

MINUTES OF MEETING HELD

19th DAY OF APRIL, 1973

The meeting was called to order at 1:40 p.m. Senator Close in the Chair.

PRESENT: Senator Foley
 Senator Bryan
 Senator Dodge
 Senator Hecht
 Senator Swobe
 Senator Wilson

A.B. 319 - Permits licensed physicians to perform abortions except where limited by certain conditions.

Senator Close read two amendments proposed on this bill. Amendment No. 5681 would read: "Whenever an abortion results in a live birth, failure to take all necessary steps in keeping with good medical practice to preserve the life and health of the live born shall subject the person performing the abortion to criminal and civil liability for wrongful death and medical malpractice." The draft of the amendment included manslaughter as a charge but the committee deleted that wording.

Senator Dodge commented that doctors should not be placed under more criminal exposure under this situation than any other situation of handling a patient. Senator Wilson added that the doctor's Hippocratic oath would apply in this and any other circumstance. Senator Dodge then asked who might raise the issue except the mother after an abortion. Senator Foley stated that in this amendment he was trying to preclude medical experimentation on live fetuses.

Senator Dodge considered the amendment again and stated that it might act as a deterrent to making a decision to abort a woman who was too far along. He questioned the viability time of 24 weeks and recalled that two years ago when an abortion measure was introduced the viability time in that bill was 20 weeks.

The other amendment proposed was Amendment No. 5682. That amendment made it necessary for a married woman to get the consent of her husband before getting an abortion. Senator Foley stated that he proposed that amendment because he felt the husband has a legitimate interest in the child being born alive. Senator Hecht asked if the supreme court hadn't decided that abortion was a matter between a mother and her doctor. Senator Foley replied that the supreme court did not rule on that point and never touched on the rights of the husband since there were no husbands involved in the cases decided.

Senator Bryan mentioned recent opinions from the supreme court

relative to fathers of illegitimate children having rights to consent in adoption cases and wondered if the same could apply to abortions. If the law provides that married fathers must consent, would there be a problem of unequal protection for unmarried fathers.

Senator Swobe suggested a further amendment changing the language to exclude those married persons living separate and apart from each other. Senator Dodge remarked that the argument for abortion is that it is a matter between a woman and her doctor and wondered whether it would be desirable to thwart that because of the lack of consent from the father.

Senator Swobe made a motion to adopt amendment No. 5682. Senator Foley seconded the motion.

Yeas - 3

Nays - Bryan, Hecht, Dodge, Wilson (4)

Motion lost.

Senator Bryan moved to adopt amendment No. 5681 and "DO PASS" as amended. Senator Hecht seconded the motion. Motion carried. Senator Swobe informed the committee of his intention to attach amendment No. 5682 on the Floor.

Senator Foley remarked that in the testimony which developed with regard to the determination of when life begins, there is a strong feeling among the faith he belongs to that life does begin at conception. The supreme court has undertaken to say that the unborn child is a non-person. There is a great question in his mind whether the court has the responsibility or jurisdiction to make such a pronouncement. It was his personal feeling that if anybody is to make that determination it should be legislative rather than judicial.

He asked that in deference to all concerned, the committee should consider a study during the interim to have the Legislative Commission work with the State Health Department and local Health Departments to gather data from periodicals and papers that come out on the subject around the world and then take a look at this issue again next session.

There have been many opinions written on the subject of abortion, and in these modern times there is a great influx of new material. The material the Research Division could assemble could be of great help in developing a report so that agreement could be reached between the legal and medical professions to determine if the subject of when life begins is feasible for legislation.

Senator Wilson then remarked that he would support such an interim study. He stated that the key issue in the supreme court decision is that the fetus has no right to life until it is able to survive

outside the mother's womb; that is the basis for the trimester ruling. However, there are variances as to what circumstances in artificial medical conditions the fetus is capable of survival short of the end of the 24th week or the second trimester. The study suggested by Senator Foley would have some validity to convince legislators of what is viability. If the legislature must make a decision that is binding regarding this issue, it had better get all the information first.

However, presently the practice is without regulation and limitation and the legislature must set some standards by which the public can be protected in light of that total void in the laws on the books. This legislature has an obligation to limit the practice within the constitutional limitations. Anyone voting for the bill is not admitting that they are in favor of abortions, but only responding to the striking down of the present laws on the books.

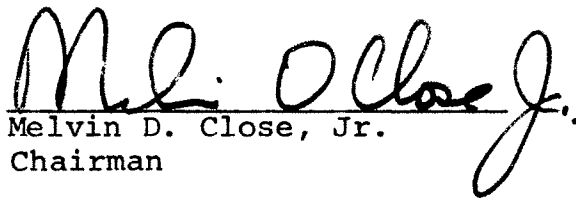
The meeting was adjourned at 2:10 p.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr.
Chairman