

## BOOK REVIEW

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### A Review of *Abortion, Medicine, and the Law*

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**REFERENCE:** Butler, J. D. and Walbert, D. F., *Abortion, Medicine, and the Law*, 3rd ed., Facts on File Publications, 460 Park Ave. South, New York, NY 10016, 1986, \$40.00, 796 pp.

The first *Abortion, Medicine, and the Law* was a 1967 special issue of the *Case Western Law Review*. This third edition collects 16 articles that address the legal, medical, and ethical issues in the ongoing abortion debate. Repeat articles include those by the late Dr. Alan F. Guttmacher on the beginnings of the abortion movement and by Daniel Callahan on the ethical issues concerning abortion. The new articles are written from the viewpoints of educators, physicians, lawyers, psychiatrists, and politicians who are well-known and outspoken on the subject of abortion, such as President Ronald Reagan.

The legal section of the book begins with Senator Bob Packwood's tracing of the pro-lifers' attempts to overrule *Roe*. Their success, however, has been limited to the prohibition of government funding of abortions. Attorneys Albert Pearson and Paul Kurtz suggest that fundamental division in the anti-abortion ranks are the reason attempts to pass regulatory abortion legislation and a constitutional amendment prohibiting abortion have failed. Several of the authors in the legal section recognized the most serious challenge to the *Roe* decision may be the recent changes in the Supreme Court composition. Should the *Roe* decision be reversed, the problem would land in the state legislatures. Despite the authors' realization of this possibility, only a footnote was devoted to its discussion.

An overview of the states' abortion laws is given by Professor B. J. George, Jr., who questions the need for special abortion legislation. Yet, 13 states limit a minor female's right to an abortion by notification and parental consent requirements. Janet Benschaff, J.D., and Harriet F. Pilper, J.D., examine the restricted access these requirements impose on teenagers in light of statistics and facts about the national problems of teen pregnancies, teen suicides, and the welfare dependency of teen mothers.

The inclusion of the article on wrongful life and wrongful birth actions added very little to the discussion of the abortion controversy, other than to say that the right to an abortion provides the foundation for these new causes of action.

The remaining two articles in the legal section criticized the Supreme Court's reasoning in *Roe*. Attorneys Stephen M. Krason and William B. Hollberg conclude the *Roe* decision was the flawed product of subjective social and political views, not "sound legal reasoning." Another attorney, Mark Tushnet, in his article, stated the Supreme Court was confused on the issue. By focusing on the viability of the fetus outside the womb, the Court developed a trimester compromise between the woman's right of choice and the state's interest in protect-

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ing fetal lives. Eventually, as medical advances increasingly move the viability of the fetus outside the womb to earlier stages of fetal development, the balance between the conflicting interests will disappear, negating the Court's compromise.

Part two of the book discusses medicine and abortion. The late Dr. Alan Guttmacher's 1969 article states the only way to correct the wrongs of illegal abortions is the decriminalization of abortions. Dr. Irvin Kenser's update to Guttmacher's article gives a survey of the various abortion techniques.

Physician proponents of abortions stressed the low mortality rate with legal abortions. Two articles presented tables and charts demonstrating demographic data of women having had abortions and various abortion statistics since 1973. The option of selective abortion is further supported as an alternative to the birth of handicapped children. One article explained modern diagnostic techniques that can effectively predict fetal abnormalities sufficiently early in a pregnancy to allow for safe abortions.

Psychiatrist Richard Schwartz's article highlights the mental, emotional, and social consequences of unwanted pregnancies on the mother, the child, and society. He questions the logic of the government's refusal to fund the \$200 or 300 cost of an abortion for a poor woman as opposed to maintaining that child on welfare for 18 years amounting to tens of thousands of dollars.

The last three articles deal with the ethical issues of abortion. Philosopher Daniel Callahan advocates the setting aside of emotions for a rational discourse on abortion as he exposes the faulty arguments on both sides of the issue. The dilemma, as Callahan sees it, is allowing women the right and freedom to control their own lives versus treating all forms of human life as equally valuable. Both are equally desirable societal goals but only one permits abortions. President Reagan's statement also sees the debate as the choice between the "sanctity of life" over the "quality of life." The final article of the ethics section is a graphic account of the pain believed to be experienced by aborted fetuses, written by Law Professor John T. Noonan, Jr.

On the sixteen articles, nine more or less support the right to choose an abortion, four were written neutrally, and three were assuredly anti-abortion. One wonders whether the placement of the two most value-laden, emotion-wrenching articles at the end reflects anti-abortion sentiments of the editors or just overcompensation for the rest of the book. The last article could just as easily have been the more rationally reasoned one by Philosopher Daniel Callahan that would have left the reader with an appreciation for both sides of the issue.

Despite these comments, *Abortions, Medicine, and the Law*, however, does provide a multidisciplinary and thorough coverage of the abortion controversy. Perhaps too much space—indeed over half of the book—was devoted to appendices relating senate testimony, the text of the proposed abortion amendment to the Constitution, and the *Roe* and *Bolten* decisions.