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Montana Fight Over Women's Rights

*Carl Tobias**

Out West, in the Northern Rockies, the air is clean, the streams run clear, and mountains dominate the exquisite landscape. The people, who are few in number, subscribe to the credo of live and let live while practicing an independent brand of conservatism. These circumstances have enabled gun-toting NRA members, libertarians, religious fundamentalists, and '60s-style hippies to live in peaceful co-existence. A concomitant of these beliefs and practices has been comparatively lenient governmental regulation of abortion.

Therefore, it was predictable that many Montanans would forcefully respond to a new element that seriously threatened their bucolic tranquility. This new element was the specter of abortion opponents who were all too willing to trample the civil rights of their fellow citizens and to turn Montana into another Wichita, Kansas, the scene of much disruptive, lawless anti-abortion activity the summer before last. As one of many Montanans who have worked to ensure that abortion remains safe and legal in this state, I tell below the story of how the residents of Montana reacted to this threat to women's fundamental rights.

In early November, 1991, anti-abortion advocates met in Helena, Montana to plan activities aimed at preventing abortions. Susan Odom, who directs Operation Rescue, and Penny Lea, who operates I Believe in Life Ministries, attended the meeting. They announced that Operation Rescue had declared the week of November 17 "rescue week" and would orchestrate protests in more than fifty cities nationwide that week.

Intermountain Planned Parenthood (IPP) joined with other clinics that provide family-planning services, including abortions, located in Billings, Missoula, and Helena, in swiftly seeking legal assistance. These entities sought a temporary restraining order (TRO) prohibiting Operation Rescue and other anti-abortion organizations from trespassing and blocking access to the clinics' facilities. State district court Judge G. Todd Baugh issued a

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TRO on November 15. Judge Baugh stated that he issued the TRO to prevent illegal activities, such as trespassing, property destruction, and civil disobedience — not demonstrations — while acknowledging the First Amendment rights of those opposed to abortion. He added that the order would be posted outside the clinics' property and would be served on the named individuals, if warranted.

Defendants named in the TRO included Lea and Odom, as well as Claire and Frank Brisendine of Helena. Claire Brisendine, on the evening the TRO was issued, proclaimed that the Rescue Movement of Montana (RMM), which is loosely affiliated with Operation Rescue, would be planning protests in Montana later in November, once RMM was better organized. Brisendine, when informed that Judge Baugh hoped the TRO would prevent civil disobedience, remarked that she saw little chance of that. She said she preferred the phrase "holy disobedience" because rescuers were obeying the law of God, not man.

Joan McCracken, the executive director of IPP, stated that the clinics sought the TRO to prevent Montana from becoming another Wichita. During the summer of 1991 in that city, Operation Rescue activists blocked passage to clinics, destroyed clinic property, intimidated clinic workers and patients, and disobeyed orders of federal district Judge Patrick Kelly.

On the following Monday, Claire Brisendine proclaimed that RMM planned to block access to all clinics in Montana sometime during November and expressed her group's desire that Montana become another Wichita. She refused to be bound by the TRO, claiming kinship with whites who hid blacks before the War Between the States and with Christians who hid Jews during the Holocaust — people who were not governed by laws they believed unjust. Brisendine reiterated her criticism that the TRO conflicted with God's law. She was one of eight people convicted in 1989 of disorderly conduct for blocking entry to the Blue Mountain Women's Clinic in Missoula, which has provided health care and safe, legal abortions to women for nearly two decades.

On the same day, Willa Craig, the executive director of Blue Mountain, stated that the clinic had assembled its supporters in Missoula and was prepared for the anti-abortion protesters. She added that the clinic intended to continue providing services to women, contended that the protesters would not affect the clinic's operation, and disavowed any interest in countering the protesters.

On Thursday, November 21, Missoula Mayor Dan Kemmis issued a joint statement with the city council and Missoula County Commissioners Ann Mary Dussault, Barbara Evans, and Janet Stevens. The statement announced that the city and county would not tolerate disruptive protests at the clinic, that law enforcement officials would be prepared to arrest

any protesters who broke the law, and that all individuals who were arrested would be prosecuted to the full extent of the law. The mayor and the commissioners also acknowledged the First Amendment rights of the abortion opponents to participate in peaceful protest.

Judge Baugh considered on Friday, November 22, whether the TRO should be made permanent. Because of the perceived threats to public health, safety, and welfare, the judge issued a permanent injunction that day.

At 9:30 a.m. on Saturday, November 23, seventy-five protesters from all over Montana converged on the Blue Mountain Women's Clinic. A woman and a man who pretended to be patients approached the clinic's back door. Once clinic workers opened the door, the man and woman attempted to let the abortion foes inside. Some of the workers and their supporters were pushed to the ground and trampled before the protesters were forced away from the door. The anti-abortion advocates pushed against the doors and the supporters guarding them with their full weight. Numerous protestors joined themselves at the neck with U-shaped bicycle locks and destroyed the keys, so that city firefighters had to employ a power bolt-cutter to remove the locks from the necks of some dozen people. With the arrival of each new client, the confrontation escalated.

After the police read the court order that prohibited the protesters from blocking access to the clinic, most of them moved away from the clinic's doors to the nearby sidewalk. Police walked and dragged protesters who violated the law to a van and a school bus. Police then took them to a makeshift holding cell in the city council chambers, while the protesters sang hymns and recited scriptures.

Jim Nugent, the Missoula city attorney, charged the protesters with trespassing, disorderly conduct, and criminal contempt of court for violating Judge Baugh's earlier order. Every protester pleaded innocent, asking for a jury trial. Don Loudon, the municipal court judge, released them without bond; however, he ordered the protesters to remain a block from the clinic. Judge Loudon ordered some of the protesters who owed fines from a similar protest two years ago to pay them by January 1.

Claire and Frank Brisendine, RMM's leaders, were among those arrested. Frank Brisendine declared after being arraigned that Jesus sent the protesters to Missoula and that he was tired of individuals sitting back and watching the slaughter. Pat Flaherty, an attorney from Great Falls and an anti-abortion activist, represented the protesters during the arraignment. Flaherty said he lacked the courage to be arrested but was present because it was wrong to kill babies and that abortion was evidence of the nation's spiritual decay.

After the protest, clinic director Willa Craig stated that the protesters had violated the civil rights of the clinic staff and its patients. She

observed that the activity worked against the anti-abortion people and that the public opposes this type of bullying. Kathi Olson, who escorted patients inside the clinic, remarked that the situation got physical but that everyone was safely escorted into the facility. She said the volunteer guards, who were committed to the clinic's mission and philosophy, held up well under the emotional and physical pressure. Olson added that abortion-rights activists, ranging from retirees to teenagers, streamed to the clinic once informed of the protest and remained until the final patient left.

Similar abortion protests were staged on the same day across the nation. Police arrested Operation Rescue activists in Charlotte, Cleveland, and Chicago, while one protester in Cincinnati was charged with smashing clinic equipment and assaulting four clinic workers. This story recounts how pro-choice advocates and their supporters in the public and private sectors fought to keep abortion safe and legal in one such locality.

Until next time . . .