

WORLD FEDERATION OF DOCTORS WHO RESPECT HUMAN LIFE

QUEENSLAND BRANCH

PATRON The Hon. John Herron AO

primum non nocere

SUBMISSION

Queensland Parliamentary Committee of Enquiry into the Health (Abortion Law Reform) Amendment Bill 2016

**Dr David van Gend
Queensland Secretary
World Federation of Doctors who Respect Human Life**

October 6th 2016

***“The law in this State has not abdicated its responsibility
as guardian of the silent innocence of the unborn”***

Judge F.McGuire, (9 Qld Lawyer Reps at 45)

INTRODUCTION

To the members of the Committee of Enquiry,

The member for Cairns has proposed a second Bill to remove all legal restraint on the taking of life before birth – now divided into “on demand” to 24 weeks, then on the agreement of a second doctor up to birth

As if to show the utter contempt this Bill holds for the sanctity of life before birth, it notes that there is no offence if the doctor does not get the required second opinion; it might just be a disciplinary or complaint issue for AHPRA of the Ombudsman! The bulk of the Bill makes out that the real issue of substance here is pesky pro-lifers going within 50 m of an abortion clinic; the taking of the life of babies older than those in our hospital nurseries is considered a minor matter where no offence is committed even if a doctor disregards the minor ‘safeguards’ in this Bill.

Such a trivialisation of a matter of life or death, of the violation of the foundation of all law – “the prohibition of intentional killing” – means this Bill should be treated with all due respect.

Therefore I do not propose to dedicate any further attention to it – it does not warrant it – and will simply re-send the body of objections to the first Pyne Bill, which covers all matters of substance.

I will, however, be prepared to answer committee questions in more depth if required.

David van Gend
Toowoomba
6/10/2016.

CONTINUED FROM EARLIER SUBMISSION:

As the UK House of Lords put it, “The prohibition on intentional killing is the cornerstone of law and social relationships”. Therefore the proposed Bill touches on the deepest issues of justice and humanity.

A lawmaker has the binding duty to protect the vulnerable from violence, and has no right to indulge in ideological violations of this duty. I note that the Labor deputy leader, Jacki Trad MP, wants to frame this abortion legislation in terms of “the lived experience of women”. I respectfully ask, what about the death experience of babies? Does their existence as fellow human beings in our common story, their unique identity and destiny, count for nothing in the face of feminist ideology? Does their suffering count for nothing to Ms Trad and Mr Pyne, since this Bill allows the small human animal to be killed with a cruelty they would never countenance for any other non-human animal?

The onus is upon legislators supporting this Bill to show why the child before birth should be excluded from the protection given to all other members (even ‘unwanted’ older members) of the human family. This proposed legislation violates the most fundamental human right of all: the right to life, liberty and security of person. It allows for the cruel and inhuman killing of babies for no medical reason at all, even entirely healthy babies of entirely healthy mothers older than those in our hospital nurseries.

The Abortion Law Reform Bill would blur the line with infanticide-on-demand, allowing abortion late into pregnancy; indeed up to the last hour before birth, if that is what pleases the adults involved. Therefore, in this submission I outline to MPs the necessary information they would require to make a

judgement on this proposal. That includes formal technical diagrams of the medical procedure of late-term abortion as practiced in Australia and overseas on babies who might otherwise have been born alive and well. It also outlines the procedure for mid-trimester abortions – from 13 to 20 weeks typically – which is, if possible, more appalling.

A legislator who signs this unrestricted abortion license into law is as morally culpable with her pen as an abortion doctor is with the instrument he uses to puncture the struggling baby's skull.

On behalf of the Queensland branch of the Federation, I appeal to you to reject this proposed legislation and the amended version that we expect to be tabled that will resemble the current Victorian and Tasmanian laws. We, as a community of adults, must find other ways to deal with our sexual and social predicaments that do not involve killing our offspring.

I trust that you find the clinical and historical information on the following pages informative in your deliberations. I arrange the information under the sections of the terms of reference of the Committee.

I am available to appear before the committee at its public hearings for further information.

Yours faithfully,

Dr David van Gend

Terms of Reference

On 10 May 2016 Mr Rob Pyne MP, the Member for Cairns, introduced the *Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016* as a Private Members' Bill.

The Bill has been referred to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee to consider, report and make recommendations on aspects of the law governing termination of pregnancy in Queensland to the House on options regarding:

- 1. Existing practices in Queensland concerning termination of pregnancy by medical practitioners;**
- 2. Existing legal principles that govern termination practices in Queensland;**
- 3. The need to modernise and clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations;**
- 4. Legislative and regulatory arrangements in other Australian jurisdictions including regulating terminations based on gestational periods; and**
- 5. Provision of counselling and support services for women.**

Term of reference 1

Existing practices in Queensland concerning termination of pregnancy by medical practitioners

When the practice of late-term abortion first came to the attention of Queensland Parliament in late 1994, the shadow minister for health, the Hon Mike Horan, reflected on its corrupting effect on the public mind:

What will it mean, Mr Speaker, for the conscience of our society and its respect for the law, if people are vividly aware of such brutality, such illegality, and then they see their leaders do nothing about it? More importantly, what will it mean for all the defenceless babies who, unlike their peers in the hospital nurseries, will never see a human face, never feel a human touch except that tight grip on their legs and that stab to the head? This is a question of the most basic humanity and decency.ⁱ

Twenty two years later, with late-term abortion “on demand” proposed to the Queensland Parliament, the *Abortion Law Reform Bill 2016* will roll out the welcome mat once more to this practice. Whether there is a doctor currently performing this procedure in Queensland, I do not know, since the most prominent practitioner, Dr David Grundmann, medical director of Planned Parenthood Australia, moved his clinic headquarters to Melbourne after the storm in Queensland over his late-term practices. But that is beside the point: what matters is that there is nothing stopping this practice from continuing in Queensland, as it did in past years, under Mr Pyne’s proposed Bill.

Implications for family violence?

Your committee is concerned with “family violence”. Please consider: what message does this Bill, if accepted, send to society about the acceptability of doing violence to babies – whether before or after birth? Remember, the victims of Dr Grundman’s late-term abortion beyond 20 weeks required both a birth and death certificate. They are dead Australians in the eyes of the law. The Pyne Bill would have us normalise and approve the killing of these little Australians, even while we hypocritically beat our chests about violence to newborn babies in different circumstances. A committee that is charged with considering family violence needs to ask itself: can we seriously believe that a cultural and legal norm to unlimited violence before birth will suddenly morph into a cultural and legal norm of unlimited tenderness after birth? No, if our law brutalises the deepest relationship in human life, that between mother and child, we brutalise it far beyond the baby’s first cry.

Facing the reality of what this Bill will allow

The late-term abortion technique of “cranial decompression”, as publicised and practised by Dr David Grundmann of the Planned Parenthood clinics in Brisbane and Melbourne, was banned by the US Senate in 2003 as “gruesome, inhumane and never medically indicated” yet would be approved under the Pyne Bill.

The opening paragraph of the US Partial-Birth Abortion Ban Act 2003 states: ⁱⁱ

The Congress finds and declares the following:

- (1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion - an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant -- is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

The ban has been upheld by the United States Supreme Court in 2007.

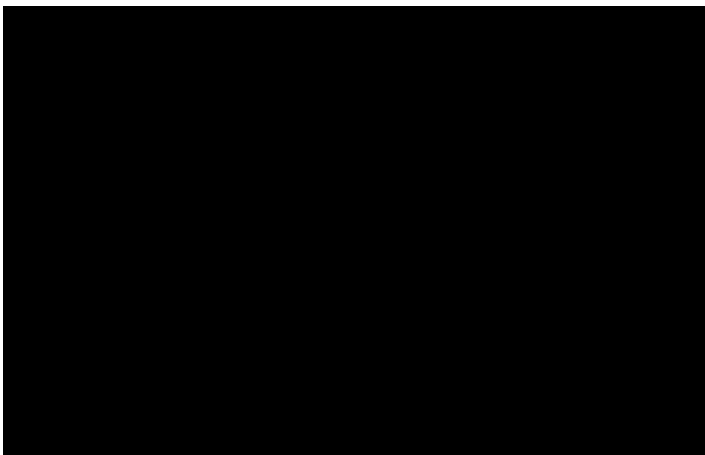
The procedure of ‘partial-birth abortion’ was performed in Dr Grundmann’s clinic only a few blocks from the Royal Brisbane & Women’s Hospital where I recall assisting at the birth of a baby just under 24 weeks. It seems to me that if I had taken that baby from its mother’s arms and pushed a puncturing instrument through its skull, that would be murder. Even if it had some minor abnormality, even if the mother wanted it dead and threatened suicide if I did not kill her baby, it would be indefensible murder. But when another doctor does this to another 24-week baby while it is being delivered at his clinic, that is family planning.

I know the realities of this practice in detail. Our Federation first brought Dr Grundmann’s practice of second-trimester ‘partial-birth abortion’ to the attention of Queensland Parliament in October 1994, and I have since appeared with Dr Grundmann at an AMA(Qld) enquiry into the practice (1995), and a decade later, debated Dr Grundmann on an SBS *Insight* forum (2005).

A physician friend surprised me with the strength of his reaction to that televised SBS forum. “Everyone in Australia”, said this liberal-minded doctor, “should have to watch a video of what Grundmann does to these babies. Then the debate on late-term abortion would be over”.

I cannot provide Senators with a link to a video of Dr Grundmann’s published method, but here below are medical drawings of his “cranial decompression” technique (known also as “partial-birth abortion”) as described in his published lecture at Monash University, “Abortion over 20 weeks in clinical practice”ⁱⁱⁱ and as described by him, as Medical Director of Planned Parenthood, on the ABC TV 7.30 *Report* (26/10/94). These drawings were validated by an eminent specialist in O&G for display on the floor of the US Senate during the passage of the *Partial-Birth Abortion Ban Act 2003*.

Dr Grundmann described his “method of choice” to the 7.30 *Report* audience as:

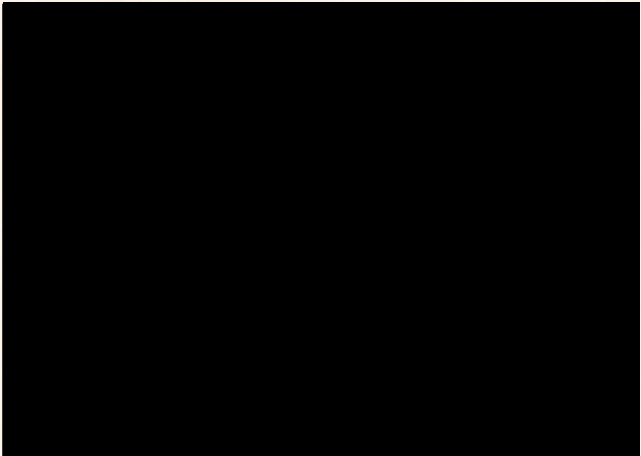


"essentially a breech delivery where the foetus is delivered feet first..."

"and then when the head of the foetus is brought down into the top of the cervical canal..."



"...it is decompressed with a puncturing instrument so that it fits then through the cervical opening".



In lay terms, this means the doctor puts scissors through the struggling baby's head while it is partly born and uses high pressure suction to evacuate the brains and so complete the killing. Note: this action is not legally murder, since that term of law requires the baby to have "fully proceeded in a living condition" from the birth canal. Morally but not legally, in my view, it is murder. The proposed Bill approves such acts of violence.

In his lecture Dr Grundmann notes an advantage of his method: that it avoids the awkward situation of the baby being born alive by accident. His technique of cranial decompression ensures, as he puts it, "no chance of delivering a live foetus".

Dr Grundmann was reported by the Age (3/2/06) to be "concerned about restricting abortion at any level, regardless of the length of the pregnancy". This restates his preference, as he put it in the Monash lecture, for unrestricted abortion where "abortion is an integral part of family planning, theoretically at any stage of gestation".

Dr Grundmann in recent years has been more discreet in letting the public know what his "method of choice", as he calls it, does to these half-born premmie babies. He was asked directly, in November 2005 on an SBS *Insight* forum on abortion in which I participated, to describe the procedure. He declined: "I'm not sure that the debate would be in anyway enhanced by descriptions of fairly explicit surgical and destructive procedures".

He continued, "It tends to be this issue that has people on both sides of the debate coming more or less to blows with each other." Indeed it does, in a rhetorical sense, and so it should in any decent society. Another participant asked him, referring to Dr Grundmann's published lecture notes, "Do you tell women you'll crush the baby's skull and suction out the brain?" but he gave no reply.

Again on *60 Minutes* in 2006 he was asked, "Do you pierce the baby's head with a sharp instrument?" and replied, "I'm not going to discuss details or specifics about procedures because I don't think that you or the public needs to know."

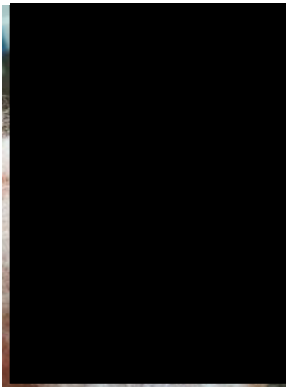
Respectfully, I think this is information that should not be hidden from MPs considering what level of violence is to be permitted on babies under your proposed laws.

Other practitioners and methods of mid-to-late abortion

There are other techniques for late-term abortion besides Dr Grundmann's "partial birth abortion".

In the infamous case of the 32 week baby with suspected short limbs at the Royal Women's Hospital in Melbourne, 2000, Dr Lachlan de Crespigny first injected the baby's heart with poison before delivering it dead – and apparently normal size. This condition was recently the subject of the ABC comedy "Life's Too Short". In Darwin in 1998 a doctor simply induced labour for unwanted Baby Jessica at 22 weeks – an entirely healthy baby of an entirely healthy mother - and left her crying in a cold steel pan for eighty minutes before she finally died.

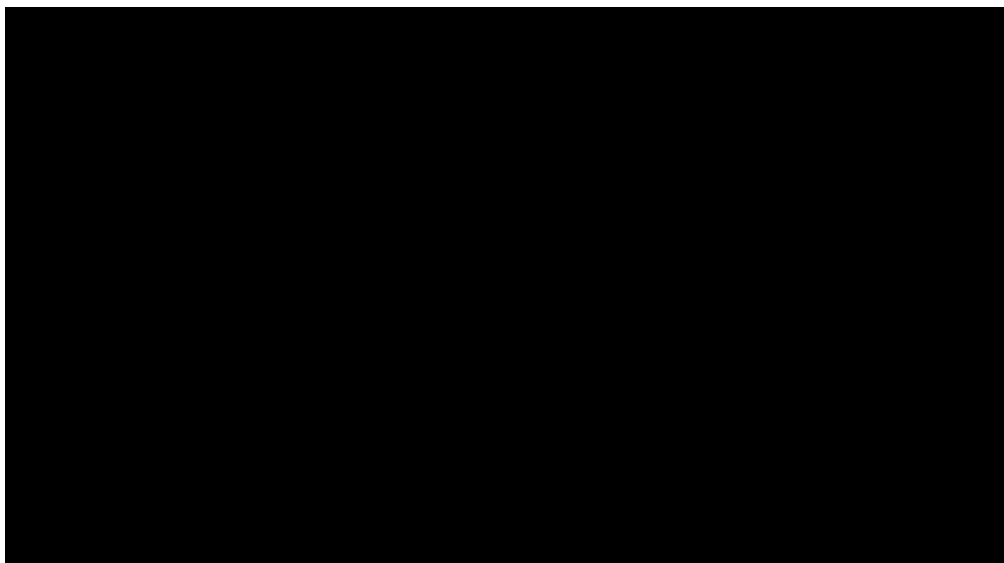
On the ABC screening of the *My Foetus* film, British late-term abortionist John Parsons does not crush the skull, but cuts the baby up in the womb, noting with a deadpan face that it is "not nice" to see "dismembered pieces of foetus falling into a bucket between my legs", but that he will do this if the baby is "seriously unwanted". Unwanted? As a GP caring for infertile couples of the very highest character and motivation to adopt and cherish a child, that word 'unwanted' is offensive.



This is the model I show excited parents of a 13 week baby. This is the age at which my wife and I had an ultrasound of our first son – we could see him touch his cheek with his hand; the profile of his face was recognizable at birth and ever since.

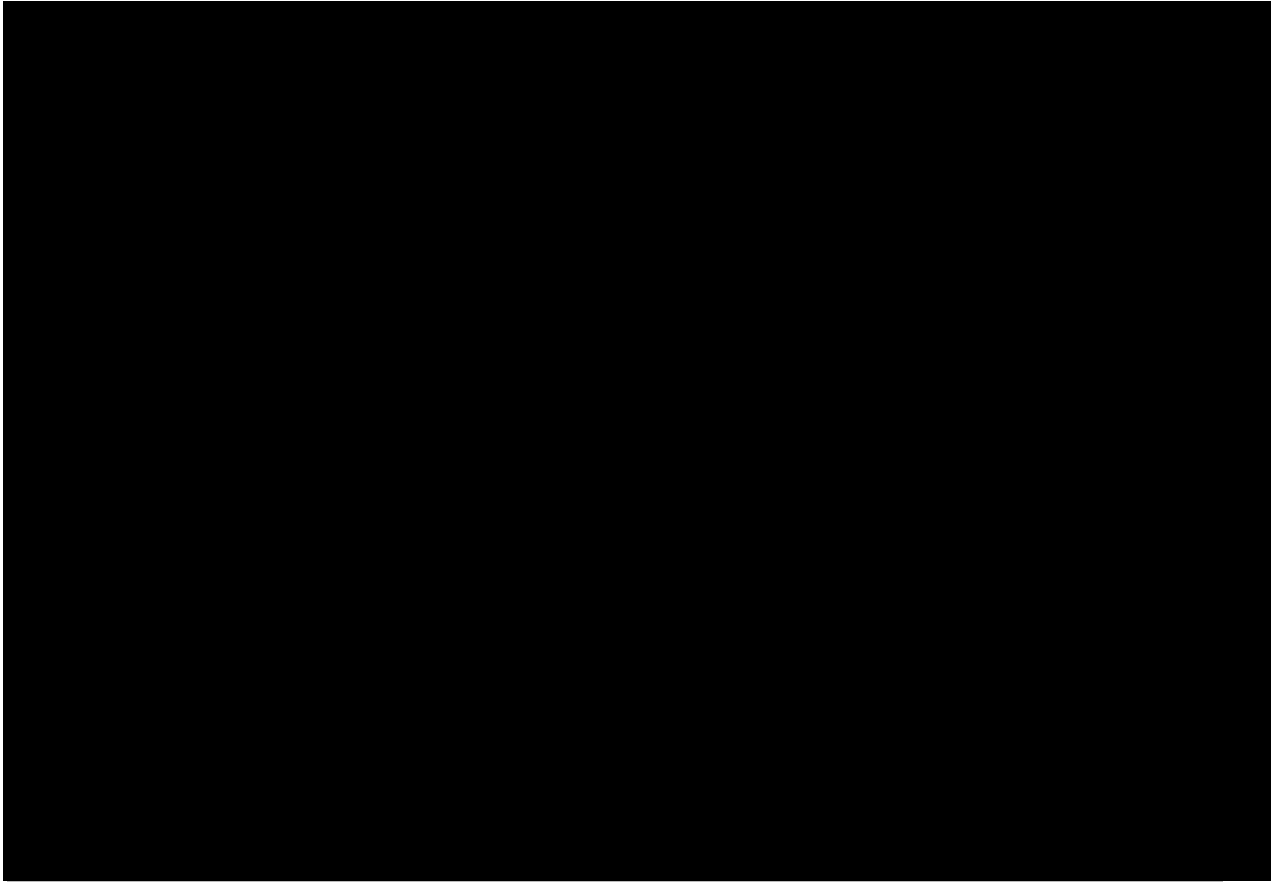
By this age, everything about the baby is essentially complete: everything from the internal organs to the fingerprints is "fully assembled" and from now on the baby just gets bigger. It is vigorous, visibly jumping and moving on 4D ultrasound.

For the information of lawmakers, here is a video presented an experienced gynaecologist (using clinical diagrams, not real images) of second trimester surgical abortion (from 13 to 26 weeks). This specialist has performed thousands of such abortions. He explains the procedure of "dilatation and evacuation" or D&E. The method can be used for late-term abortion technique but is usually used earlier, typically for the 13-20 week bracket of abortion:



[REDACTED]

And if the video link is difficult to access, this is a diagram of the procedure. Remember, there is no pain relief used, despite solid evidence that the foetus at this age recoils and responds to pain the way any newborn does:



How brutal have we become? Will the laws in Queensland come to recommend that there be no legal restraint on the aborting of these babies, even entirely healthy but unwanted babies older than those in our hospital nurseries, killed by methods so cruel that you could not apply it to animals without prosecution?

The pain inflicted on the victims of abortion

The Lancet (9/7/94) observed the full range of pain responses in unborn babies given needles in utero for blood transfusion at 23 weeks-not only "vigorous body and breathing movements" but "a hormonal stress response to invasive procedures." Dr Grundmann's lecture confirms that the baby has no pain relief ("no need for narcotic analgesia") and he seems to be indifferent to the "sentient" nature of these babies. On ABC Radio A.M. (27/10/94) he was asked: "So at what point do you believe the foetus does become a sentient human being?" and replied: "When it is born."

If MPs are concerned about the severity of pain inflicted during "partial-birth" abortion, let them study the expert testimony to the US Congress by Professor of paediatrics and anaesthetics, Jean Wright. Far from pain being reduced in early life, there is reason to fear it is increased – since the inhibitory pathways that modulate pain are not yet fully formed, while the pain pathways themselves are present. For that reason, in Dr Wright's professional opinion, "The pain experienced during 'partial birth

abortions' by the human fetus would have a much greater intensity than any similar procedures performed in older age groups.”^{iv}

She also addresses the falsehood put about by the abortion lobby in the US – that the anaesthetic given to the mother would provide adequate pain relief to the baby being aborted. She states:

Current methods for providing maternal anesthesia during 'partial birth abortions' are unlikely to prevent the experience of pain and stress in the human fetuses before their death occurs after partial delivery.

Another expert on foetal pain gave testimony in 2004 to the Congress, and likewise observed:

Similar to the physiological response of preterm neonates, fetuses greater than 16-20 weeks respond to painful procedures with hormonal stress responses... All the lines of evidence reviewed above suggest the presence of consciousness from about 20-22 weeks of foetal life.^v

Such 20-22 week fetuses would be terminated 'on demand' in Queensland under the proposed law, no questions asked, no pain relief given. MPs are being asked to support gratuitous and unspeakably cruel acts of child destruction.

Term of reference 2

Existing legal principles that govern termination practices in Queensland

The fundamental legal principle: “human life is sacred”

The legal principles that govern abortion in Queensland were stated by Justice McGuire in *R v Bayliss & Cullen* (9 Qld lawyer Reps) some thirty years ago, and shows how the principles derive from the common law Bourne ruling from the UK. The Bourne doctrine makes the issue of justice clear: “that human life is sacred and the protection the law gives to human life extends also to the unborn child in the womb”.

I ask MPs to ponder the moral insight and seriousness behind the final comments in Justice McGuire's ruling:

“The spirit of the Bourne doctrine has permeated the Commonwealth of the common law. It is a humane doctrine devised for humanitarian purposes; but it cannot be made the excuse for every inconvenient conception.

It would be wrong indeed to conclude that Bourne equates to carte blanche. It does not. On the contrary, it is only in exceptional cases that the doctrine can lawfully apply. This must be clearly understood.

The law in this State has not abdicated its responsibility as guardian of the silent innocence of the unborn. It should rightly use its authority to see that abortion on whim or caprice does not insidiously filter into our society. There is no legal justification for abortion on demand.

I finish on this note. According to the Times newspaper report, the Macnaghten direction in Bourne contained the following:

“The law of the land has always held that human life is sacred and the protection the law gives to human life extends also to the unborn child in the womb. The unborn child

in the womb must not be destroyed unless the destruction of the child is for preserving the still more precious life of the mother.”

Keeping the social peace

The current laws on abortion perform a valuable social role. Yes, they are ineffective at protecting those members of the human family who are conceived but not yet born, and some say an ineffective law should be removed from the books. However, the existence of the law has other important benefits.

1. Its existence does provide support for some women who are being pressured into abortion by their partner. They can and do appeal to the fact that this is against the law, it is wrong, and “you cannot tell me to do something against the law”.
2. The existence of the law is an essential defence for those doctors and nurses who refuse to cooperate in the killing of human offspring.
3. Even if the law on abortion is unenforceable, it still has a vital educative role. It instructs society as to the seriousness of the act of abortion, while the removal from the criminal law of any references to abortion will instruct society that this form of intentional killing is morally trivial.
4. Lawmakers are primarily concerned with keeping the peace, promoting social order, and these laws serve that purpose. Pragmatic politicians realise that the balance struck by the current legal arrangements should not be disturbed, or social peace and order will suffer.

For those in our society, like me, who feel it is an unspeakable violation of human duty and care for parents to kill their unborn young, then at least the law is seen to be ‘saying the right thing’. It waves the flag for justice, and that is a significant consolation for one segment of society.

For those others in society who wish to have unfettered access to abortion, they have got their wish under the current laws. They may chafe at the very existence of a law saying certain abortions are a criminal act, but that is the compromise they have to put up with as part of the social ‘truce’ of the current arrangements.

For the abortion doctor, there is nothing to fear from the existence of the Criminal Code provisions, unless he or she performs an abortion so late in pregnancy, so brutal and so unjustifiable that a jury might convict. For such extreme acts, surely the criminal law is serving a proper purpose – as it did with the Sood case in NSW.

The current compromise on abortion laws is the better arrangement, giving something to both poles of the debate, rather than giving everything to those who take a certain moral position. This social ‘truce’ should not be disturbed by libertarians who want to erase the least trace of condemnation of abortion from our statutes.

Term of reference 3

The need to modernise and clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations

For the reasons given above, we submit that justice and prudence require the law against intentional killing of unborn babies to *remain* in the Criminal Code.

There is, however, one way we could “clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations”.

The woman as the second victim of abortion: common ground for reform?

It is fair to say that there is one point of agreement between those supporting the Pyne bill and many of those opposing. That point of agreement is that women should not be the target of the law; the persons who do the act of unlawful killing or are accessories to the act of unlawful killing should be the target.

Pro-life groups have long held that women are the “second victim” of abortion (see under Term of reference 4 for further reflection). They have argued that women are often pressured into abortion while in a vulnerable emotional state; that (in Germaine Greer’s words) “abortion is the last non-choice in a long line of non-choices”; that women already suffer the consequences of abortion in their own bodies and minds, and therefore the law should not target them further.

The moral high-ground taken in the media by backers of the Pyne Bill is that the current law would “send women to jail”. That prospect is what drives their argument for removing abortion from the Criminal Code.

We say this: if Mr Pyne and Ms Trad and others are wanting to take women out of the frame and stop them facing the prospect of jail, then they are sharing common ground with many pro-life community leaders.

If that is indeed the objective, it can be achieved by simply removing s.225 of the Code while leaving s.224, s.226 and s.282 intact. With s.225 gone, the woman is no longer a target of the criminal code. Doctors, including those who profit from performing abortions in commercial clinics, will remain subject to the proper scrutiny of the Code that prohibits unlawful killing.

These are the four sections of the Code that apply to abortion, and it is clear that by removing s.225 the current operation of the law will remain essentially unchanged, while the woman will be out of the picture. That will address the concerns of Mr Pyne and others: that “women should not go to jail”.

Legislation: Queensland Criminal Code 1899, sections 224, 225, 226 and 282.

Section 224. Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

Section 225. Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment for 7 years.

Section 226. *Any person who unlawfully supplies to or procures for any person anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.*

Section 282.

A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill a surgical operation on or medical treatment of:

- a) a person or unborn child for the patient's benefit; or*
 - b) a person or unborn child to preserve the mother's life;*
- if performing the operation or providing the medical treatment is reasonable, having regard to the patient's state at the time and to all circumstances of the case.*

I would be supportive of this minimal change, addressing the concerns raised by advocates of the Pyne Bill, while not trivialising the grave act of intentional killing – i.e. not removing abortion from the Criminal Code.

Term of reference 4

Legislative and regulatory arrangements in other Australian jurisdictions including regulating terminations based on gestational periods

The legislative arrangements in Victoria under the *Abortion Law Reform Act 2008* are well known; in essence they allow for abortion on demand to 24 weeks – no medical questions asked – and then effectively up to birth on the colluding nod of two abortion clinic doctors.

The regulatory arrangements go much further, extending to the crushing of conscientious and professional freedom of doctors and nurses. Section 8 of the Victorian legislation compels a doctor or nurse who conscientiously objects to the intentional killing “on demand” of an unborn baby to *cooperate* in that heinous act by being part of the referral mechanism towards the killing of that baby.

Because the more hard-line MPs in the present Parliament are likely to urge similar tyrannical provisions in an amended Pyne Bill, I need to discuss that matter here.

Crushing conscientious objectors

On April 28th 2012 we read in the Herald Sun:

A MELBOURNE doctor who refused to refer a couple for an abortion because they wanted only a boy has admitted he could face tough sanctions... The couple had asked Dr Mark Hobart to refer them to an abortion clinic after discovering at 19 weeks they were having a girl when they wanted a boy. By refusing to provide a referral for a patient on moral grounds or refer the matter to another doctor, Dr Hobart admits he has broken the law and could face suspension, conditions on his ability to practice or even be deregistered. “I’ve got a conscientious objection to abortion, I’ve refused to refer in this case a woman for abortion and it appears that I have broken the rules,” he said.

And so the Victorian law would put to death a 19 week old baby girl for the crime of being a girl.

Section 8 of the law compels doctors to cooperate with a request for early or late-term abortion – even where there is no medical indication - by providing a referral to somebody whom they know will facilitate this act of child-destruction. Refusal to cooperate constitutes an offence, and doctors who break the law in this way will be uninsurable and possibly unable to practice.

It has harassed Victorian doctors like Mark Hobart because they refuse to collaborate with an oppressive law - a law which, in the judgement of Frank Brennan, former head of Australia's Human Rights Consultation Committee, "carries the hallmarks of totalitarianism".^{vi}

That law, and the one that I fully expect to be proposed in Queensland, violates not only the right to life but the conscientious right of an individual to live according to their convictions of good and evil.

It would be a grave act for any elected representative to so violate these fundamental human rights: the right to life and to conscientious objection.

Term of reference 5

Provision of counselling and support services for women

I recall a patient of mine who told her story of a second-trimester abortion in the book "Giving Sorrow Words: women's stories of grief after abortion" by Canberra author, Melinda Tankard-Reist.^{vii}

Jill's story (not her real name):

"My boyfriend and I had been going steady for over twelve months; sure we were going to wait until we got married. I was sixteen and a virgin but we saw each other every day and one time the petting went to the point of no return...

By three months my pregnancy was starting to show. My boyfriend and I were really happy about it. I bought my first maternity dress and baby bundle.

(But my parents') reaction took me totally by surprise. They told my boyfriend, who they never liked anyway, to get out. Their only words to me were, 'You are having an abortion!' ABORTION! That was something that had not even entered my head. I loved this baby growing inside me. But I wasn't asked what I wanted.

I woke up (after the abortion) with drips in both arms, an empty womb and a terrible pain in my heart. I was sixteen weeks pregnant; the baby they threw in that horrible bucket that day was a fully formed baby with even its own fingerprints, a small beating heart and a body that had been moving around feeling protected inside his mother.

For the next few days I didn't eat, or bathe or even brush my hair. All I did was cry. The nightmare had only just begun. For the next few years I would hear babies crying, think something was chasing me, and have nervous blackouts. I was terribly depressed. (Two years later) I married (my boyfriend). He came home one day to find me trying to hang myself under the house.

I had another child, a boy, but I couldn't love him. If I loved him like I did the other one, someone would take him away too..."

This inner-dying is not peculiar to religious people; another testimony in this book is by a woman I know who, at the time of her abortion, had no faith, impeccable feminist credentials, and no expectation of any after-effects of abortion:

"(After the abortion) I faced total confusion – this great decision I'd made was exactly aligned with feminist ideology; yet my heart was broken and I was emotionally destitute. I had destroyed a life – a life which I knew would have looked just like my two living sons. I could hardly breathe for the anger and disgust which rose; I was not worth the air I breathed. My heart closed down, and I lived with the feeling of being 'dead inside' for the next thirteen years."

There is no more heart-breaking task for GPs than counseling the woman, months or even years after an abortion, who remains emotionally desolated and unable to forgive herself: a girl's young soul crushed by events that seemed overwhelming at the time.

With late-term abortion, where the baby's reality is more indelibly imprinted on the mother's consciousness, so the guilt and grief may be more intense. However, the 'second death' of abortion, these deathly effects upon the inner life of the mother, can apply across the spectrum of abortion. The largest study published in the British Journal of Psychiatry some years back found an 81% increase in mental health consequences in women who have an abortion, compared to their peers.^{viii}

Mr Pyne's proposed open-license on abortion will facilitate the death, not only of these babies, but of the inner life of so many women who might otherwise have been challenged to find a different, less damaging, way.

Conclusion

Queensland law has always permitted abortion to preserve the mother's life. As Judge McGuire concluded in his 1986 ruling, such law is "a humane doctrine devised for humanitarian purposes but it cannot be made the excuse for every inconvenient conception".

The Pyne Bill before your committee does demand unrestricted abortion even for "inconvenient conception". For people such as Mr Pyne it is as if there is no tiny beating heart (already there at five weeks of pregnancy) which is stopped by the violence of abortion. The only crime, they say, is that of interfering with a woman's absolute right to decide if she is ready to be a mother.

But a woman is already a mother, for better for worse, when she is first "with child" and there is no right to take a life which is not ours to take. Consenting adults who conceive have a duty of care to their baby which nothing can set aside. The law must uphold that duty and uphold the fundamental prohibition against intentional killing.

Perhaps passing laws that deny the baby's existence is the only coping mechanism for a society that already takes the life of every fourth baby before birth. But it is a denial and delusion that is destroying us, turning us hard and cold where we should be most tender.

The existing law defends "the silent innocence of the unborn", and encourages us adults to find solutions to our sexual and social predicaments that do not involve killing our offspring.

We ask, in the interests of justice, that there be no change to the existing law, other than a consideration of deleting s.225 and so removing the woman (the 'second victim' of abortion) as a target of the law.

I am available to speak further with the committee at your public hearings.

Yours faithfully,



Dr David van Gend

APPENDIX

I attach one more body of evidence, in order to pre-empt a misleading and emotive argument concerning the alleged connection between women's safety and the legal status of abortion. This matter is not central to your terms of reference, but I include it as an important rebuttal of an argument that is likely to be made by advocates for the Pyne Bill.

Backyard distortions

MPs will be aware of the popular idea that, prior to abortion being made legal, there was a veritable 'holocaust' of victims at the hands of backyard butchers. Once the law changed, women were safe at last. This argument – usually embellished with images of coathangers – is always at the forefront of moves to abolish any legal restriction on abortion.

If it were true, then of course no jurisdiction could ever enforce any real limits on abortion. But it is not true. Historically, the facts do not support any detectable link between legalising abortion and improving women's safety, as the following analysis of the available ABS data will show.

MPs should not be guilty of repeating the same weak-minded falsehood about abortion becoming 'safe' because it became 'legal'. There is no reasonable basis for the argument that we must fully decriminalise abortion, or desperate women will still seek abortion and die at the hands of backyard butchers.

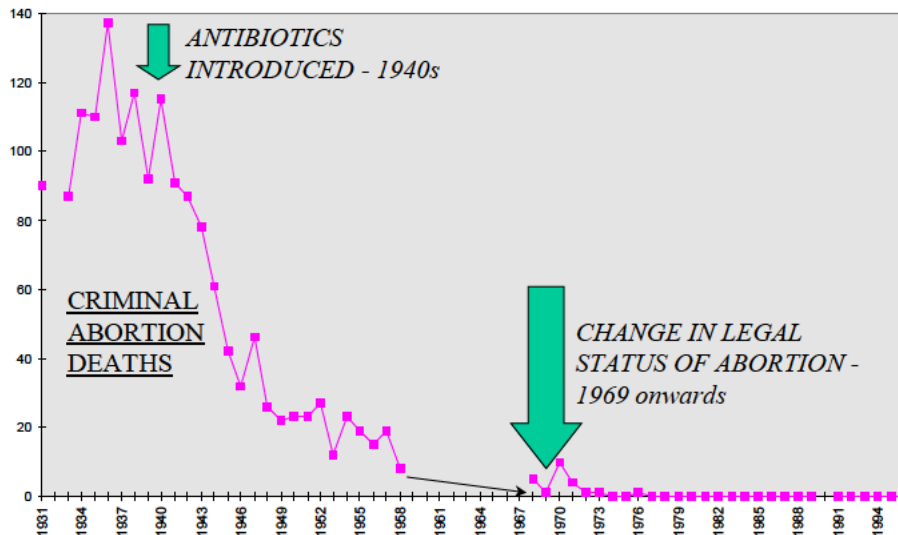
- **Fact one:** Making abortion legal or illegal has never, historically, made the slightest detectable difference to the safety of women. This is because of
- **Fact two:** Medicine alone, not the law, has achieved all the proven gains in maternal safety.

These gains were made by medical breakthroughs such as the introduction of antibiotics in the 1940s, blood transfusion, improved surgical techniques and emergency services, and were achieved before there was a single liberal law or "safe legal clinic". If these legal changes made any additional contribution to safety, it is too small to show up in the historical records.

By studying the entire Australian Bureau of Statistics data on Causes of Death last century (1906-1996) it can be observed that the death rate for illegal abortions plummeted from about 100 deaths

every year in the 1930s (before antibiotics) to just one death in the whole of Australia in 1969 (the last year of the old "backyard" regime, with the Victorian Menhennit ruling coming late in September of that year) – and this was before there was a single "legal" clinic anywhere in the country.

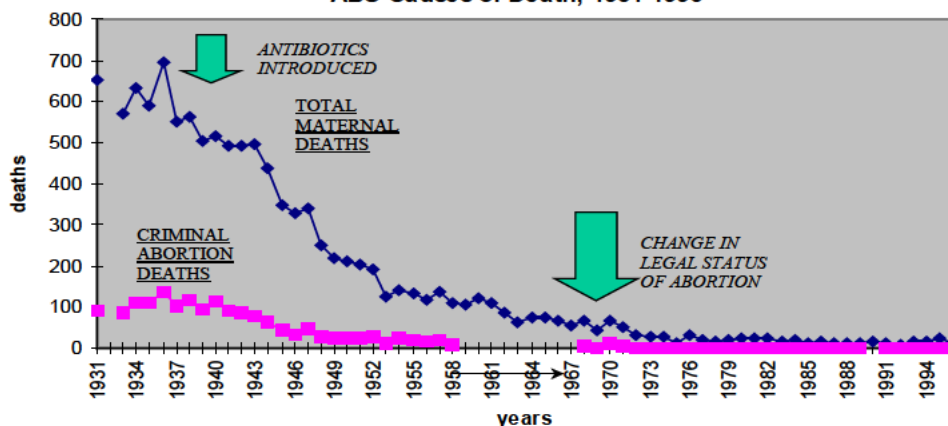
**Improvement in "criminal" abortion deaths
predating any change in legal status of abortion (1969)**
ABS Causes of Death, 1931-1996



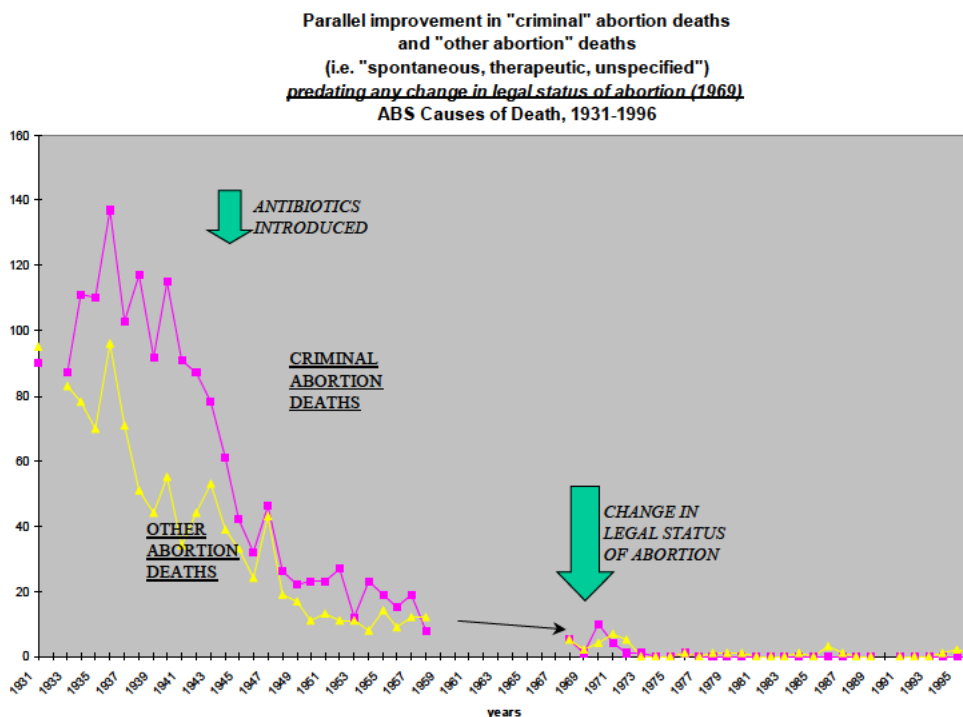
All this magnificent improvement was thanks to medical advances alone, with the legal status of abortion unchanged and irrelevant.

Abortion deaths have always been about one fifth of total maternal deaths. That demonstrates that the benefits to women's survival have been due to a single common cause: medical improvements (with no role detectable for any legal changes):

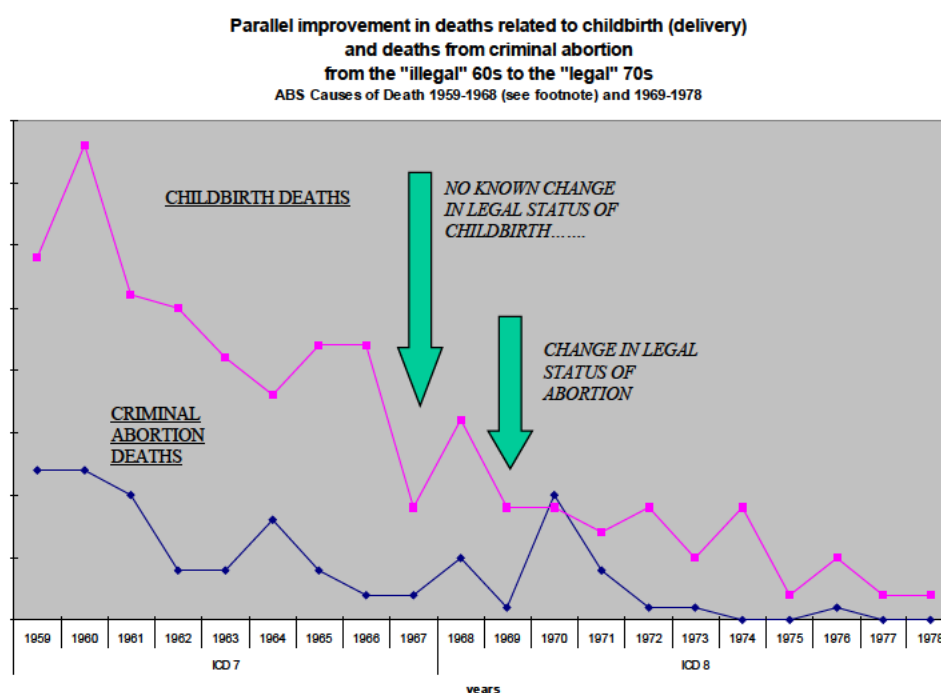
**Parallel improvement in "criminal" abortion deaths
and total maternal deaths,
predating any change in legal status of abortion (1969)**
ABS Causes of Death, 1931-1996



It is also noteworthy that maternal deaths from all causes - childbirth, miscarriage and abortion - dropped exactly in parallel, for the same medical reasons.



Note that in the "legal" seventies, further small gains in average abortion mortality exactly matched further gains in childbirth mortality - but nobody suggests childbirth had been recently legalised: Medical progress, not legal agitation made abortion (whether criminal or medical) and childbirth, irreversibly safer.



(NB: interpretation of the data was clarified with the experts at the ABS. Details can be taken up with me if required.)

Facts one and two dispel the cherished illusion that "illegal" means "unsafe" and that "therefore it must be made legal" - the trump card of the abortion lobby. This is beginning to be acknowledged even by abortion supporters. Writing in the US journal *Women's Quarterly*, Candice Crandall reluctantly accepts that medical advances, not legal changes, were responsible for improved safety, "In fact, it wasn't Roe v Wade (the Supreme Court ruling in 1973 to legalise abortion) that made abortion safe, it was the availability of antibiotics beginning in the 1940s".

She also confirms "The most powerful of the pro-choice arguments was the claim that any infringement of the right to an abortion would return America to the dark ages when thousands of women died because of unsafe, back-alley abortion".

Thousands of women? In fact, she notes, the US death toll had dropped to 41 in the year before Roe v Wade, not the 10,000 figure promoted by the National Association for the Repeal of Abortion Laws (NARAL). Co-founder of NARAL, Dr Bernard Nathanson, writes, "I confess that I knew the figures were totally false - but the overriding concern was to get the laws eliminated, and anything within reason that had to be done was permissible". Whatever it takes.

Even the fearful figure of the 'backyard butcher' is largely the stuff of legend. Historically the so-called "backyard" usually was, and would be again, the "backroom" of a qualified doctor's surgery. Past Director of Planned Parenthood, Dr Mary Calderone, admitted in the *American Journal of Public Health* that even in the illegal 60s in America, with its ghettos of black and Hispanic poverty, 90 per cent of all "backyard" abortions were in fact carried out by trained physicians. More so today, in the covert but clean circumstances of the "backroom" of a colluding doctor's surgery - or alternatively, done by experienced amateurs using the cheap sterile suction pump seen on the ABC's *My Foetus* film - and with routine backup at casualty, the immediate physical risk of illegal abortion would be very ordinary.

Therefore laws enforcing genuine, agreed limits on abortion do not – contrary to popular mythology - place women at any dramatic physical risk, because medicine has minimised that risk; it might drive a few women to a safe and secret backroom, but not to the propagandist's "backyard", nor to his anachronistic "coat hanger".

The current alternative is to have no limits, to permit the wholesale slaughter of unwanted unborn children - "children", as writer Bob Ellis put it, "who would have loved you" - and the wholesale scarring of mothers' and fathers' hearts, which might lose the capacity to love at all.

For purposes of MPs consideration of abortion laws, let there not be the usual feeble acceptance of the emotional blackmail that says "if you limit any abortions at all by force of law, you will be condemning women to death in the backyard again". The facts say that there is no detectable link between abortion being legal and abortion being safe. Arguments along that line should be dismissed as unsubstantiated rhetoric, and any MP who plays the 'backyard holocaust' card should be viewed as a propagandist in a long and effective tradition of propagandists on this distressing issue.

*

REFERENCES

ⁱ The Hon. Mike Horan, Adjournment Speech, Queensland Parliament Hansard, 21/2/95.

ⁱⁱ Partial-Birth Abortion Ban Act US Senate 2003 at

iii Dr David Grundmann, Abortion over 20 Weeks in Clinical Practice, Monash August 1994.

iv Prof Jean Wright, paediatric pain specialist, testimony to Congress 1996 at [REDACTED]

v Dr KS Anand, paediatric pain specialist, testimony to US Federal Court 2004 at [REDACTED]

vi Brennan on totalitarian laws at [REDACTED]

vii Tankard-Reist M, Giving Sorrow Words: women's stories of grief after abortion (Duffy & Snellgrove, Sydney 2000)

viii Mental health consequences [REDACTED]