

One million women a year works out to about two every minute. Every minute, two women somewhere in America undergo illegal abortions. Every two hours or so, one of them dies trying.

Several states are now adopting, or at least considering, a humane abortion law.

That'll be a big step forward, won't it?

No.



by Gene Marine with Art Goldberg

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[MOUNT SINAI HOSPITAL, NEW YORK CITY]

DR. ALAN GUTTMACHER is now chairman of Planned Parenthood World Population, of which more later, but he used to be director of the department of obstetrics and gynecology at Mt. Sinai Hospital. "While I was working at Mount Sinai," he said, "I was really torn apart to witness every year a notorious woman drug addict come in off the street and deposit a new baby. These children were taken from the woman by Welfare. She didn't want them and certainly the children born to her were cursed by their environment, from the start."

The notorious woman drug addict is not among those million women in the statistics. Neither is anybody else who is afraid to have an abortion, or doesn't know how to get an abortion, or can't afford an abortion. I would guess that for every woman who gets an abortion, there are two who would like to but don't, but of course that's only a guess.

[THE AMERICAN LAW INSTITUTE]

A LOT OF STATES are busy enacting portions of a model penal code cooked up by the Institute in 1959. In that model penal code there's a section on abortion; this "model law" is the one which, with minor variations, has been enacted by Colorado and North Carolina, is under consideration in California, and was defeated earlier this year in New York, where the speaker of the assembly sent it to a pet committee that could be counted on to kill it.

Before the ALI bill made it in Colorado and North Carolina, the only legal excuse for abortion in America was to save the life of the mother, or (in Alabama, New Mexico, Oregon and the District of Columbia) to prevent serious and permanent damage to the mother's health. There are some tricky phrases in a couple of other states, but they don't provide any other real reasons to allow abortions.

The ALI's director, Herbert Wechsler, told a reporter, "We at the Institute felt that a law which is widely violated, and is widely violated by people who don't in general break the law, must be suspected of serious error."

So the ALI came up with this bill, which would allow abortion (performed in a hospital by a doctor) if the pregnancy would otherwise kill the mother; would seriously and permanently endanger her physical or mental health; or would result in the birth of a child with grave and permanent physical deformity or mental retardation. The bill would also allow abortion in the case of a young girl (under 16 in the ALI version) or when a pregnancy has resulted from rape or incest.

That covers German measles and thalidomide cases like Sherri Finkbine's. Also, according to abortion reform enthusiasts, it makes a neat loophole ("physical or mental health of the mother") through which a determined psychiatrist could drive a truck.

Abortion reform enthusiasts are mostly middle class.

[A HEARING ROOM IN ALBANY, NEW YORK]

STATE ASSEMBLYMAN Albert Blumenthal having introduced a somewhat more stringent version of the ALI bill in the New York legislature, two committees held a joint hearing on the bill in February 1967.

Witnesses for and against the legislation agreed that the widest possible stretching of the ALI criteria would not cover

more than 20 per cent of the abortions which are today performed illegally in the United States. That leaves about 800,000 a year.

[SLOANE HOSPITAL FOR WOMEN, NEW YORK CITY]

DR. ROBERT E. HALL of New York published in the American Journal of Obstetrics and Gynecology a study of all the "legal" abortions performed in this hospital over a ten-year period. About two-thirds of them, Dr. Hall wrote, were probably illegal under New York law, a lot of them having been granted because of rubella (German measles) or arthritis or something like that.

But in Sloane, as in a lot of other hospitals, there are ward patients who don't have a lot of money, and there are private room patients who have more. The "therapeutic" abortions, Dr. Hall wrote, "were more common among the private patients at Sloane Hospital for virtually all of the more debatable indications, such as arthritis, inactive tuberculosis, and rubella, and more common among the ward patients for most of the less debatable indications, such as rheumatic heart disease and hypertensive cardiovascular disease."

In other words, the ward patient might get the abortion that the law really means to cover, but it is the private patient for whom the law is stretched, bent or simply broken. When they start stretching the "mental health" clause, guess who it'll get stretched for?

In the Sloane Hospital study, not incidentally, all the private patients were white except one Oriental woman. Forty per cent of the ward patients were black.

[TWO HOSPITALS IN WASHINGTON, D.C.]

DURING 1962, at the Columbia Hospital for Women, there were 1345 live babies delivered for ward patients. In the same year, on the same wards, there were no "therapeutic" abortions. But among the private patients in the same hospital, there was one abortion for every 125 live births.

At D.C. General Hospital, where the poor women go to have their babies, and where there are no private patients, there was one abortion for 14,300 live births.

A study of 60 non-Catholic hospitals across the United States showed that private patients get abortions in one out of every 316 pregnancies; ward patients get them in one out of every 1150 pregnancies.

[VARIOUS LOCATIONS ABROAD]

ABOUT TEN THOUSAND WOMEN go to Puerto Rico every year in search of abortions, which is more than 190 women every week. Most get what they go for. It costs them about \$350 (if they're very lucky), plus plane fare plus hotel plus food. They may wind up with a bell-boy posing as a doctor, but that's the chance you take. Poor people do not go to Puerto Rico looking for abortions.

There's no figure on how many women go to Tijuana, Mexico, and the town happens to be a little tight right now, but normally there are about 75 abortionists operating regularly in Tijuana and quite a few fly-by-nighters besides. The cost is about the same. Poor people don't go to Tijuana either.

Sweden is not what it has been rumored to be—it's much more difficult to obtain an abortion there than many people



M. J. G. 1962

believe—but Japan is easy, completely legal and inexpensive, and so is Poland. All you have to do is get there. Poor people, in general, cannot even fly now and pay later.

[THE PARENTS' AID SOCIETY,
130 MAIN ST., HEMPSTEAD, N.Y.]

IF YOU GET THERE before he gets busted, Bill Baird will help you get an abortion.

He wanted us to say that, although Art Goldberg and I both said that we would rather report on him in disguise, as it were. "I *want* to get arrested," Baird insisted. "I want to test this silly law in every way I can. I've been trying to get them to arrest me for months."

With the permission of one of his visitors—"clients" would be the wrong word, because Baird will not take money from anyone he helps—we listened as she told her story. A worn, dumpy woman who can't be 40 but who looked 50, she was appealing on behalf of her daughter, who is 16.

She told a sordid and depressing story of an alcoholic husband, only recently off the booze ("If he finds out, I don't know what he'll do—the slightest little thing could set him off again"); of a life of hard work to support her family, with almost no time left to spend with a growing daughter; of a boy with an alcoholic mother and a stern, taciturn father; of two young people badly in need of love, finding it together for an ignorant moment.

The mother had borrowed from friends without explanation, set aside amounts from household funds, somehow amassed \$500—the lowest fee for which Baird can get a doctor to perform a safe abortion. He works with about 30 doctors, most but not all in the New York-New Jersey area, and he has satisfied himself that each of them works in sterile and medically complete surroundings. But in this case, a doctor had examined the girl, found a tipped womb, and refused the operation. Time was rushing by; the girl and her mother were growing frantic.

"Don't worry," Baird said. A slight, blond man of 34, he seems in conversation to be a little too intense, a little too filled with the vision of himself as a martyr; but talking to a woman in his tiny overheated office, he is marvelous, somehow through his concern draining the moment of its anguish and restoring to his visitor the dignity which is usually the first casualty in the bizarre world of abortion.

There are two doctors, he assured the woman, who will perform the operation. It's still safe, there's no problem, but there are complications. For one thing, the girl would have to be away for four days or so, in a medical institution to which she'd be admitted on a pretext. The woman said she could come up with a story that would satisfy her husband.

The second complication was that for the more difficult operation it would cost \$1500.

If there were no Bill Baird, that 16-year-old girl wouldn't be an abortion statistic either. We watched the woman's face when Baird mentioned the amount, and he might as well have asked for the State of Idaho. Quickly he assured her that he had sent several patients to each of the two doctors, and that he would try to persuade one to perform the operation for \$500. If they wouldn't, he'd come up with the difference somehow.

He will, too, although when we asked him later, he said he hadn't the vaguest idea where he'd get it. "But I always do," he said. He gestured toward the waiting room in the front of the small storefront building, where another dozen women and

girls were waiting for his help. "I have to," he added.

The Parents' Aid Society, which started out as a birth control clinic, is run on donations from well-wishers, but the rent isn't usually paid and they're about to take out the phone, because Baird keeps giving away the donations.

The abortion reform bill introduced in New York, which had been defeated by the time we visited Bill Baird, had been changed from the ALI model by Assemblyman Blumenthal, in order to increase its chances of passage. It would have allowed abortions for girls under 13, instead of girls under 16.

[MOUNT SINAI HOSPITAL, NEW YORK CITY]

IN THE CASE OF A WOMAN who comes from a lower socioeconomic class," Dr. Richard Hausknecht told a reporter, "where she goes to a clinic and not a private hospital, and cannot afford a private physician, there is little likelihood that she will be apprised of the fact that legal abortions are obtainable under certain circumstances. Out of ignorance, a poor woman often doesn't even make the attempt to obtain a legal abortion. . . . The average patient in a clinic simply doesn't know what her rights are."

Liberalizing the grounds for legal abortions will not change the validity of Dr. Hausknecht's statement in the slightest.

[THE PARENTS' AID SOCIETY]

PLANNED PARENTHOOD," Bill Baird told us, "is a middle class monopoly."

Baird, who was a financial dropout from medical school and who later became the \$20,000-a-year clinical director for Emko, a manufacturer of contraceptive vaginal foam, is bitter about Planned Parenthood. He claims that even before he started giving abortion advice, when he was simply running a birth control clinic, Planned Parenthood tried to undercut his work, by discouraging donations and by telling lies about him.

But above all he is bitter because, he insists, Planned Parenthood doesn't take its birth control information, much less its birth control devices, where they're needed: to poor people. Baird and his wife put all their savings into a van, with which they tour the poor areas of Long Island. Baird knows the areas well, having also, for a time, been coordinator of the poverty program around Great Neck.

The van, which is still in use when Baird has time, is fitted out in living room fashion. "Poor people," Baird says, "are uncomfortable in clinic surroundings. You're separated from them, and they won't talk freely." When he talks about birth control, he won't use diagrams ("Poor people aren't used to thinking that way, they don't understand them"); instead, he uses three-dimensional models and a department store mannequin. He draws with grease pencil on the pelvic area of the mannequin as he talks.

"Sure I want to break down the abortion law," Baird told us, "but the only way to help poor people isn't to pass a law that will make it easier for middle class women to get abortions. The way to help poor people is to give them birth control information and birth control devices, so they don't have to creep around looking for abortions in the first place. If Planned Parenthood wanted to do what they say they want to do, they'd be out in the ghettos and the poor neighborhoods, giving away their pills as fast as they could raise the money to buy them."

[BALTIMORE, MARYLAND]

TWO OR THREE TIMES A DAY, in Baltimore, an unmarried girl under 16 gives birth to a child she doesn't want. These 1000 girls a year do not appear in any abortion statistics either. There are two or three or five or eight such births every day in every major city in the United States.

In Baltimore, the health department has a counseling program for what they euphemistically call "inner-city teen-agers," by which they mean poor kids, mostly black. But according to Dr. Matthew Tayback, the deputy health commissioner, the social workers and health department types would just about start breaking through to an inner-city teen-ager, and the kid would turn up pregnant.

So they started giving them pills.

A private foundation put up some money, Sinai Hospital joined the health department in the program, and the whole thing is very simple. You come in for your counseling and you get your pills, complete with the requisite medical examination and so on. It costs 40 grand a year. The archbishop probably goes through the roof when somebody mentions it, but there are some kids who aren't making the abortion statistics, not to mention the statistics about kids who bleed to death or die of peritonitis or endotoxic shock.

The consequences of attempted illegal abortions are the largest single cause of maternal death in the United States.

[EPILOGUE]

THE WORLD OF ILLEGAL ABORTION is a dirty, degrading, frightening, unhealthy world. In it, women die from trying to burn themselves out with Lysol, from having their uteri torn up with coat hangers (watching a 29-year-old woman die from a coat hanger attempt is what turned Bill Baird into a crusader), from being turned out of a shaking abortionist's kitchen to bleed to death in the street.

It's a world of leering, indecent proposals, of women raped while under anaesthesia, of women treated like sides of beef in assembly line fashion by operators whose instruments are carried wrapped in rags in their pockets. It's a world in which one woman—in an authenticated case reported by David Lowe in *Abortion and the Law*—found her body used to smuggle heroin from Tijuana to Los Angeles.

It's a world that exists partly because theologians disagree about the moment at which the soul enters the body—a disagreement that brings misery every year to hundreds of thousands of women who may not believe in the existence of a soul at all, or who may believe with Saint Augustine that it enters a foetus late in pregnancy, or who may even believe that God did not take the same biology class as Francis Cardinal Spellman.

But the Roman Catholic Church, if it can, is going to see to it that American women go on dying from being torn apart by coat hangers or knitting needles. In New York, a "pastoral letter" was read from every Catholic pulpit in the state, damning Blumenthal's reform bill and promising both electoral and divine retribution to any legislator who voted for it. The whole thing is made just that much more ridiculous by the fact that a large percentage of the American women who obtain illegal abortions every year are otherwise devout Roman Catholics.

And it's a world where the rich and the middle class women get whatever breaks there are. Yet it is the rich woman, and

the middle class woman, for whom the abortion reform laws are intended. They will make it a little easier for a doctor to bend a definition to satisfy a patient; and they will provide genuine help, of course, in those few cases they actually cover—the incest cases, the rape cases, the German measles cases, the 13-year-old girls. But even in those cases, they will help only the women and girls who know their rights under the law and who have the money to pay for the operation.

Deaths from attempted abortion in New York City are much higher, on a percentage of population basis, among non-whites than whites (although the "legal" abortion rate is five times as high among whites). The deaths have different medical causes, but their underlying causes are ignorance or poverty or both. The uneducated woman without money tries turning to drugs—like the ergot derivatives that can cause death from jaundice. Or she tries the "bougie"—the object inserted into the womb to cause infection and consequent miscarriage, which, if it doesn't penetrate the uterine wall and bring on a hemorrhage, will as likely cause an infection that spreads into peritonitis or endotoxic shock, both probably fatal.

And the same conservative Roman Catholic Republicans who weep so sincerely in public about the rights of the unborn foetus will do their damndest to cut the welfare rolls, to force the unmarried mother into prostitution or crime, to make sure that the unwanted starving children of the poor don't get any help from the state.

It's all so unnecessary—so murderously silly. Of course the doctors who so often make public their anguish over the misery caused by our archaic laws—laws made, incidentally, by men at a time when women were considered little more than chattel—could simply defy the archaic laws and all start performing abortions. They can't all be put in jail. But the doctors won't do that.

It ought to be obvious to any legislator—and it probably is—that a woman has a right to determine the use of her own body, and to decide her own religious convictions, if any, about that use. Enough legislators in every state *do* know that, in fact, so that the abortion laws could be reversed tomorrow, making every abortion legal except when *that* would endanger the life of the mother. But the legislators won't do that either. Legislators are no more famous for their courage than doctors, and they can't even charge a fee for being courageous.

But without any great expenditure of courage or any troublesome battle with principle, a lot of doctors and nurses and medical students and others—even including legislators—*could* go to Harlem and Hunter's Point and all the other "inner cities" and tell people how not to get pregnant. They could also provide pills; if they need it, they can get financial help just as the Baltimore health department did. You don't have to be a city agency; any doctor can prescribe pills.

And they could do it as Baltimore does it, and as Bill Baird does it: without asking girls or women how old they are or whether they're married or whether they're planning to use the pills for immoral purposes or any other stupid questions.

Bill Baird may get arrested, but he's helped hundreds of girls and women to get abortions in the last few months, and before that he helped thousands to learn how not to have to get an abortion in the first place. He did it by not waiting for somebody to pass a law that isn't going to help poor people anyway.

He did it by going and doing it.

Notes toward a Definition of the Uniform Code of Military Justice, as Particularly Applied to the Person of Captain Howard Levy

“WHY, IT’S ALL SO TERRIBLE. My neighbors have been dropping in every day to commiserate with me about my son being mixed up with that Jew.”

The dignified grey-haired lady enunciated “commiserate” as if it were the beginning of the Declaration of Independence of the Confederacy. Her son, a civil liberties lawyer with a mod-Roman haircut, coughed and shifted the silver around his plate. I tried to get the dinner conversation back to the Army, but the family of Laughlin McDonald, Captain Howard Levy’s assistant defense counsel, was more interested in Levy’s Jewishness than the issues in the celebrated court-martial that her son was helping to defend.

We were dining in a pleasant Southern home some distance from Columbia, South Carolina. Columbia is not a particularly appealing town, and Fort Jackson, where the court-martial was held, was particularly oppressive, so McDonald had asked me to his family’s house for dinner to break the monotony of Captain Levy’s two-week struggle with military justice. Mr. McDonald was a fundamentalist Southerner, but this was not the only manifestation of anti-Semitism I heard during the Levy court-martial. The Army has a way of accepting anyone who assimilates—Negroes obey orders and so do Jews, and nobody, Jew or Protestant, gets uppity. But if somebody does get out of line, like Captain Levy, then all the incipient racism of the teutonic military comes to the fore.

I heard the opinion all over Fort Jackson, from officers and enlisted men alike, that Levy’s “troublemaking” had something to do with his being a Jew. Many of us at the trial were horrified at the incipient racism contained in the Iago-like portrayal of Levy by the Army’s trial counsel, Captain Richard Shusterman, who tried to cast the happy-go-lucky doctor as a sinister figure who sulked about preying on the weaknesses of disadvantaged people in order to subvert and disaffect them.

“Levy’s a nigger lover, a Jew, a traitor and a pinko and that’s why they’re getting him,” a Fort Jackson drill sergeant told me.

As from the mouths of babes, the sergeant’s remarks held a germ of truth about the Levy court-martial. The Brooklyn doctor was a troublemaker. He was a nonconformist stationed at a tough basic training post, who had rejected an invitation to join the officer’s club and instead spent his time registering Negroes to vote in nearby Newberry. He was sloppy, arrogant and independent—all the qualities the Army cannot abide. In the final analysis, Levy was found guilty of being a civilian in captain’s bars.

AS WITH SO MANY EPIC THINGS in military life, the Levy court-martial took place because of a massive screw-up.

The mistake was that of Levy’s superior officer and chief accuser, Colonel Henry Fancy, the Fort Jackson hospital commander and post surgeon, who had come to view the maverick dermatologist with the same affection Captain Queeg held for his crew. One can only speculate on the traumas suffered by Colonel Fancy while Levy worked for him, since the only certain thing these two men have in common is their medical degrees. The “lawful order of a superior” that Levy was convicted of disobeying was Fancy’s command to teach Special Forces medics the fine art of dermatology. Levy refused, on the grounds that Special Forces medics were combat soldiers who specialized in killing people primarily and curing them only secondarily. Levy considered it a violation of medical ethics to train medics whose use of medicine would be for political and military, not humanitarian, ends.

Colonel Fancy admitted under questioning that he originally planned to punish Captain Levy under Article 15 (a procedure which would result in a reprimand for an officer) until he was

by Don Duncan with J.A.C. Dunn & sketches by David Stone Martin