly correct (which it is not) does the innocent child lose his God-given right to life because he might not be as attactively

endowed as those who would legislate his life away from him? The Nazi National Socialist tyranny aimed for a superman-super-race. Does this legislation differ?

As for the unfortunate child who is a product of the violence of rape or incest, no child is empowered to control the conditions under which his conception occurs, nor can any mortal instruct God not to breathe an immortal soul into him at that moment of conception. Yet AB 180 would deny that unfortunate human the right to life because the conditions for his conception were not satisfactory. Must the child lose his rights because his parents vilated the law? If so, where is our tradition of justice under law? In this age of civil-rights consciousness, is it not a paradox that the unborn child is denied the right to life itself?

In brief, AB 180 is a statute utilizing "situation ethics" in which it is proposed that the innocent child be sacrificed on the altar of expediency because the situation at his conception, the situation of his mother, or the situation of his own future health is regarded as severe enough to justify his liquidation.

I urge defeat of AV 180.