

Partial-birth abortion bill 'flawed'

Dr. Ed Greeley Tribune 10-5-97

As a Colorado Legislator, I've received hundreds of phone calls, letters and comments in passing on numerous subjects. Most comments directed toward me have been very favorable and even the negative comments have been done so politely. The exception is regarding House Bill 97-1136, the so-called Partial Birth Abortion Bill.

I'm surprised at from whom the most uninformed criticism has come: those on the forefront of the right-to-life movement. One senior church pastor wrote that I am a "proponent of slaughter of the unborn." Another minister has been overheard on numerous occasions calling me a "baby killer." A newsletter being circulated says that I am "pro-abortion." A local businessman said, "nothing else that happened at the state Capitol mattered relative to the vote on the partial-birth abortion bill." I know that these people have a core of goodness. I pray that their anger is tempered and their minds opened to the truth.

I promise this editorial will be my best effort at explaining the facts surrounding the abortion issue in general and the partial-birth abortion bill specifically. My goal is to cast light upon this dark, divisive and destructive issue, which is driving so many otherwise humane people to the brink of outright hatred of their fellow man.

TAMBOR WILLIAMS



First, I'd like to point out that I refuse to accept any of the labels trying to be attached to me. During the primary election in the summer of 1996, the single-issue people on the right supported my Republican opponent. During the general election in November 1996, the pro-choice groups supported my Democratic opponent. Each side has their own pass-or-fail "litmus test."

Next, from a legal prospective, here's some background: On Jan. 22, 1973, the U.S. Supreme Court ruled that state criminal abortion laws that made exception

from criminality only in the case of a lifesaving procedure on the mother's behalf and without regard to the stage of development of the fetus violated a woman's right to privacy, including a qualified right to terminate her pregnancy, as guaranteed by the due process clause of the 14th Amendment.

A "qualified right to terminate" means that the right to end a pregnancy is restricted because the state must also recognize the potentiality of the second human life and the interests of each life, those of both the mother and fetus, throughout the various stages of the pregnancy.

Why can't the state just outlaw abortion? Because a law cannot be passed that overrides a constitutional right. So for any candidate to run for office on a promise to end abortion ignores reality or is intentionally dishonest. Probably, most of those in the "right-to-life movement" don't realize that Colorado already has a criminal abortion law on the books. This law and previous versions of it date back to Colorado statehood. I invite them to look up CRS 18-6-102, Criminal Abortion, which says:

■ Any person who intentionally ends or causes to be ended the pregnancy of a woman by any means other than justified medical termination or birth commits criminal abortion.

■ Criminal abortion is a class four felony, but if the woman dies as a result of the criminal abortion, it is a class two felony.

Question: This law is on the books, so why isn't it being enforced?

Answer: It can't be, because the law has been held unconstitutional since 1973.

Now, let's take a look at HB97-1136, the Partial Birth Abortion Bill. I'll attempt to undo some of the myths surrounding that particular bill.

First, contrary to the hearsay, there was never a yes/no vote on this bill in the Colorado House or Senate. The bill was fundamentally flawed, and the only action on the floor of the House was a near two-thirds majority vote to send the bill to the House Judiciary Committee to examine its constitutionality. Even though the bill was fraught with problems and inconsistencies, a small group of extremists vowed to "get even" with the 15 Republicans who voted to send the bill to the judiciary committee.

Most of you will agree that HB97-1136 isn't worth the energy its supporters are putting into it. In my opinion, once aware, no reasonable person could condone this appalling procedure. But to focus on the repugnance ignores the substance. Here's my analysis of the bill:

■ This bill would NOT have outlawed abortion of a viable fetus, it only makes illegal a specific medical procedure. Any doctor could easily alter one or more of the four "elements" of the procedure and thereby avoid any penalty.

■ If taking the life of a viable fetus is homicide, then why did this bill make the procedure only a class 1 misdemeanor? What about the sanctity of life? Is the deliberate taking of a viable life just a misdemeanor? If a woman gave premature natural birth to a viable child, then disposed of it or otherwise caused its death, what charge would be brought? A misdemeanor?

■ 3. If taking the life of a viable fetus is homicide, then why is the woman or any other participant exempted from prosecution? Why is only the doctor at risk?

In my view, this was an empty, unenforceable bill. It was simply a "bone" thrown to uninformed followers by a few intellectually dishonest politicians who were pandering to their public. I may not have been politically smart when voting to send the bill to the judiciary committee. I refused, however, to be bullied by a small group of extremists who knew the bill was only symbolic but pushed for its passage anyway.

What can the state of Colorado do?

■ Just passing a law outlawing abortion is not possible. There is already an unenforceable law on the books.

■ The people of Colorado, by initiative on Nov. 6, 1984, passed an amendment forbidding the public funding of abortion. The state, therefore, is not a party to an abortion.

■ A law simplifying adoption in Colorado can be passed. This needs to be done, soon.

■ A parental notification law may be constitutional.

■ Pass a law requiring the dissemination of truthful information that would attempt to persuade the woman to choose childbirth over abortion.

■ A carefully crafted late-term abortion bill that saves the protections guaranteed by the Supreme Court's rulings in Roe vs. Wade and the more recent Casey case could be considered.

So, what can we as individuals do? We can continue to educate regarding abstinence, parenthood and prevention of pregnancy. We can be aware of the reasons that a woman would seek an abortion and try, through church and community efforts, to eliminate as many of those reasons as possible. We can assure that financial and medical resources are available to women facing difficulties during pregnancy.

It's a fact that the number of abortions each year is declining. I credit this decline largely to the good work of people at pregnancy counseling services and private adoption services who depend on us for our charitable contributions.

We should recognize and thank individuals who, one by one, privately, make it possible for a woman to reject abortion as a solution to her problems.

State Rep. Tambor Williams, a Republican, represents House District 50, which includes Greeley, Evans and La Salle. She is a member of the House Business Affairs and Labor Committee and the House Local Government Committee.

HB97-1136

■ 18-6-102.5 Criminal partial birth abortions. (1) AS USED IN THIS SECTION, "PARTIAL-BIRTH ABORTION" MEANS AN ABORTION PERFORMED ON A VIABLE FETUS USING ALL OF THE FOLLOWING FOUR ELEMENTS: (viable means: capable of independent existence outside the mother's womb).

(a) DELIBERATE DILATION OF THE CERVIX, USUALLY OVER A SEQUENCE OF DAYS;

(b) INSTRUMENTAL CONVERSION OF THE FETUS TO A FOOTLING BREACH;

(c) BREECH EXTRACTION OF THE BODY EXCEPTING THE HEAD; AND

(d) PARTIAL EVACUATION OF THE INTRACRANIAL CONTENTS OF A LIVING FETUS TO EFFECT VAGINAL DE-

LIVERY OF A DEAD BUT OTHERWISE INTACT FETUS.

(2) ANY PERSON WHO KNOWINGLY PERFORMS A PARTIAL-BIRTH ABORTION COMMITS CRIMINAL PARTIAL BIRTH ABORTION. CRIMINAL PARTIAL BIRTH ABORTION IS A CLASS 1 MISDEMEANOR.

(3) A WOMAN UPON WHOM A PARTIAL BIRTH ABORTION IS PERFORMED MAY NOT BE PROSECUTED UNDER THIS SECTION FOR CONSPIRACY TO COMMIT A CRIMINAL PARTIAL BIRTH ABORTION PURSUANT TO SECTION 18-2-201 OR COMPLICITY IN THE COMMISSION OF A CRIMINAL PARTIAL-BIRTH ABORTION PURSUANT TO SECTION 18-1-603.

THE CHRISTIAN COALITION

15 Republicans joined in killing bill

Revelations by leading abortion advocate Ron Fitzsimmons of the National Coalition of Abortion Providers that "he lied through (his) teeth" about partial-birth abortion came too late to salvage a bill banning the horrific practice in Colorado.

The procedure involves turning a baby in the womb with forceps and delivering it in a breech position. The top of the head is left in the birth canal while surgical scissors are used to puncture the base of the living child's skull, allowing a tube to be inserted to suction out the brain.

Fitzsimmons, a former NARAL lobbyist, admitted to the New York Times that he knew his statements regarding the reasons women have partial-birth abortions were false. Fitzsimmons had said on Nightline and in other forums that these abortions are performed to save the life of the mother, to preserve her fertility, or because of fetal deformity. He now acknowledges that the procedure is commonly done on healthy babies.

The Colorado partial-birth abortion ban bill, sponsored by freshman Rep. Barry Arrington, R-Arvida, was almost identical to the version passed by Congress last fall. The measure was vetoed by President Clinton. In introducing his bill, Arrington said that the procedure comes "dangerously close to infanticide," noting that if the head was completely out of the birth canal it would be murder.

His bill, HB97-1136, died in the House Judiciary Committee after a tortuous journey through the House State Affairs Committee, out to the House floor and then to its death in judiciary.

Testimony before both committees was

'THE FAKE FIFTEEN'

■ Gayle Berry, R-Mesa, Lewis Entz, R-Alamosa, Jeanne Faatz, R-Jefferson, Russell George, R-Rifle, Dorothy Gottlieb, R-Denver, Bill Kaufman, R-Loveland, Martha Kreutz, R-Littleton, Joyce Lawrence, R-Pueblo, Gary McPherson, R-Aurora, Marcy Morrison, R-Manitou Springs, Larry Schwartz, R-Pueblo, Bill Swenson, R-Longmont, Jack Taylor, R-Steamboat Springs, Steve Tool, R-Fort Collins, and Tambor Williams, R-Greeley.

contentious. While some members of the State Affairs Committee rushed to apologize to the pro-abortion witnesses, the requirement of an oath and close questioning was necessary with the history of deception by representatives of the lucrative abortion industry. Former abortionist Dr. Bernard Nathanson also admitted that he grossly exaggerated statistics of deaths due to illegal abortions prior to the 1973 Roe vs. Wade decision.

All the Democrats voted to send the measure to the judiciary committee. In addition, 15 liberal Republicans, labeled the "The Fake Fifteen," made their views clear and effectively voted to kill the ban on partial-birth abortions.

This column by Merrilou Athens-Barnekow first appeared in the May/June edition of the Christian Coalition's The Christian American.