

Volume 17 | Issue 2

1965

Symposium: Abortion and the Law - Introduction

Oliver Schroeder Jr.

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>



Part of the [Law Commons](#)

Recommended Citation

Oliver Schroeder Jr., *Symposium: Abortion and the Law - Introduction*, 17 W. Res. L. Rev. 369 (1965)

Available at: <https://scholarlycommons.law.case.edu/caselrev/vol17/iss2/3>

This Symposium is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

Introduction

Oliver Schroeder, Jr.

RELIGION, medicine, and law all converge on the human problem termed abortion. Religious precepts concerning the inviolability of the right to be born are being bombarded by medical precepts concerning the protection of the mother's mental and physical health and the elevation of public health generally.

THE AUTHOR (A.B., Western Reserve University, LL.B., Harvard Law School) is Acting Dean and Director of the Law-Medicine Center at the Western Reserve University School of Law.

Today, as always, law is the central battleground of conflicting values in human society: religious, medical, and philosophical. Law is seeking to extract from the conflict certain

elements of order so that American society may respond to the highest needs of these values. Happily, other national societies dedicated to the rule of law, as is American society, have had similar experiences. In some of these foreign jurisdictions, law has responded both more rapidly and more broadly than has American law. Comparative legal analysis, therefore, is not only possible in this area, it should be encouraged.

Intellectual fodder of the highest quality is provided in this symposium on abortion. A significant religious, medical, and legal issue is viewed from all facets. B. James George, Jr., Professor of Law at the University of Michigan Law School, begins the discussion with an analysis of the current American statutory law regulating abortion. He concludes that therapeutic abortion must be more easily attainable if the "injustices inherent in the present law" are to be lessened or eliminated. Doctors Niswander and Ryan, providing the viewpoints of two obstetricians and gynecologists, feel that present abortion laws should be liberalized to allow for interruption of pregnancy when, in the opinion of the medical profession, it is necessary to preserve the life or health of the mother. However, the doctors differ rather strongly in regard to whether abortion should be allowed where there is no danger to the life or health of the mother, but where there is a chance of abnormality of the child. Doctor Harold Rosen, Associate Professor of Psychiatry at Johns Hopkins University and author of numerous articles on the subject of abortion, believes that all criminal abortion laws should be abolished and that women should be given the right to decide whether

or not they will have an abortion. However, realizing that this solution is not possible in today's social climate, he proposes that provisions be adopted which allow termination of pregnancy under many more circumstances than are provided for in present state statutes. Religious principles are discussed by two noted religious leaders. Robert F. Drinan, Dean and Professor of Family Law at the Boston College School of Law, discusses the Roman Catholic position on abortion, while Rabbi Dr. Immanuel Jakobovits, Rabbi of the Fifth Avenue Synagogue in New York City and author of the book, *Jewish Medical Ethics*, sets forth the Orthodox Jewish views on the problem.

Foreign law experience is displayed. Vera Skalts and Magna Norgaard, officials at the Mothers Aid Center in Copenhagen, Denmark, outline the progressive system for dealing with all pregnancy matters which has developed in that country over the last three decades. Adding to the discussion of the Danish system is Doctor Henrik Hoffmeyer, until recently the chief of the psychiatric staff of the Mothers Aid Center in Copenhagen, who discusses the medical practices that have developed under the Danish legislation. Finally, Doctor Leopold Breiteneker, Professor and Chairman of the Institute for Legal Medicine at the University of Vienna, and his son, Doctor Rudiger Breiteneker, Assistant Medical Examiner of the State of Maryland, close the symposium with a section on the abortion laws and practices of the German-speaking countries of Europe.

Hopefully, after digestion of the facts and opinions, a higher level of understanding of a complex human problem will result. Furthermore, such understanding may lead to a change in the law, another example of law purification providing a closer proximity between human society and human justice.

In studying these pages, forget not the real meaning of the current drama in the abortion situation. It is the unending process of testing law to determine whether it provides the highest level of justice for the most advanced state of human society. Herein is presented a basic medical issue — abortion. However, religion and law are also directly involved. Religious principles affect all. Religion ties us to the great Creator of the universe, the moving spirit of man. Law ties us to order in society, the cornerstone of justice among human beings. Rarely has such a legal symposium probed such great depths as this timely presentation on abortion.

Let us read, contemplate, and act as our mind and soul dictate. In this process is written man's progress.