

Judge says partial-birth abortion ban infringes on choice

SAN FRANCISCO (AP)—Ruling that it places an undue burden on a woman’s right to choose, a federal judge declared the Partial-Birth Abortion Act unconstitutional in a case that applies to clinics and doctors that perform about half of abortions nationwide.

The ruling by U.S. District Judge Phyllis Hamilton came in one of three lawsuits challenging the fed-

eral law, which bans certain kinds of abortions.

Hamilton’s ruling applies to the nation’s approximately 900 Planned Parenthood Federation of America clinics and their doctors, who perform about half the 1.3 million abortions done each year in the United States.

The federation brought the lawsuit on their behalf.

The other two cases, in New York and Nebraska, were expected to end within weeks. Closing arguments were scheduled Wednesday in Nebraska.

Last year, President Bush signed legislation banning a procedure known to doctors as intact dilation and extraction, but called “partial-birth abortion” by abortion foes. During the procedure, usually in the

second trimester, the living fetus is partially removed from the womb, and its skull is punctured or crushed.

Justice Department attorneys argued the procedure is inhumane, causes pain to the fetus and is never medically necessary. A government lawyer told the judge that it “blurs the line of abortion and infanticide.”

Abortion proponents argued, however, that a woman’s health during an abortion is more important than how the fetus is terminated, and that the banned method is often safer than a conventional abortion, in which the fetus is dis-

membered in the womb and then removed in pieces.

Hamilton said it is “irrelevant” whether a fetus suffers pain, as abortion foes contend.

“The act poses an undue burden on a woman’s right to choose an abortion,” the judge wrote.

Planned Parenthood lawyer Beth Parker welcomed the ruling, saying it sends a “strong message” to the Bush administration “that the gov-

ernment should not be intruding on very sensitive and private medical decisions.”

Justice Department spokeswoman Monica Goodling said the government “will continue to devote all resources necessary to defend this act of Congress, which President Bush has said ‘will end an abhorrent practice and continue to build a culture of life in America.’”

Following the decision, the Bush re-election campaign said: “Today’s tragic ruling upholding partial-birth abortion shows why America needs judges who will interpret the law and not legislate from the bench. ... John Kerry’s judicial nominees would similarly frustrate the people’s will and allow this grotesque procedure to continue.”

Kerry spokeswoman Stephanie Cutter said the presumptive Democratic presidential nominee voted to restrict late-term abortions when the measure contained a “clear exception for life or health of women.”

“However, George Bush pushed through a different piece of legislation that failed to protect the health of women and that is what the court struck down today,” she said. “When John Kerry is president he will appoint judges that are committed to upholding the Constitution, not pursuing an ideological agenda.”

The measure, which President Clinton twice vetoed, was seen by abortion rights activists as a fundamental departure from the Supreme Court’s 1973 precedent in Roe v. Wade. Abortion rights advocates said the law was the government’s first step toward outlawing abortion.

Violating the law carries a two-year prison term.

Late last year, Hamilton, a Clinton appointee, and federal judges in New York and Lincoln, Neb., blocked the act from being enforced pending the outcome of the court challenges.

Vets learn of D-Day experiences

HUTCHINSON (AP) — It took an accidental meeting in church for two Reno County veterans to learn of their shared World War II experiences as paratroopers on D-Day.

Marvin Ragland and Warren Wilt had never met until almost 60 years after D-Day when Wilt saw Ragland’s belt buckle with its distinctive airborne insignia at a Methodist Sunday school class.

They soon learned that Ragland had jumped behind enemy lines at

Normandy with the 505th Parachute Infantry Regiment, and Wilt had jumped with the 508th PIR, both part of the 82nd Airborne Division.

“We think we were very close in the landing,” Wilt said. “Maybe only 1,000 feet apart.”

His combat jump into France was only the fourth that Ragland, 84, of Hutchinson, had made. A glider artillery officer, he had made three jumps in one day to qualify for an

airborne unit.

Both men earned a Purple Heart for combat wounds and a Bronze Star, and Ragland went on to serve in campaigns in Holland, Italy and Belgium and the Battle of the Bulge. Wilt, 81, of Abbyville, recalls primitive living conditions in combat.

“We jumped in on the 6th, and by the 26th of the month there was still no bath or change of clothes,” he said.

Park dedicates historic church

TOPEKA (AP) — A historic church was dedicated Sunday as part of the celebration of Topeka’s 150th birthday.

A Methodist church that was built in 1880 in southeast Brown County closed three years ago because of

low attendance. After being renovated, it was moved to Ward-Meade Park, where it will be part of the park’s frontier village of historic buildings.

“This park just wasn’t right without a church,” said Topeka City

Councilman Duane Pomeroy, whose district includes the park.

The dedication was part of an ice cream social that was one of the events over a year’s time marking the 150th anniversary of the city’s founding on Dec. 5, 1854.

Sarah Leeth, Ward-Meade Park’s executive director, said visitors will be able to see what a small-town, pioneer church looked like in the 1880s.

“There are hardly any churches like this any more,” she said.

Logan County youth among 32 winners in state 4-H project

MANHATTAN — Thirty-two Kansas 4-H members were recognized as state project winners at the 4-H Emerald Circle Banquet held earlier this month in Manhattan.

Among the winners was Katie Mannebach of Oakley for knitting (Reid Foundation).

“These individuals have been honored for their knowledge, skill mastery, leadership and citizenship

provided through their project work in a particular subject,” said Gary Gerhard, professor and specialist for the Department of 4-H Youth Development, K-State Research and Extension.

The project winners have the opportunity to attend the National 4-H Congress, Nov. 26-30 in Atlanta. Each 4-H project winner who travels to Atlanta will receive at least a

\$200 scholarship to be used toward travel expenses. The rest of the expenses must be raised by the 4-H members.

“The National 4-H Congress is an opportunity for 4-Hers to gain life skills, explore career options, multicultural experiences and community service,” said Gerhard. “These 4-Hers provide a voice to contemporary issues of the nation.”

Bush invokes spirit of unity

WASHINGTON (AP)—Invoking the spirit of unity in World War II, President Bush is trying to rebuild solidarity among American allies bitterly divided over Iraq and skeptical about U.S. pledges to grant full sovereignty to the new caretaker government in Baghdad.

Bush, beginning a three-day trip to Europe to mark the 60th anniversary of D-Day, will encounter some of his fiercest critics on Iraq — the leaders of France and Germany — as well as some of his most stalwart supporters — most notably the prime ministers of Italy and Britain.

The president was flying to Rome after a White House meeting Thursday morning with Australian Prime Minister John Howard.

An unwavering ally in Iraq, Howard has sent 850 troops to help the United States.

Bush’s European visit opens a month of intense global diplomacy focusing on Iraq, the Middle East and the future of the NATO alliance.

When he returns home from Normandy on Sunday night, Bush will fly directly to Sea Island, Ga., where he will welcome seven world leaders for the annual summit of industrialized nations.

In late June, the president will return to Europe for a summit in Ireland with European Union leaders and then travel to Turkey for a NATO summit.

Five months before the presidential elections, Bush’s advisers hope the emphasis on foreign policy will highlight his status as commander in chief, restore confidence in his handling of Iraq and lift his approval ratings from the lowest point of his presidency.

Bush’s first stop is in Italy to mark the 60th anniversary of the liberation of Rome, and his first appointment is with Pope John Paul II, a prominent critic of the Iraq war.

Vatican officials say the meeting is intended to be forward-looking and that the pope supported efforts to restore sovereignty to Iraq.

The president also will see Italian

Prime Minister Silvio Berlusconi.

Bush has been sharply questioned by world leaders about whether the United States intends to allow Iraq to take complete control of its affairs.

The United States plans to keep 135,000 soldiers in Iraq even after the June 30 handover of power by the U.S.-led Coalition Provisional Authority, raising questions about the new Iraqi government’s authority. Bush says the interim government will have full authority.

From Rome, Bush will go to Paris to try to narrow differences with French President Jacques Chirac, who led the opposition to the Iraq war but seems interested in improving relations.

On Sunday, Bush will stand at the American cemetery at Normandy on a cliff overlooking Omaha Beach and the English Channel.

The cemetery contains the graves of 9,386 American military dead, most of whom gave their lives during the June 6, 1944, landings and ensuing battles of World War II.

Bush will join a gathering of world leaders that will for the first time include a German chancellor to mark the D-Day landings.

Bush said Normandy was “a place where the fate of millions turned on the courage of thousands.”

“In these events we recall a time of peril and national unity and individual courage,” Bush said last week in a commencement address at the Air Force Academy in Colorado.

“We honor a generation of Americans who served this country and saved the liberty of the world.”

Just as events in Europe determined the outcome of the Cold War, events in the Middle East will determine the fate of the fight against terrorism, Bush said.

He said that beyond jailing terrorists, free nations must nurture openness in oppressed societies to head off the resentment and anger that breeds violence.

Brownback faces challenge from Republican, Democrat

TOPEKA (AP)—U.S. Sen. Sam Brownback has two new opponents in his race for re-election, both long-shot candidates.

One is a fellow Republican; the other, the first Democrat to get on the ballot.

The Republican challenger is Arch Naramore, 52, of Lawrence, co-owner of Kansas Key Press Inc., a direct mail and printing business. The Democrat is Robert Conroy, a 76-year-old retired railroad worker from Shawnee.

Both are new to state and congressional politics, though Naramore unsuccessfully sought a seat on his local drainage district’s board four years ago.

Last week the secretary of state’s office placed their names on the Aug. 3 primary ballot after the two men each paid a \$1,567 fee and filed the necessary paperwork. Brownback has filed, as has Libertarian Steve Rosile, of Wichita.

“I guess you could call it an im-

possible mission,” Conroy said during a telephone interview.

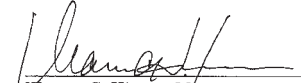

The senator, through campaign manager Amanda Adkins, declined to comment on the latest developments in his race.

Brownback first won his Senate seat in a special election in 1996, when Bob Dole resigned to run as the Republican presidential nominee. He won a full, six-year term two years later.

He entered the race in a strong position, partly because no Democrat has won a U.S. Senate seat from Kansas since George McGill in 1932.

Also, after the first quarter of this year, Brownback had \$1.4 million in his campaign fund.

But Brownback’s fund-raising is a big issue for Naramore. In reviewing reports filed by Brownback’s campaign, Naramore said, he saw too many contributions from individuals and political action committees outside Kansas.

Public Notice	Public Notice	Public Notice	Public Notice
<p><u>ORDINANCE NO. 1359</u></p> <p>AN ORDINANCE DEFINING PUBLIC RIGHT-OF-WAY IN THE CITY OF COLBY, THOMAS COUNTY, KANSAS, AND PROVIDING REGULATIONS FOR USE OF SAID RIGHT-OF-WAY BY ANY PERSON, FIRM, CORPORATION, ASSOCIATION, UTILITY, OR ENTITY WHICH ESTABLISHES A PHYSICAL PRESENCE ON, UPON, IN OR OVER THE RIGHT-OF-WAY.</p> <p>BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COLBY, KANSAS:</p> <p>SECTION 1. DEFINITIONS</p> <p>For the purposes of this Ordinance, the following words and phrases shall have the meanings given herein:</p> <p>(a) PUBLIC RIGHT-OF-WAY means only the area of real property in which the City of Colby has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways, easements, or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.</p> <p>(b) OCCUPANT means any person, firm, corporation, association, utility, or entity which enters upon the right-of-way of the City, or in any manner establishes a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, constructing, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto.</p> <p>SECTION 2. AUTHORIZATION FROM CITY REQUIRED</p> <p>(a) No person, firm, corporation, association, utility, or entity shall enter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, constructing, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 et seq. or by such other agreement as the Governing Body determines best protects the public interest in the right-of-way</p> <p>(b) Nothing in this Ordinance shall be interpreted as granting an occupant th authority to construct, maintain or operate any facility or related appurtenance on property owned by a city outside of the public right-of-way.</p> <p>(c) The City shall process each valid and administratively complete application for use of the right-of-way within 7 working days of receipt of said application.</p> <p>SECTION 3. HEALTH, SAFETY, AND WELFARE REGULATIONS</p> <p>The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City.</p> <p>SECTION 4. SPECIFIC PORTIONS OR RIGHT-OF-WAY RESTRICTED</p> <p>(a) The City may prohibit the use or occupation of specific portions of public right-of-way by a provider due to a reasonable public interest necessitated by public health, safety and welfare so long as the authority is exercised in a competitively neutral manner and is not unreasonable or discriminatory. A reasonable public interest shall include the following: (1) The prohibition is based upon a recommendation of the city engineer, is related to public health, safety and welfare and is nondiscriminatory among providers, including incumbent providers; (2) The provider has rejected a reasonable, competitively neutral and nondiscriminatory justification offered by the City for requiring an alternate method or alternate route that will result in neither unreasonable additional installation expense nor a diminution of service quality; (3) The City reasonably determines, after affording the provider reasonable notice and an opportunity to be heard, that a denial is necessary to protect the public health and safety and is imposed on a competitively neutral and nondiscriminatory basis; or (4) The specific portion of the public right-of-way for which the provider seeks use and occupancy is environmentally sensitive as defined by state or federal law or lies within a previously designated historic district as defined by local, state or federal law.</p> <p>(b) If the City denies a request to use or occupy a specific portion of the public right-of-way, the requester shall be served a notice of such denial by first class mail. The notice shall indicate that the requester shall have 10 days from the date of receipt of the notice to request a public hearing by the Governing Body of the City of Colby concerning the denial. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the denial before the Governing Body. The hearing shall be held by the Governing Body within 30 days after the filing of the request therefore, and the potential occupant shall be advised by the City of the time and place of the hearing. Following the public hearing, if the Governing Body denies a potential occupant's request to use or occupy a specific portion of the public right-of-way, such determination may be appealed to District Court.</p> <p>SECTION 5. COMPLIANCE WITH, MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES</p> <p>Any occupant of the public right-of-way shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Administration, 1988 Edition, Revision 3, dated September 3, 1993, or any subsequent revision of said Standards and Guides, which is incorporated herein by reference as if fully set forth herein.</p>	<p>SECTION 6. EMERGENCIES</p> <p>If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the public right-of-way may begin that repair or emergency response work or take any action required under the circumstances, provided that the person, firm, corporation, association, utility, or entity notifies the City promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency.</p> <p>SECTION 7. REPAIR</p> <p>Any occupant of the public right-of-way is hereby required to repair all damage to a public right-of-way caused by the activities of that occupant, or of any agent affiliate, employee, or subcontractor of that occupant, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the right-of-way to its functional equivalence before the damage pursuant to the reasonable requirements and specifications of the City, including the removal of locator flags. If the occupant, its assigns, contractors, and/or subcontractors fail to make the repairs required by the City, the City may effect those repairs and charge the occupant the cost of those repairs.</p> <p>SECTION 8. RELOCATION</p> <p>Whenever requested by the City, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, an occupant promptly shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the political subdivision provided, however, that if the political subdivision reimburses any user of the right-of-way for such relocation or adjustment, all users shall be similarly reimbursed and provided further that the requirement to relocate or adjust facilities shall be exercised in a non-discriminatory manner. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of such occupant's failure to timely relocate or adjust its facilities shall be borne by such occupant.</p> <p>SECTION 9. APPLICATION FOR USE OF RIGHT-OF-WAY</p> <p>An application for use of right-of-way shall be required for any installation, maintenance, or repair that involves use of 250 feet or more of City right-of-way.</p> <p>(a) Said application shall consist of a one-page cover sheet providing a general explanation of the use of the right-of-way, a map showing the location of the equipment to be placed in the right-of-way, and the contact information for the entity completing the application.</p> <p>(b) City approval or denial of said application shall be made within 7 working days, and shall consist of the notation of decision and the signature of the City Manager or his/her designated representative.</p> <p>(c) A performance bond in the amount of \$50,000, in a form acceptable to the City, from a surety licensed to conduct surety business in the State of Kansas, insuring appropriate and timely performance in the construction and maintenance of facilities located in the public right-of-way, shall be on file with the City Clerk.</p> <p>SECTION 10. INDEMNITY</p> <p>(a) Occupants shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing, or maintaining facilities in a public right-of-way.</p> <p>(b) The indemnity of this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If an occupant and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of the State of Kansas without, however, waiving any defenses of the parties under state or federal law.</p> <p>(c) This section is solely for the benefit of the City and occupant and does not create or grant any rights, contractual or otherwise, to any person or entity.</p> <p>SECTION 11. CLAIM NOTIFICATION</p> <p>Any occupant shall promptly advise the other in writing of any known claim or demand against the provider or the City related to or arising out of the occupant's activities in a public right-of-way.</p> <p>SECTION 12. PENALTY PROVISION</p> <p>Any person, firm, corporation, association, utility, entity, agent, contractor, or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a maximum fine of \$500.00. Each day of violation shall constitute a separate and distinct offense.</p> <p>ADOPTED AND APPROVED by the Governing Body, this 1st day of June, 2004.</p> <p> Warren C. Hixson, Mayor</p> <p>ATTEST:</p> <p> Beverly J. Stieber, City Clerk</p> <p>(S E A L)</p>		

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