

 JIBBER-JABBER ABOUT “LANES” AND “TACTICS” THE BACK ALLEY

The Sisterhood of Silence

A bad abortion clinic, a dead woman, and a wall of pro-choice denial.

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On Sept. 13, 1989, a month after Pennsylvania’s health department conducted its next-to-last inspection of Kermit Gosnell’s clinic, the Florida House Health Care Committee met to prepare for an upcoming special session on abortion. Gov. Bob Martinez, emboldened by a U.S. Supreme Court newly amenable to abortion restrictions, had called the session to enact several anti-abortion bills, including tighter regulation of clinic safety. He wanted to make Florida a pro-life showcase, and pro-choicers intended to stop him. Testifying before the committee, clinic owner Patricia Windle condemned legislation that would give state inspectors broad access to abortion facilities. She declared, “Regulation is a euphemism for an excuse to interfere and opportunity to burden.”

Beneath that hard line, there were signs of trouble. The president of the Florida Obstetric and Gynecological Society testified that physicians in the abortion field were “usually residents or somebody in training,” if not from out of town. A representative from the Florida Department of Professional Regulation confirmed this problem:

“There appears to be a trend among the physicians who perform terminations of pregnancy on a regular basis. They don’t have admitting privileges to hospitals themselves. Frequently, they have informal arrangements to admit their patients. The result has been in several cases that when things went bad, they didn’t have the ability to promptly admit a patient. ... [T]hey go in for a short period of time to work there full-time to get enough money to go into another field, some of them.”

One member of the committee, Democratic state Rep. Ben Graber, knew of these shortcomings firsthand. Graber was an OB-GYN. He performed about 15 or 20 abortions per month. “The reason I became involved in abortion is the inadequacy of abortion services,” Graber told a reporter in August, a month before the hearings began. “These lay people are opening clinics and hiring half-trained doctors to do them.” The problem, he explained, was systemic: “[T]he clinics are a result of the issue being so controversial that doctors shied away from it.”

But when the discussion turned from his role as physician to his role as lawmaker, Graber clammed up. On Sept. 14, the director of the Florida Catholic Conference told the committee that a licensed doctor had lethally botched abortions at “the Dadeland abortion clinic” near Miami. Graber and the committee chairwoman cut off the speaker and dismissed his story. Two days later, Voice for Choice, a coalition of abortion rights advocates, mass-mailed a “Dear Colleagues” letter, signed by Graber on his private-practice stationery, asking doctors to contribute \$250 to the pro-choice lobby to block “new areas of physician liability” and “unwarranted state intrusion” in their profession.

The next morning, the Sunday *Miami Herald* landed with a thud on doorsteps across Florida. Its weekly magazine, *Tropic*, featured an exposé of the clinic to which the

committee's witness had alluded. Owners of the clinic, formerly known as the Dadeland Family Planning Center, had "lured clients with misleading ads, listing the clinic under more than three dozen names in the phone book," reporter Deborah Sontag wrote. And its record was awful:

"In the last 10 years, the clinic and its doctors have been sued 15 times. ... One doctor who worked at the Dadeland clinic was a convicted sex offender. Another was reprimanded by his state licensing board for "gross malpractice." A third was responsible for more than \$500,000 in out-of-court settlements on abortions gone awry. Year after year, there were ruptured uteruses, perforated colons and emergency hysterectomies. ... Finally, one woman, the unluckiest of all, died."

Sixteen years after *Roe*, Sontag wrote, "the back alley persists—on a commercial street, in a medical building, with a front door, and sometimes even with a state license."

Behind that scandal stood another. The regulatory system had failed. Physicians outside the clinic had been confronted by its butchery but hadn't reported it to the state. Negligence charges had been dropped or dismissed by the state Board of Medical Examiners. Years later, the Department of Professional Regulation was telling inquirers that the doctors responsible were still in good standing. And a year after Dr. Nabil Ghali, the clinic's convicted sex offender, lost his license to practice medicine in Florida, the Department of Health and Rehabilitative Services had granted him a license to open another abortion facility.

The private quality-control system had failed, too. Unsatisfied by the clinic's methods or conduct, the National Abortion Federation and the Florida Abortion Council, which enforced their own safety standards, had rejected its applications for membership. But those verdicts carried no force. Women seeking abortions wanted them done quickly and anonymously. They relied on ads in the Yellow Pages. Under these circumstances, the clinic's poor record hadn't hurt business.

The third scandal was worse still. More scrupulous abortion providers who considered the clinic unsavory had never filed a complaint or spoken out against it. A few months before the *Herald* article appeared, pro-choice activists who privately disdained the clinic had

rallied to its premises to resist a pro-life blockade and to present a united pro-choice front to the media.

The cover-up effort extended even to the *Herald* story. In a letter representing three other clinic operators, Patricia Windle had asked the *Herald's* publisher to sit on the story until after the special session. Windle called the Dadeland clinic “wretched” but warned Sontag that “we don’t want to give the hysterics weapons.” She argued, as Sontag put it in her article, that “pro-choice advocates must maintain a hard line: that a woman is safer when abortion is legal. To acknowledge that in some instances women are still not so safe is to dilute the argument, to hand something over to the other side.”

For that reason, Sontag reported, pro-choice leaders refused legislative remedies, insisting that current regulations sufficed. But Sontag pointed out that the sole regulatory hurdle, a license, required only a \$35 fee and an inspection. She then discredited the inspection system with a single illustration:

“When Ellen Williams died after an abortion at the Dadeland Family Planning Clinic, Dade Medical Examiner Joe Davis requested a special investigation. Investigators checked everything they could by law: The clinic indeed had copies of its doctors’ licenses; patient records were kept; fetal remains were

adequately disposed of.

“In other words, the clinic passed.”

The days of gore, fear, and silence hadn't ended with *Roe*. Janis Compton, the director of the Florida Abortion Rights Action League, admitted to Sontag that there were bad entrepreneurs, drawn to the abortion business by its low capital requirements, steady demand, and cash transactions. “In my gut, I am completely aghast at what goes on at that place,” she told Sontag. “But I staunchly oppose anything that would correct this situation in law.”

In legislative offices across Florida, the *Tropic* article shattered a stupor of complacency. Carol Hanson, a pro-choice state representative, dispatched letters to other female lawmakers requesting a hearing to discuss the revelations. “Those of us who intend to keep abortion safe and legal,” she argued, “have got to zero in on the word ‘safe.’”

Other legislators resisted. They called the Dadeland clinic exceptional, warned against undue restrictions, and fretted that focusing attention on the clinics “might be a face-saving move” for Martinez. Pro-choice lobbyists moved quickly to quash talk of changing the law. In a memo to lawmakers, Voice for Choice argued, “The *Tropic* article clearly illustrates that no matter how restrictive and well-intentioned laws are, greedy and fraudulent professionals will always persist in their pursuit to exploit the most vulnerable of our citizens.” The ACLU of Florida agreed: “No matter how many laws are passed, there will always be a very small number of individuals who will disregard the law and disregard their responsibilities to the people they serve. ... More laws will not change unscrupulous people's hearts.”

In Florida, such arguments about the futility of regulation had been made before, but in a different context: gun control. No matter how many innocent people died in shootings, defenders of the right to bear arms found reasons to oppose new laws. They accused the media of hyping the tragedies. They charged that guns were being unfairly singled out from other threats. They insisted that current laws adequately addressed the problem. At the same time, they argued that private negligence defied legislative control. Regulation, they protested, would only impose a “burden on law-abiding citizens.”

Liberals dismissed these arguments in the context of gun control but parroted them when the debate shifted to abortion. And some abortion rights advocates went further. Recognizing parallels between the right to privacy and the right to bear arms, they explicitly sought to emulate the National Rifle Association. “We’re going to be the new NRA of politics,” one of Florida’s top pro-choice strategists boasted that summer, shortly after the *Webster* ruling awakened pro-choice voters. “There are 70 million gun owners. But there are twice as many womb owners.”

Janis Compton, FARAL’s director, saw a natural alignment between the two issues. She carried a handgun, kept another at home, and proudly displayed her NRA cap at FARAL headquarters, unnerving her feminist colleagues. “The essence of true conservatism,” she declared immediately after *Webster*, “is keeping government out of your private life.”

It would take more than a few shootings to soften Compton’s hostility to gun laws. She doubted that such laws would reach the criminals at whom they aimed. She also suspected that small invasions of privacy would lead to larger ones. If the government could register guns, Compton reasoned, it could also take them away. She resented the hassles that gun laws imposed on responsible owners. On one occasion, she recalled, a mandatory waiting period of even a few days would have thwarted her husband’s purchase of a pistol.

Each of those arguments applied just as well, in Compton’s view, to abortion safety laws. Surgical equipment didn’t kill women; bad doctors killed women. No law aimed at clinics, their equipment, or their records would fix that. Compton had seen clinic “safety” schemes like Martinez’s before—always excessive, always floated by pro-lifers. She and her allies would stop the governor, come what may.

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