

However, he identifies the term only with potent tradition. It is also useful to invoke this symbol on behalf of that which is "formally" accepted, in the sense partially conveyed by such approximate equivalents as "legitimate," "established," "justifiable," "reasonable." Law itself can be effectively defined as conjointly authoritative and controlling; and the quest of a preferred system of public order affirming goal values and implemented by appropriate institutional arrangements is the most challenging "product of time," notably future time, to which Jacobson alludes. The rich connotations of "authority" are assets for the shaping of the dynamic consensus characteristic of the big scale world of now.

Plainly, this symposium has overcome the tribulations that normally attend such a composite effort in sufficient degree to deserve our thanks. And it can be safely said that everyone will find in Charles W. Hendel's opening essay a masterful and polished introduction to the whole. His most arresting comment, perhaps, is about the "silent philosophical 'declaration of independence'" when the Constitution was written. "Sovereignty" was played down. "It seems that whatever constructive advance has been made in freedom and civilization within the past two centuries has come about through avoiding the notion of sovereignty, not by challenging it, but by quietly operating with the more useful concept of authority."¹³

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ABORTION IN THE UNITED STATES. Edited by Mary Steichen Calderone, with an Introduction by M. F. Ashley Montagu. New York: Hoeber-Harper, (1958). Pp. 224. \$5.50.

THIS book is a report of a conference, consisting mostly of doctors, which was held at Arden House under the sponsorship of the Planned Parenthood Federation of America and the New York Academy of Medicine. Among the thirty-nine participants many names well known in medical and demographic circles are to be found—names such as Alan Guttmacher, Harold Rosen, Abraham Stone, P. K. Whelpton, and the late Alfred Kinsey, to pick a few at random. The first 184 pages consist of the report proper, edited by Mary Steichen Calderone, medical director of the Federation. This is followed by a summary of the abortion and the birth-control laws of the United States, a discussion of abortion in Japan, Germany, Finland, and the Soviet Union, and the presentation of a few characteristics of the 5,293 women interviewed by the staff of the Institute for Sex Research as set forth in its monograph on Pregnancy, Birth and Abortion. The book concludes with a selected bibliography on the subject of the conference.

The usual law in this country permits a therapeutic abortion only to save

13. Pp. 24-25.

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the life of the mother. A half dozen states add "or that of her unborn child."¹ Only two or three jurisdictions legalize the termination of pregnancy to preserve the mother's health. As pointed out in the introduction to this volume, "the law does not recognize that a woman who is suffering from serious heart disease or who in early pregnancy contracted German measles ought to have her pregnancy interrupted for the good reason that in the one case she may seriously suffer as a consequence of the increased demands made upon her by the pregnancy, and in the other case because one may expect that in some twenty per cent of instances the child will be born blind, mentally retarded or otherwise affected."²

By way of contrast, according to physicians from Norway, Sweden and Denmark, in those countries not only may the physical and mental health of the woman legitimate therapeutic abortion, but the pregnancy may be terminated when it occurs as the result of illegal conception such as incest, rape or consensual intercourse with a girl who is not of age, for eugenic reasons, and even for "extended medical indications" or "anticipated weakness."

Abortion is a major social and medical problem—one as real and as urgent as was venereal disease a generation ago.³ Just how widespread it is is hard to say for lack of accurate statistics. Most abortions are illegal and therefore not reported. Nonetheless, there are some bases for making fairly reliable estimates within rather wide limits. For example, during the period from 1950 to 1955, 77 therapeutic abortions were performed in Bellevue Hospital. During the same period, 3,488 cases involving abortions (spontaneous as well as induced) were admitted for care. Of these, Dr. Kleegman, clinical professor of obstetrics and gynecology of New York University Medical School, estimated one half (or over 1700) were induced.⁴

Kinsey reported on his study of 4,248 pregnancies which occurred among 5,293 white, nonprison women. Among unmarried women, the proportion resolved by induced abortions ranged from eighty-eight to ninety-five per cent. The rate was much lower, of course, among married women. Ten per cent of all married women in the sample had experienced induced abortions by the time they reached twenty years of age and, by age forty-five, twenty-two per cent had undergone at least one induced abortion.⁵ Some similar studies have given equally spectacular results,⁶ although others have reported a much lower rate.⁷ All such studies, of course, draw their conclusions from surveys of somewhat limited populations which are assumed, with reservations, to be repre-

1. P. 187.

2. P. 3.

3. P. 181.

4. Pp. 109, 110.

5. P. 54.

6. Tietze & Martin, *Foetal Deaths, Spontaneous and Induced, in the Urban, White Population of the United States*, 11 *POPULATION STUDIES* 170 (1957).

7. Whelpton & Kiser, *Social and Psychological Factors Affecting Fertility: Part VIII*, 26 *MILBANK MEMORIAL FUND QUARTERLY* 182 (1948).

sentative of the larger community. As to the United States as a whole, the best the statistical committee at the Arden House Conference could infer was that a "plausible estimate of the frequency of induced abortion . . . could be as low as 200,000 and as high as 1,200,000 per year, depending upon assumptions made as to the incidence of abortion in the total population as compared with the restricted groups for which statistical data are available and upon the assessment of the direction and magnitude of bias inherent in each series of data." The Committee was forced to conclude that "there is no objective basis for the selection of a particular figure between these two estimates as an approximation of the actual frequency."⁸

This Conference was particularly concerned with the relation between contraception and abortion, a relation which may interest Connecticut readers, in view of the fact that Connecticut law forbids the use of contraceptives under any circumstances.⁹ This statute has twice been upheld by the Connecticut Supreme Court of Errors¹⁰ as a valid exercise of the state's police power in the interest of public morality. Although Kinsey questioned their conclusion,¹¹ most of the participants thought that lack of knowledge about and use of contraceptives definitely increases the incidence of abortion.¹² Sample: "Modern methods of family planning, it should be emphasized, would prevent 90-95 per cent of all abortion deaths."¹³ To the extent this assertion is accurate, it is hard to identify the Connecticut law with public morality, health or welfare, the usual rubrics of state police power.

Perhaps the most experienced person who attended this conference was a retired physician who was described as an "abortionist" with "a general social interest in the problem." This practitioner claimed to have performed 5,210 abortions over a period of twenty years. He had kept records of all cases and was able to give statistical reports on the distribution of his patients by age, marital status, number of living children, and history of previous abortions.¹⁴ The following reflects the conclusions to which he has come as a result of his experiences:¹⁵

1. My personal opinion is that there are at least a million abortions performed in the United States yearly, with an approximate ratio of 50 per cent married and 50 per cent single. These one million women need our special consideration.

8. P. 180.

9. CONN. GEN. STAT. § 8568 (1949).

10. *State v. Nelson*, 126 Conn. 412, 11 A.2d 856 (1940); *Tileston v. Ullman*, 129 Conn. 84, 26 A.2d 582 (1942).

11. P. 157.

12. Pp. 159, 182.

13. Kleegman, *Planned Parenthood: Its Influence On Public Health and Family Welfare*, in *THERAPEUTIC ABORTION: MEDICAL, PSYCHIATRIC, LEGAL, ANTHROPOLOGICAL AND RELIGIOUS CONSIDERATIONS* 254 (Rosen ed. 1954).

14. Pp. 59-61.

15. Pp. 171-72.

2. The problem may have its social ramifications but primarily it concerns two persons: the pregnant female and the male involved.

3. The decision as to what should be done about it is not a problem for one individual, nor for the state, nor for society, nor for the church, but for a selected group of medical men, sociologists, and other qualified individuals, because its ramifications are socioeconomic as well as medical. This selected group should formulate a schedule of indications that can reasonably be adhered to.

4. It will be necessary to establish, early in the school curriculum, adequate information regarding the generative organs, their anatomy, their function in reproduction, before much improvement in sexual behavior can be expected.

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Fotografies

The Journal dedicates this issue to the memory of
WALTON HALE HAMILTON